

AMERICAN
CASEBOOK
SERIES

TORTS AND COMPENSATION
PERSONAL ACCOUNTABILITY AND
SOCIAL RESPONSIBILITY
FOR INJURY

Seventh Edition



Dan B. Dobbs, Paul T. Hayden, Ellen M. Bublick

WEST

TORTS AND COMPENSATION

PERSONAL ACCOUNTABILITY AND SOCIAL RESPONSIBILITY FOR INJURY

Seventh Edition



By

Dan B. Dobbs

*Regents Professor and
Rosenstiel Distinguished Professor of Law Emeritus
University of Arizona*

Paul T. Hayden

*Thomas V. Girardi Professor of Consumer Protection Law
Loyola Law School, Los Angeles*

Ellen M. Bublick

*Dan B. Dobbs Professor of Law
University of Arizona*

AMERICAN CASEBOOK SERIES®

WEST®

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Nothing contained herein is intended or written to be used for the purpose of 1) avoiding penalties imposed under the federal Internal Revenue Code, or 2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

American Casebook Series is a trademark registered in the U.S. Patent and Trademark Office.

COPYRIGHT © 1985, 1993 WEST PUBLISHING CO.

© West, a Thomson business, 1997, 2001, 2005

© 2009 Thomson Reuters

© 2013 LEG, Inc. d/b/a West Academic Publishing

610 Opperman Drive

St. Paul, MN 55123

1-800-313-9378

Printed in the United States of America

ISBN: 978-0-314-27862-3

DEDICATION

To Patricia H. Waterfall.—D.B.D.

*To Diane, without whom my accomplishments would be fewer
and far less meaningful.—P.T.H.*

*To Daniel, Harrison and David, may you go
from strength to strength.—E.M.B.*

PREFACE TO THE SEVENTH EDITION

This casebook is a teaching tool. We strive to produce a book that presents contemporary cases and issues, but equally one that presents the unchallenged core of lawyering, judging and thoughtful criticism. We also want to engage students without mystifying them.

While the foundation of tort law is timeless, the law is anything but static. This edition, as with our earlier editions, thus reflects new developments in cases, topics and academic commentary that have occurred in the last few years. There are over two dozen new main cases, many new case abstracts and hundreds of citations to newer cases. These new materials not only carry a contemporary feel for the issues and outcomes, but often add perceptibly to the clarity and the challenges the issues present.

New cases are not the only occasion for changes. We have all learned from experience in teaching these materials, and have tried to profit from every question raised by students and every suggestion made by teachers. This edition's changes reflect that added experience, even if we have not made every change every person has suggested.

We remain committed to providing a book that is as lean as possible, consistent with fully covering core materials and giving professors sufficient leeway to cover some topics but not others. To accomplish this goal required us to make some cuts from the last edition. Sometimes we simply tightened materials, or replaced older with newer. We also cut some materials entirely, either because they seemed redundant or too specialized, or in the belief that few professors had time to reach them.

This book deals centrally with injuries to persons, and reading about and discussing such serious matters can be difficult. But we have always approached torts by trying to present the reality of conflicts in tort law and we continue to do so in this edition. Tort law is about real people and real injuries, and the cases in this book reflect that reality. Of course, much of that tort law reality is leavened more than occasionally by the absurd and unexpected. A torts class using this book will then be more than an exercise in solemn analysis of tragic situations; our experience tells us that smiles and laughter are neither rare nor inappropriate as students and professors discuss the law. We believe a good book will challenge students, yet provide a good time when possible.

Our primary criterion in selecting cases for inclusion in this book is whether they provide opportunities for analysis and for strengthening important lawyering skills such as reading, interpretation, evaluation and synthesis of legal materials. This book has never been merely a col-

lection of illusory “majority rules.” We hope students using this book will realize early on that both the cases and the notes aim to sharpen intellectual skills and the understanding of legal process as well as to impart information.

Torts is a varied subject that crosses a wide range of types of conduct and types of injuries. Personal injury torts remain its solid core for most first-year classes, however, and we focus mainly on such torts, including products liability. But most personal injuries are redressed through alternative means, such as workers’ compensation, social security, or private insurance. A picture of injury law, therefore, includes those topics and they remain a part of the Seventh Edition. And while we recognize the importance of economic torts to the real world, we continue to limit our coverage of such torts to core rules. This means that these materials cannot substitute for advanced courses that cover defamation, misrepresentation, intellectual property, interference with contract, employment law and the like. Our book does provide an introduction to those topics that should suffice to help students recognize that tort law is not exclusively injury law, and perhaps to help them decide on advanced electives.

A Note on Editing Conventions

The main “cases” reproduced in this (and almost any) casebook are opinions of appellate judges. Such opinions are rarely succinct. They almost always include a good deal of matter on procedural points and discussions of many arguments made by lawyers that are not relevant to the ideas we want to highlight and develop. They also usually include many citations to cases as precedent or example. Editing is therefore necessary.

When we omit text in opinions, we indicate the omission by ellipses. Sometimes we add an editorial summary of some point ourselves; we put that in brackets. We don’t usually mark out omissions of citations of precedent and academic commentary at all, because such citations are so prevalent that every page would be cluttered with dots if we did. We likewise omit footnotes in opinions without marking the omission; when we retain footnotes we also retain their original numbering. Finally, in quoted materials, we usually omit any internal quotation marks to make materials more readable.

We repeatedly cite a number of standard works on torts in this book. A major work in six volumes is Fowler V. Harper, Fleming James, Jr., and Oscar S. Gray, *The Law of Torts* (3d ed. 2007). We usually cite this work as Harper, James & Gray, giving the appropriate section and publication date. A second work is our own four-volume treatise, which is cited as Dobbs, Hayden & Bublick, *The Law of Torts* (2d ed. 2011). Our treatise is available on Westlaw under the DOBBLLOT database name.

This edition contains numerous citations to the Restatements of Torts, and sometimes to the Restatements of Agency or other areas of rel-

evant law. The Restatements of the Law in various editions are the product of the American Law Institute, a private law-reform group. The Restatements are not themselves law, but have proven quite influential with courts, many of which have voluntarily adopted the black-letter rules these Restatements contain. The newest torts Restatements are designated as the Restatement (Third) of Torts, with subtitles to indicate the particular area covered—for instance, the Restatement of the Law of Torts: Liability for Physical and Emotional Harm.

We hope that professors and students alike will learn from and enjoy the many thoughtful and thought-provoking cases and materials presented here.

DAN B. DOBBS

PAUL T. HAYDEN

ELLEN M. BUBLICK

March 2013

ACKNOWLEDGMENTS

Many people have aided our work on this edition. Thanks to research assistants Jane Burch, Jonathan Loe and Lindsay Schroeder of the University of Arizona, James E. Rogers College of Law, for their thoughtful and diligent work on this edition. Thanks also to David Jacobs for his careful proofing of many chapters. We are grateful to Tony Dillof and Chris Robertson for thoughtful suggestions about changes to the Seventh Edition. Paul gives kudos to his colleague Dan Selmi for his helpful suggestions on this edition; to Loyola Law School, Los Angeles, for generous financial support; and to his family for their patience and understanding. Ellen also thanks Barbara Lopez for critical help with the manuscript, and Maureen Garmon for effective design of research structures. Paul and Ellen give special thanks to Dan Dobbs for his vision, his hard work, and his friendship through the years. All of us thank our students, past and present, who continue to inspire and invigorate us. We also thank West law school division, which always has been a pleasure to work with and a great support to our work.

TABLE OF CASES

The principal cases are in bold type.

Cases

20801, Inc. v. Parker-----	577
66 Federal Credit Union v. Tucker	619
985 Assocs., Ltd. v. Daewoo	
Electronics America, Inc.-----	750
A.R.B. v. Elkin-----	40
A.W. v. Lancaster County Sch. Dist.	
0001-----	548, 553
AALAR, Ltd. v. Francis-----	590
Abacus Fed. Sav. Bank v. ADT Sec.	
Services-----	521
Abel v. Eli Lilly & Co.-----	829
Abney v. Crosman Corp.-----	739
Abrams v. City of Chicago-----	242
Ackerson v. Bean Dredging LLC---	470
Adames v. Sheahan-----	271, 640, 645
Adams v. Board of Sedgwick County	
Com'rs-----	569
Adams v. Murakami-----	860
Adams v. State-----	478
Adamy v. Ziriakus-----	635
Aetna Health Inc. v. Davila-----	432
Affiliated Fm Ins. Co. v. LTK	
Consulting Services-----	513
Aguallo v. City of Scottsbluff-----	295
Aguilera v. Inservices-----	925
Ahlstrom v. Salt Lake City Corp.--	646
Aicher v. Wisconsin Patients Comp.	
Fund-----	336
Alarid v. Vanier-----	139
Albala v. City of New York-----	620
Albany Urology Clinic, P.C. v.	
Cleveland-----	420
Alberts v. Schultz-----	233
Aldana v. School City of East Chicago	
-----	201
Alder v. Bayer Corp.-----	751
Alexander v. Scheid-----	232, 233
Ali v. City of Boston-----	386
Ali v. Fisher-----	668
Allenberg v. Bentley Hedges Travel	
Serv.-----	779
Allstate Ins. Co. v. Campbell-----	53
Allstate Ins. Co. v. Hamilton	
Beach/Proctor Silex-----	709
Almonte v. Kurl-----	212, 233
Almy v. Grisham-----	583
Alphonse v. Acadian Ambulance	
Servs.-----	233
Alsteen v. Wauleco-----	847
Alston v. Advanced Brands &	
Importing Co.-----	262

Alyeska Pipeline Service v.	
Aurora Air Service-----	1006
Amaral v. Cuppels-----	63
Amazing Spaces, Inc. v. Metro Mini	
Storage-----	1023
Amer. Optical Co. v. Weidenhamer	739
American Future Systems, Inc. v.	
Better Business Bureau of Eastern	
Pennsylvania-----	982
Amezcua v. Los Angeles Harley-	
Davidson-----	318
Anand v. Kapoor-----	327
Anaya v. Superior Court-----	276
Anderson ex rel. Herren v. Iowa	
Dermatology Clinic-----	342
Anderson v. Christopherson-----	243
Anderson v. City of Bessemer-----	289
Anderson v. Creighton-----	482, 484
Anderson v. Minneapolis-----	217
Anderson v. PPCT Management	
Systems-----	658
Anderson v. Stream-----	450
Andreu v. Sec'y of Health & Human	
Services-----	935
Ankiewicz v. Kinder-----	780
Ann M. v. Pacific Plaza Shopping	
Center-----	548
Antim v. Fred Meyer Stores-----	180
Antoniato v. Long Island Jewish	
Medical Ctr.-----	193
Antosz v. Allen-----	378
Antwaun A. v. Heritage Mutual	
Insurance Co.-----	390
Arato v. Avedon-----	420
Arbino v. Johnson & Johnson-----	854
Arche v. United States of America	622
Archuleta v. City of Rawlins-----	342
Ardinger v. Hummell-----	125, 573
Arias v. State-----	121
Armantrout v. Carlson-----	632
Aronberg v. Tolbert-----	312
Arpin v. United States-----	845
Arrington v. Wong-----	434
Ascuitto v. Farrielli-----	446
Ashcraft v. King-----	91
Ashcroft v. al-Kidd-----	71
Ashcroft v. Iqbal-----	486
Ashe v. Radiation Oncology Assocs.	418
Atlanta Oculoplastic Surgery, P.C. v.	
Nestlehutt-----	853
Atlantic Coast Airlines v. Cook----	589,
590	
Atlantic Coast Shipping Co. v. Stasiak	
-----	916

Audler v. CBC Innovis Inc.	1038	Beach v. Univ. of Utah	555
Ault v. International Harvester Co.	749	Bebry v. Zanauskas	560
Auster v. Norwalk United Methodist Church	129	Beck v. Dobrowski	141
Austin v. Kaness	643	Becker v. IRM Corp.	780
Aventis Pasteur, Inc. v. Skevofilax	751	Becker v. Mayo Found.	553
Averyt v. Wal-Mart Stores	13	Beckwith v. Weber	327
Averyt v. Wal-Mart Stores	841	Beggs v. State	136, 553
Avila v. Citrus Community College District	325	Behr v. Richmond	94, 1033
Ayers v. Jackson Twp.	338	Behrendt v. Gulf Underwriters Ins. Co.	145
Ayers v. Johnson & Johnson Baby Products Co.	731	Belhumeur v. Zilm	535
B.D.H. v. Mickelson	625	Bell v. Precision Airmotive Corp. --	785
B.R. and C.R. v. West	241	Bellah v. Greenson	569
Babes Showclub, Jaba, Inc. v. Lair	376	Below v. Norton	1047
Bader v. Johnson	624	Beltran v. Santa Clara County	486
Bahena v. Goodyear Tire & Rubber Co.	839	Bemenderfer v. Williams	634
Bailey v. C.S.	45	Benaquista v. Municipal Housing Authority	242
Baker v. ACandS	798	Benham v. Morton & Furbish Agency	388
Baker v. Dorfman	604	Benik v. Hatcher	389
Baker v. Parsons	991	Benjamin v. Wal-Mart Stores	742
Baker v. Saint Francis Hosp.	653	Bennett v. Napolitano	382
Bakerman v. The Bombay Co.	926	Bennett v. Ohio Dep't of Rehab. & Correction	61
Bakes v. St. Alexius Med. Ctr.	50	Bennett v. Reynolds	872, 876
Baldonado v. El Paso Natural Gas Co.	378, 583	Bennett v. Stanley	362
Ball-Foster Glass Container Co. v. Giovanelli	907	Berberian v. Lynn	121
Balog v. City of Chicago	117	Berberich v. Jack	294, 310, 814
Baltimore & O.R. Co. v. Goodman	128	Bercaw v. Domino's Pizza	925
Banks v. Beckwith	191	Berger v. Sonneland	584
Barbie v. Minko Const.	202	Bergstrom v. Palmetto Health Alliance	454
Barclay v. Briscoe	563, 646	Berkovitz v. United States	466
Bard v. Jahnke	674	Berman v. Laboratory Corp. of America	970
Barillari v. City of Milwaukee	476	Berman v. Sitrin	386
Barker v. Kallash	311	Bernie v. Catholic Diocese of Sioux Falls	212
Barker v. Lull Engineering Co.	717, 722, 741	Bernier v. Boston Edison Co. --	153, 163
Barnes v. Gorman	858	Bernstein v. Kapneck	796
Barnes v. Paulin	301	Berrier v. Simplicity Mfg.	714
Barnes v. United States	150	Berry v. E-Z Trench Manufacturing	211
Barnett v. Clark	652	Berry v. Watchtower Bible and Tract Society of New York	553
Barnish v. KWI Building Co.	709	Best v. Malec	996
Barr v. Matteo	486	Best v. Taylor Mach. Works --	809, 853
Barris v. County of Los Angeles	437	Bethel v. New York City Transit Auth.	354
Barry v. Quality Steel Prods.	279	Bettis v. Islamic Republic of Iran --	588
Barson v. E.R. Squibb & Sons	746	Betts v. Crawford	321
Barth v. Coleman	814	Betz v. Pneumo Abex LLC	751
Bartholomew v. Wisconsin Patient's Compensation Fund	636	Bevan v. Fix	587
Basham v. Hunt	341	Bexiga v. Havir Manufacturing Corp.	298
Baska v. Scherzer	51	Bhinder v. Sun Co.	815
Bass v. Gopal	547	BIC Pen Corp. v. Carter	709, 770
Battalla v. State	589	Bills v. Willow Run I Apartments -	389
Bauer v. Nesbitt	576	Bily v. Arthur Young & Co.	1039
Bauman v. Crawford	139	Bird v. Saenz	595
Baxter v. Ford Motor Co.	695	Bishop v. TES Realty Trust	389
Bayer CropScience LP v. Schafer	853, 863	Bittner v. American Honda Motor Co.	747
BDO Seidman, LLP v. Mindis Acquisition Corp.	1040		

Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics --	486
Bjerke v. Johnson-----	306, 542
Bjork v. Mason-----	327
Black v. William Insulation Co. ---	563
Blackwell v. Wyeth-----	750
Blair v. West Town Mall-----	180
Blondell v. Littlepage-----	1004
Blue v. Environmental Engineering -----	713
BMG Music Entertainment v. Tenenbaum -----	1013
BMW of North America, Inc. v. Gore -----	865
Board of County Commissioners of Teton County v. Bassett---	812
Board of Trustees of Univ. of Dist. of Columbia v. DiSalvo -----	264
Bob Allyn Masonry v. Murphy-----	907
Bockrath v. Aldrich Chem. Co. ----	226
Boiter v. South Carolina Dep't of Transp.-----	852
Bonanno v. Centr. Contra Costa Transit Auth.-----	478
Bonhomme v. St. James -----	1044
Bonito Boats, Inc. v. Thunder Craft Boats, Inc.-----	1012, 1023
Bonnette v. Conoco-----	235
Bonte v. Bonte -----	616
Boone v. Boone -----	447
Borg-Warner v. Flores-----	752
Bosco v. Janowitz-----	172
Bostick v. Flex Equip. Co.-----	809
Botelho v. Caster's-----	172
Bouchat v. Baltimore Ravens Ltd. P'ship -----	1014
Boucher v. Dixie Medical Center -----	599
Bourgonje v. Machev -----	536
Bourne v. Marty Gilman -----	713
Bowling v. Heil Co. -----	753
Boyd v. National R.R. Passenger Corp. -----	44
Boyle v. Revici -----	318
Boyle v. United Technologies Corp.-----	772
Boyles v. Kerr-----	605
Braaten v. Saberhagen Holdings --	744
Bracke v. Baza'r-----	919
Brackett v. Focus Hope -----	911
Bradley v. Atlantic City Bd. of Educ. -----	996
Bragan v. Symanzik -----	373
Bragg v. Hi-Ranger-----	746
Bramer v. Dotson -----	604
Brandon v. County of Richardson	307, 584, 815
Branham v. Ford Motor Co. ---	174, 860
Braswell v. Stinnett-----	396
Bray v. St. John Health System---	547
Breeden v. Anesthesia West-----	664
Brewer v. J.B. Hunt Transp. Inc. --	291
Brian and Christie, Inc. v. Leishman Elec., Inc.-----	704
Bridges v. Park Place Entn't -----	575
Briehl v. Gen. Motors Corp. -----	705
Brigrance v. Velvet Dove Restaurant -----	570
Britt v. Allen County Community Junior College -----	383
Britton v. Wooten-----	263
Broadbent v. Broadbent -----	447, 450
Broadnax v. Gonzalez -----	619
Brock v. Watts Realty Co.-----	502
Brogan v. Mitchell Int'l -----	1033
Brokaw v. Winfield-Mt. Union Cmty. Sch. Dist. -----	146
Bronsen v. Dawes County-----	385
Brooks v. Lewin Realty III-----	130
Brosseau v. Haugen-----	484
Brown v. Brown & Williamson Tobacco Corp. -----	770
Brown v. Dibbell -----	422
Brown v. Kendall -----	672, 673, 895
Brown v. Martinez -----	80, 81, 86
Brown v. Merlo -----	355, 381
Brown v. Mobley -----	145
Brown v. Shyne-----	136
Brown v. Soh -----	318
Brown v. Superior Ct. -----	825, 828
Brown v. Village of Lincoln Heights -----	359
Brownfield v. Daniel Freeman Marina Hosp.-----	403
Brueckner v. Norwich Univ.-----	590
Bruesewitz v. Wyeth LLC-----	771
Brunell v. Wildwood Crest Police Dept. -----	919
Brunson Communications, Inc. v. Arbitron, Inc. -----	1001
Brunson v. Affinity Fed. Credit Union -----	987
Bryan R. v. Watchtower Bible & Tract Soc'y of N.Y. -----	497
Bryant v. Hoffmann-La Roche ----	730
Bucki v. Hawkins-----	371
Buckingham v. R.J. Reynolds Tobacco Co. -----	729
Bukowski v. Clarkson University	320, 327
Bulala v. Boyd -----	845
Buono v. Scalia -----	561
Burch v. American Family Mutual Ins. Co. -----	122
Burdette v. Stevens -----	371
Burgess v. Superior Court ----	597, 607, 652
Burke v. Spartans -----	741
Burless v. W. Va. Univ. Hospitals -	666
Burnett v. Covell -----	777
Burns v. Gagnon -----	553
Burns v. Jaquays Min. Corp.-----	847
Burns v. Smith -----	924
Burrell v. Meads -----	359
Burroughs v. Magee -----	570
Burton v. Twin Commander Aircraft LLC -----	342
Butler v. Acme Mkts. -----	113
Butz v. Economou -----	485

Butz v. World Wide -----	628	Centocor, Inc. v. Hamilton -----	742
Byram v. Main -----	685	Cerny v. Cedar Bluffs Junior/Senior	
Byrd v. Faber -----	653	Pub. Sch. -----	122
Byrd v. Richardson-Greenshields		Cervantes v. Health Plan of Nevada	
Securities -----	927	-----	432
C.A. v. William S. Hart Union High		Chaffee v. Seslar -----	625
Sch. Dist. -----	552, 654	Chaffin v. Brame -----	127, 130
C.B.C. Distribution and Marketing,		Chalifoux v. Radiology Associates of	
Inc. v. Major League Baseball		Richmond -----	331
Advanced Media, L.P. -----	1024	Chambers v. Pennycook -----	70
C.C.H. v. Philadelphia Phillies -----	306	Chambers v. Village of Moreauville	160
C.H. v. Los Lunas Schools Bd. of Educ.		Chamley v. Khokha -----	406
-----	241, 263	Chapman v. Cardiac Pacemakers -	636
Cabral v. Ralphs Grocery Co. -----	211	Chapman v. Maytag Corp. -----	762
Cadena v. Chicago Fireworks Mfg. Co.		Chappell v. Wallace -----	464
-----	689	Charette v. Santsprees -----	390
Cafazzo v. Cent. Med. Health Servs.		Charlton v. Mond -----	976
-----	784	Chavez v. Carpenter -----	633, 634
Calatayud v. State -----	378	Cheatham v. Pohle -----	862
Calles v. Scripto-Tokai Corp. -----	716	Chenault v. Huie -----	619
Calloway v. Kinkelaar -----	481	Childs v. Purll -----	389
Camacho v. Honda Motor Co. -----	740	Chizmar v. Mackie -----	604, 613
Campbell v. Delbridge -----	397	Choi v. Anvil -----	839
Campbell v. General Motors Corp. -----	718	Chomic v. United States -----	636
Campbell v. Ohio State Univ. Medical		Christensen v. Royal School	
Center -----	569	District No. 160 -----	303
Camper v. Minor -----	606	Christensen v. Superior Court -----	604
Canavan v. Galuski -----	668	Christiansen v. Providence Health	
Candelario v. Teperman -----	570	System of Oregon Corp. -----	340
Canton v. Graniteville Fire Dist. No. 4		Christmas v. Kindred Nursing Centers	
-----	63, 64	Ltd. Partnership -----	359
Caporale v. C. W. Blakeslee & Sons		Christoff v. Nestle USA -----	1019
-----	689	Christopher v. Cutter Labs. -----	743
Caprara v. Chrysler Corporation --	749	Ciley v. Lane -----	361, 496
Carey v. Lovett -----	599	Cipollone v. Liggett Groups -----	1031
Carey v. Reeve -----	45	Cities Service Co. v. State -----	680
Caris v. Mele -----	735	Citizens State Bank v. Timm -----	1039
Carmichael v. Kellogg -----	471	City of Bristol v. Tilcon Minerals ---	62
Caro v. Weintraub -----	996	City of Canton v. Harris -----	490
Carrel v. Allied Prods. Corp. -----	757	City of Cincinnati v. Beretta U.S.A.	
Carrol v. Allstate Ins. Co. -----	606, 607	Corp. -----	729
Carroll v. Sisters of Saint Francis -	613	City of Eugene v. McDermed -----	908
Carroll v. United States -----	470	City of New York v. A-1 Jewelry &	
Carruth v. Pittway Corp. -----	741	Pawn -----	729
Carson v. Here's Johnny Portable		City of New York v. Beretta U.S.A.	
Toilets -----	1018	Corp. -----	729
Carter v. Reynolds -----	646	City of Oceanside v. Superior Court	
Carter v. Volunteer Apparel -----	904	-----	377
Carvalho v. Decorative Fabrics		City of San Antonio v. Pollack -----	98
Co. -----	908	City of Santa Barbara v. Superior	
Cassidy v. Daily Mirror Newspapers		Court -----	319
-----	965	City of St. Louis v. Benjamin Moore &	
Casteneda v. Olsher -----	560	Co. -----	829
Castillo v. E.I. Du Pont de Nemours &		City of Winder v. McDonald -----	479
Co. -----	751	Claire's Boutiques, Inc., v. Locastro	
Caterpillar, Inc. v. Shears -----	739	-----	319
Cates v. Cates -----	446	Clampitt v. D.J. Spencer Sales -----	194
Catron v. Lewis -----	590, 591	Clark County School Dist. v. Virtual	
Catsouras v. Department of Cal.		Education Software -----	970
Highway Patrol -----	996	Clark v. Children's Memorial Hosp.	
Caudle v. Betts -----	38	-----	624
Caulfield v. Kitsap County -----	480	Clark v. Estate of Rice -----	590
Cedillo v. Sec'y of Health & Human		Clark v. Pfizer Inc. -----	1043
Services -----	935		

Clark v. South Carolina Dept. of Public Safety-----	479	Control Techniques, Inc. v. Johnson -----	279
Clark v. St. Dominic-Jackson Memorial Hosp.-----	1030	Cook v. DeSoto Fuels-----	63
Clarke v. Oregon Health Sciences University-----	428, 853	Cooper Tire & Rubber Co. v. Mendez -----	710
Clausen v. Icicle Seafoods-----	835	Corcoran v. Banner Super Mkt.----	202
Clay City Consolidated School Corp. v. Timberman-----	301	Corey v. Pierce County-----	994
Clay Electric Cooperative, Inc. v. Johnson-----	527	Cosgrove v. Commonwealth Edison Co.-----	193
Clea v. Odom-----	367	Cotita v. Pharma-Plast-----	757
Clinkscales v. Nelson Securities --	198, 252	Cottam v. CVS Pharmacy-----	404
Cloer v. Secretary of Health & Human Services-----	336	Couch v. Astec Industries Inc.-----	746
Clohesy v. Food Circus Supermarkets -----	547	County of Sacramento v. Lewis-----	70
Cloutier v. Oakland Park Amusement Co.-----	499	Courtney v. Courtney-----	667
Coan v. New Hampshire Dep't of Env'tl. Servs.-----	385	Covenant Care, Inc. v. Superior Court -----	442
Coca-Cola Bottling Co. v. Hagan---	613	Covington v. George-----	848
Cochran v. Brooke-----	730	Cowan v. Hospice Support Care --	454
Cockerline v. Menendez-----	197	Cox Broadcasting Corp. v. Cohn ---	997
Cockrell v. Pearl River Valley Water Supply Dist.-----	653	Cox v. May Dep't Store Co.-----	203
Coghlan v. Beta Theta Pi Fraternity -----	555	Creasy v. Rusk -----	118, 121
Cohen v. Smith -----	36, 50	Credit Alliance Corp. v. Arthur Andersen & Co.-----	1039
Colbert v. Moomba Sports-----	596	Creekmore v. Maryview Hosp.-----	402
Cole v. Esquibel-----	833	Creel v. L&L-----	327
Coleman v. Court of Appeals of Maryland-----	928	Crews v. Hollenbach-----	321
Coleman v. Oregon Parks and Recreation Dept.-----	385	Crichfield v. Grand Wailea Co.----	386
Collins v. City of Harker Heights-	490, 512	Crisafulli v. Bass-----	561
Collins v. Eli Lilly & Co.-----	825, 826	Crookston v. Fire Ins. Exch.-----	862
Collins v. National R.R. Passenger Corp.-----	322	Crosby v. Glasscock Trucking Co. -	619
Collins v. Plant Insulation Co.-----	818	Crotta v. Home Depot-----	807
Collins v. Scenic Homes-----	262	Crownover v. City of Shreveport---	290
Collins v. Superior Air-Ground Ambulance Service-----	203	Crumpton v. Humana -----	329
<i>Collins v. United States</i> -----	469	Cruz v. Johnson-----	86
Colon v. BIC USA-----	724	Cruzan v. Dir.-----	482
Colvin v. City of Gardena-----	479	CSX Transp. CSX Transp., Inc. v. Begley-----	285
Comedy III Productions, Inc. v. Gary Saderup, Inc.-----	1019	CSX Transp. Inc. v. Miller-----	214, 818
Commerce Bank v. Augsburgsburger----	450	CSX Transp., Inc. v. Hensley-----	612
Commerce Ins. Co. v. Ultimate Livery Service-----	574	CSX Transportation, Inc. v. Easterwood-----	349
Commonwealth v. Sexton-----	478	CSX Transportation, Inc. v. McBride -----	244
Compuserve Inc. v. Cyber Promotions -----	68	Cuffy v. City of New York-----	476
Comstock v. General Motors Corp. 744, 745		Cullison v. Medley -----	54
Connelly v. Hyundai Motor Co. ----	717	Curtis Publ'g Co. v. Butts-----	975
Conner v. Quality Coach-----	774	Customer Company v. City of Sacramento-----	99
Connick v. Thompson-----	491	Cyran v. Ware-----	618
Conroy v. Regents of Univ. of California-----	1043	D.W. v. Bliss-----	560
		D'Amario v. Ford Motor Co. -----	819
		Dailey v. Methodist Med. Ctr.-----	207
		Daley v. A.W. Chesterton-----	338
		Daly v. General Motors Corp. - 756,	811
		Daly v. McFarland-----	324
		Damon v. Moore-----	967
		Daniels v. Evans-----	124
		Daniels v. Senior Care-----	152
		Darling v. Charleston Cmty. Mem. Hosp.-----	659
		Dart v. Wiebe Mfg.-----	717
		Dasha v. Maine Medical Center----	341
		Daubert v. Merrell Dow Pharmaceuticals Inc.-----	396, 750

Davenport v. Comstock Hills—Reno	344	DiMarco v. Lynch Homes—Chester County	570
David v. Hett	518	Dinsmore-Poff v. Alvord	561
Davis v. Devereux Foundation	652	District of Columbia v. Beretta U.S.A. Corp.	729
Davis v. Dionne	354	District of Columbia v. Howell	839
Davis v. Flatiron Materials Co.	793	District of Columbia v. Singleton	196
Davis v. Sykes	194	Dobran v. Franciscan Medical Center	604
Day v. Johnson	396	Dobrovolny v. Ford Motor Co.	705
De Leon Lopez v. Corporacion Insular de Seguros	191	Dobson v. Camden	797
De Long v. County of Erie	475	Dodson v. South Dakota Dept. of Human Svcs.	292
Dean v. Barrett Homes	704	Doe ex rel. Doe v. Wright Sec. Services	527
DeBusscher v. Sam's East	197	Doe Parents No. 1 v. State	159, 590
DeCarlo v. Eden Park Health Services	204	Doe v. Archdiocese of St. Paul	339
Degener v. Hall Contracting Corp.	816	Doe v. Arts	604
DeJesus v. United States	569	Doe v. Corp. of Pres. of Church of Jesus Christ of Latter-Day Saints	584
Del Lago Partners, Inc. v. Smith	291, 310, 546	Doe v. Isaacs	857
Delaney v. Baker	442, 852	Doe v. Jamison Inn	359, 382
Delaney v. Deere & Co.	723	Doe v. Johnson	94, 379
Delaney v. Reynolds	265	Doe v. Johnston	420
Delfino v. Griffo	575	Doe v. Linder Construction Co.	264, 265
Delgado v. Interinsurance Exchange	53	Doe v. Marion	569
Delgado v. Trax Bar & Grill	536	Doe v. Maskell	339
Della Penna v. Toyota Motor Sales	1011	Doe v. Newbury Bible Church	640
Dellwo v. Pearson	124	Doe v. Roe	340, 341
Delta Airlines, Inc. v. Townsend	576	Doe v. Taylor Independent School Dist.	552
Delta Tau Delta, Beta Alpha Chapter v. Johnson	547	Doll v. Brown	233
DeLuca v. Bowden	45	Donovan v. Philip Morris USA	846
Densberger v. United Tech's. Corp.	773	Doomes v. Best Transit Corp.	766
Denver Publ'g Co. v. Bueno	994	Dorn v. Leibowitz	173
Derdiarian v. Felix Contracting Corp.	268	Dorrell v. South Carolina Dept. of Transp.	663
Deschenes v. Transco	920	Dosdourian v. Carsten	798
DeShaney v. Winnebago County Dept. of Social Services	510	Doser v. Interstate Power Co.	353
DeSmet v. County of Rock Island	480	Dotson v. Bernstein	625
Destefano v. Grabrian	653	Double Quick, Inc. v. Moore	263
Dettmann v. Kruckenberg	574	Downey v. Bob(s Discount Furniture Holdings	175
Deuel v. Surgical Clinic	190	Dowty v. Riggs	588
Deuley v. Dyncorp Int'l	318	Doyle v. Volkswagenwerk Aktiengesellschaft	773
Dewald v. HCA Health Services of Tennessee	666	Dragomir v. Spring Harbor Hosp.	654
DeWester v. Watkins	573	DRD Pool Services, Inc. v. Freed	636, 855
Dhillon v. Crown Controls Corp.	724	Driscoll v. General Nutrition Corp.	927
Di Gildo v. Caponi (1969)	363	Dube v. Pittsburgh Corning	470
Dias v. Brigham Med. Assocs.	658	Duchess v. Langston Corp.	749
Diaz v. Carcamo	654	Dudley v. Offender Aid & Restoration of Richmond	559
Diaz v. Phoenix Lubrication Service	522	Dugan v. Mittal Steel USA Inc.	968
<i>Dickens v. Puryear</i>	58, 585	Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.	984
Dickerson v. Strand	1044	Duncan v. Cessna Aircraft Co.	797
Didato v. Strehler	623	Duncan v. Corbetta	182
Dietrich v. Northhampton	618	Duncan v. Scottsdale Medical Imaging	92, 94
Digicorp, Inc. v. Ameritech Corp.	1047	Dupont v. Aavid Thermal Tech.	542
Dillard Dep't Stores, Inc. v. Silva	86		
Dillingham v. IBP	845		
Dillon v. Evanston Hospital	234		
Dillon v. Frazer	11, 173		
Dillon v. Legg	564, 594, 605		
Dillon v. Twin State Gas & Electric Co.	223		

Durham v. Marberry -----	633	Estate of Moses ex rel. Moses v. Southwestern Virginia Transit Management Co. -----	296
Dyer v. Maine Drilling & Blasting -----	683	Estevez v. United States -----	15
E.P. v. Riley -----	559	Etkind v. Suarez -----	623
Eastin v. Broomfield -----	850	Evangelatos v. Superior Court ----	809
Eaton v. Eaton -----	190	Everett v. Littleton Construction Co. -----	549
Ebanks v. New York City Transit Auth. -----	202	Everitt v. General Elec. Co. -----	182
Eckroth v. Pennsylvania Elec. Inc. -----	271	Eversole v. Woods Acquisition -----	193
Edenshaw v. Safeway -----	180	Ex parte Thicklin -----	859
Edgewater Motels, Inc. v. Gatzke -----	647	Exner v. Sherman Power Construction Co. -----	688
Edson v. Barre Supervisory Union # 61 -----	555	Exxon Co., U.S.A. v. Sofec, Inc. ----	297
Edward C. v. City of Albuquerque -	328	Exxon Shipping Co. v. Baker -----	872
Edwards v. Fogarty -----	636	Ezell v. Cockrell -----	480
Edwards v. Prime -----	1008	Ezzell v. Miranne -----	40, 311
Eggleston v. Pierce County -----	99	Fabre v. Marin -----	820, 821
Eisel v. Board of Education of Montgomery County -----	569	Fackelman v. Lac d'Amiante du Quebec -----	535
Eiseman v. State -----	555	Facler v. Genetzky -----	603
Eklund v. Trost -----	480	Fahrendorff v. North Homes -----	651
Elam v. Kansas City Southern Ry. Co. -----	349	Faile v. S.C. Dep't of Juvenile Justice -----	479
Elkerson v. North Jersey Blood Center -----	185	Fajardo v. City of Los Angeles -----	491
Elliott v. City of New York -----	130	Falada v. Trinity Industries -----	731
Ellis v. Estate of Ellis -----	341, 447	Fancyboy v. Alaska Village Elec. Co- op. -----	259
Emanuel v. Great Falls School Dist. -----	145	Fandrey v. American Family Mut. Ins. Co. -----	251
Embarton v. GMRI -----	342	Farias v. Mr. Heater -----	742
Endorf v. Bohlender -----	401	Farley v. Engelken -----	850
Engalla v. Permanente Medical Group -----	426	Farmer v. B & G Food Enters. ----	376
Engler v. Illinois Farmers Ins. Co. -----	594	Farmers Ins. Group v. County of Santa Clara -----	640, 650
English v. New England Medical Center -----	454, 684	Farrington v. Total Petroleum -----	916
Engquist v. Loyas -----	839	Farwell v. Keaton -----	504
Enright v. Eli Lilly & Co. -----	621	Faul v. Jelco -----	646
Eppler v. Tarmac Am. -----	194	Favreau v. Miller -----	389
Eric J. v. Betty M. -----	560	Faya v. Almaraz -----	613
Eric M. v. Cajon Valley Union Sch. Dist. -----	554	Fazzaroli v. Portland School District No. 1J -----	554
Errico v. LaMountain -----	201	Fearing v. Bucher -----	653
ESCA Corp. v. KPMG Peat Marwick -----	1044	Feiereisen v. Newpage Corp. -----	907
Escola v. Coca Cola Bottling Co. --	202, 413	Fein v. Permanente Medical Group	854
Eskin v. Bartee -----	596	Feld v. Borkowski -----	326
Espinoza v. Schulenburg -----	376	Feltmeier v. Feltmeier -----	340
Ess v. Eskaton Prop's -----	439	Felton v. Lovett -----	417
Estate of Brown v. Islamic Republic of Iran -----	840	Fennell v. Maryland Hosp. Ctr. ----	231
Estate of Cordero v. Christ Hosp. --	666	Feres v. United States -----	462
Estate of Gordon-Couture v. Brown -----	385	Fernandez v. Walgreen Hastings Co. -----	596
Estate of Graves v. City of Circleville -----	480	Ferriter v. Daniel O'Connell's Sons	602
Estate of Hall v. Akron Gen. Med. Ctr. -----	192	Fetick v. American Cyanamid Co. -	799
Estate of Hoch v. Stifel -----	877, 885	Fickle v. State -----	479
Estate of Lacko, ex rel. Griswatch v. Mercy Hosp., Cadillac -----	437	Finnegan v. Wisc. Patients Comp. Fund -----	596
		Fintzi v. New Jersey YMHA-YWHA -----	149
		First Midwest Bank v. Denson -----	77
		Fisher v. Am. Red Cross Blood Services -----	585
		Fisher v. Big Y Foods -----	179
		Fisher v. Carrousel Motor Hotel ----	39

Fitzpatrick v. Natter-----	174	Gavin W. v. YMCA of Metro. Los Angeles-----	315
Flannery v. United States -----	845	Gaylord v. United States -----	1013
Flax v. DaimlerChrysler Corp. ----	872	Gebser v. Lago Vista Indep. Sch. Dist. -----	552
Florence v. Goldberg -----	533	Geier v. American Honda Motor Co. -----	767, 768, 770
Flores v. Exprezit! Stores 98-Georgia -----	576	Gen. Motors Corp. v. Sanchez -----	724, 757
Florida Dep't of Health & Rehab. Serv. v. S.A.P.-----	342	General Elec. Co. v. Niemet -----	853
Florida Dept. of Corrections v. Abril -----	589	General Electric Co. v. Joiner-----	750
Flowers v. Carville -----	969	General Motors Corp. v. Hill -----	371
Fojtik v. Hunter -----	669	Genereux v. American Beryllia Corp. -----	335
Folsom v. Burger King -----	526	George v. Jefferson Hosp. Ass'n ----	454
Fontaine v. Roman Catholic Church of Archdiocese of New Orleans-----	606	George v. Jordan Marsh Co.-----	583
Foradori v. Harris -----	844	George v. Parke-Davis-----	826
Ford Motor Co. v. Industrial Commission-----	910	Georgia Dep't of Human Res. v. Bulbalia-----	250
Fordham v. Oldroyd-----	376	Georgia Dept. of Corrections v. Couch -----	359
Foreman v. Callahan -----	946	Georgia-Pacific v. Farrar -----	222
Forma Sci., Inc. v. BioSera, Inc.----	749	Gertz v. Robert Welch -----	976
Forsyth v. Joseph -----	173	Giant Food, Inc. v. Mitchell-----	157
Foss v. Kincade -----	152, 360	Gibbs v. Blockbuster-----	61
Fossett v. Board of Regents of Univ. of Neb. -----	398	Gibson v. Gibson -----	451
Foster v. Preston Mill Co. -----	688	Gibson v. Leonard -----	374
Fowler v. Printers II-----	1005	Giddings & Lewis, Inc. v. Industrial Risk Insurers-----	705
Fox v. Ethicon Endo-Surgery-----	335	Gift v. Palmer -----	168
France v. Southern Equip. Co.-----	657	Gignilliat v. Gignilliat-----	1019
France v. Southern Equipment Co.-----	659	Giles v. City of New Haven ----	198 , 413
Franklin v. Gwinnett County Public Schools -----	552, 889	Giles v. Wyeth -----	747
Frederick v. Swift Transp. Co.-----	651	Gilmore v. Walgreen Co.-----	372
Freightliner Corp. v. Myrick -----	768	Gipson v. Kasey -----	548, 575
Friedman v. Dozorc -----	988, 989	Gladon v. Greater Cleveland Regional Transit Authority -	355 , 363
Frost v. Salter Path Fire & Rescue -----	910	Gleason v. Guzman -----	791
Fruit v. Schreiner-----	640	Glisson v. Colonial Buick Inc.-----	524
Frye v. United States-----	751	Glorvigen v. Cirrus Design Corp. --	405
Fugate v. Fugate -----	446	Gniadek v. Camp Sunshine at Sebago Lake-----	554
Fulmer v. Timber Inn Rest. & Lounge -----	372	Godbehare v. Phoenix Newspapers -----	994
Fultz v. Delhaize America -----	172	Goddard v. Farmers Ins. Co. -----	872
Funchess v. Cecil Newman Corp.--	557	Goff v. Elmo Greer & Sons Const. Co. -----	876
Furry v. Miccosukee Tribe of Indians of Florida -----	458	Goforth v. Porter Medical Associates -----	622
G.D. v. Kenny -----	969	Goldberg v. Horowitz -----	403
Gaines-Tabb v. ICI Explosives ----	713	Goldfinch v. United Cabs-----	196
Galaxy Cable, Inc. v. Davis-----	382, 857	Goller v. White -----	450
Galindo v. Town of Clarkstown-----	361	Gomez v. Superior Court -----	354
Gallo v. Barile -----	971	Gonzales v. City of Boseman -----	480
Galloway v. State -----	319	Gonzales v. Mascarenas -----	618
Gambardella v. Apple Health Care -----	975	Gonzales v. Surgidev Corp. -----	859
Garback v. Lossing -----	996	Gonzalez v. Autoliv ASP-----	718
Gardner v. National Bulk Carriers -----	232	Gonzalez v. Tallahassee Medical Center -----	178
Garhart v. Columbia/Healthtone --	854	Gonzalez v. United States-----	846
Garnot v. Johnson -----	194	Goodby v. Vetpharm -----	603
Garratt v. Dailey-----	9, 41, 44, 873	Gooden v. City of Talladega ---	157, 479
Garrison v. Louisiana -----	978	Gooden v. Coors Technical Ceramic Co. -----	908
Gates v. Richardson-----	596		
Gauerke v. Rozga -----	1040		
Gaumer v. Rossville Truck and Tractor Co. -----	779		
Gauvin v. Clark -----	326		

Goodner v. Hyundai Motor Co. ----	717, 723	Gutierrez de Martinez v. Lamagno	487
Gore v. People's Savings Bank	389, 780	H.R. Moch Co. v. Rensselaer Water Co. -----	530, 533, 1037, 1038
Gorman v. Abbott Labs. -----	829	Habershaw v. Michaels Stores ----	168
Gortarez v. Smitty's Super Valu	82	Hackett v. Fulton County Sch. Dist.	94
Goss v. Allen -----	125	Hafer v. Melo -----	487
Gouin v. Gouin -----	57, 172	Hagan v. Antonio -----	443
Gourdine v. Crews -----	742	Hagen Ins., Inc. v. Roller -----	589
Gourley v. Nebraska Methodist Health Sys. -----	854	Hagen v. Faherty -----	342
Govich v. North American Systems	309	Hagerty v. L. & L. Marine Services	337
Grabowski v. Mangler -----	910	Hale v. Beckstead -----	372
Gracyalny v. Westinghouse Elec. Corp. -----	746	Hale v. Ostrow -----	208
Grade v. BNSF Ry. Co. -----	350	Halek v. United States -----	152
Grager v. Schudar -----	90	Hall v. E.I. DuPont de Nemours & Co. -----	829
Graham v. Connor -----	70	Hall v. Hilbun -----	402
Grant v. South Roxana Dad's Club	373	Halliday v. Sturm -----	728, 765
Graves v. Estabrook -----	596	Hamil v. Bashline -----	232
Graves v. Trudell -----	80	Hamilton v. Nestor -----	590
Gray v. BellSouth Telecommunication -----	197, 202	Hammerstein v. Jean Development West -----	257
Great Atlantic & Pacific Tea Co. v. Paul -----	86	Hammons Inc. v. Poletis -----	176
Greco v. Sumner Tavern -----	546	Hancock-Underwood v. Knight ----	116, 326
Green v. Box Butte General Hosp.	117	Hansen v. Sea Ray Boats -----	593
Green v. Gen. Petroleum Corp. ----	689	Happel v. Wal-Mart Stores -----	404
Green v. N.B.S. -----	854	Haralson v. Fisher Surveying -----	877
Green v. Smith & Nephew AHP --	723, 731	Hardee v. Bio-Medical Applications of South Carolina -----	570
Greenberg v. Miami Children's Hospital Research Institute -----	420	Harder v. F.C. Clinton -----	201, 440
Greenberg, Trager & Herbst, LLP v. HSBC Bank USA -----	1044	Hardy v. New York City Health & Hospitals Corp. -----	437
Greenman v. Yuba Power Products -----	696, 701	Hardy v. Southwestern Bell Tel. Co. -----	234
Greenwood v. Anderson -----	452	Harlow v. Fitzgerald -----	484
Gregoire v. City of Oak Harbor ----	300	Harmon v. Washburn -----	295
Gregory v. Carey -----	845	Harnish v. Children's Hospital Medical Center -----	414
Gregory v. Cincinnati -----	745	Harradon v. Schlamadinger ---	153, 361
Gregory v. Kilbride -----	569	Harrington v. Brooks Drugs -----	602
Grenier v. Comm'r of Transp. -----	535	Harris v. Board of Education of Howard County -----	913
Greycas, Inc. v. Proud -----	292	Harris v. Westin Management Co. East -----	907
Griffin Industries, Inc. v. Jones ----	778	Harris-Fields v. Syze -----	378
Grimes v. Kennedy Krieger Institute -----	93, 422, 542	Harrison v. Valentini -----	331
Grimm v. Ariz. Bd. of Pardons & Paroles -----	479	Harry Stoller and Co. v. City of Lowell -----	477
Gritzner v. Michael R. -----	562	Hart v. Ludwig -----	521
Grodin v. Grodin -----	616	Hartley v. Waldbaum -----	180
Grotts v. Zahner -----	596	Hartwig v. Oregon Trail Eye Clinic	612
Grover v. Stechel -----	562	Harvey v. Strickland -----	93, 418
Grube v. Union Pacific Railroad --	593	Hatch v. Davis -----	588
Grzanka v. Pfeifer -----	723	Hatfill v. New York Times Co. ----	982
GTE Southwest, Inc. v. Bruce	582, 583, 585	Hayes v. Decker -----	751
Gubbins v. Hurson -----	191	Hayes v. Price -----	308
Guerrero v. Smith -----	403	Haywood v. Drown -----	70
Guess v. Sharp Mfg. Co. of America -----	918	Health Facilities Management Corp. v. Hughes -----	441
Guillory v. Saucier -----	844	Heath v. Sears, Roebuck & Co. ----	777
Gunkel v. Renovations -----	704	Heck v. Stoffer -----	264
Gushlaw v. Milner -----	526, 574	Heckler v. Campbell -----	943
Guth v. Freeland -----	604	Hedgepeth v. Whitman Walker Clinic -----	593, 598, 604