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The Law of Torts

Fourth Edition

Joseph W. Glannon



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EXAMPLES & EXPLANATIONS

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The Law of Torts

Fourth Edition

Joseph W. Glannon

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I dedicate this book to my wife, Annie

Preface to Students

This book is based on the common sense premise that students encountering complex legal issues for the first time will appreciate a book that provides clear, straightforward introductions to these issues, together with examples that illustrate how these principles apply in typical cases.

I have good reason to believe that the premise is valid. Some years ago I wrote a book on civil procedure, entitled *Civil Procedure: Examples and Explanations*, which uses the same approach. The book has been widely used in law schools across the country. Not only do many faculty members assign or recommend it, but many students have found their way to the book on their own or on the recommendation of other students who have found the approach helpful.

Each chapter of this book includes a brief introduction to the topic, followed by a set of examples that apply the concepts to particular fact situations. After the examples, I have included my analysis of each example. Unlike the typical questions found in the casebooks, which are often either too hard to answer or downright unanswerable, the examples here tend to start with the basics and move on to more sophisticated variations. If you study the readings for your Torts class and the introductions in this book, you should be able to respond effectively to most of the examples. Trying your hand at them and comparing your analysis to mine should help to deepen your understanding of the concepts and your ability to think critically about legal issues in general. It may also help to convince you that you are *capable* of learning the law, a type of feedback that law school seldom seems to provide.

You will also want to use the book to review the course toward the end of the year. Most casebooks contain representative cases and provocative questions and notes, but they do not explain the state of the law, or provide much context for the issues raised. Reading these chapters and reviewing the examples should help you to test your understanding of the topics covered and fill in the gaps left by your casebook.

The last part of the book includes three chapters that will be particularly helpful in preparing for exams. The first chapter explains the type of analysis law professors are looking for on a Torts essay exam (or any other first-year exam, for that matter). The second analyzes common mistakes students make in taking essay exams. The third includes several exam questions with sample answers and some comments on strategy. Law exams are quite different from others you've taken. These chapters will help you to

Preface to Students

understand the analytical approach most law professors want to see in the merry month of May.

Like every author, I hope that this book will go through many editions. If you have comments or suggestions for improvement, drop me a note at Suffolk University Law School, 120 Tremont Street, Boston, MA 02108. Or, send me an e-mail at jglannon@suffolk.edu.

January 2010

Joseph W. Glannon

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I appreciate the permission granted by the American Law Institute to reproduce various sections, comments, and illustrations from the First, Second, and Third Restatements of Torts and the Second and Third Restatements of Agency.

Finally, I thank the many students who have sent me comments, corrections, and suggestions for improvement. Keep 'em coming.

Special Notice

For several frequently cited treatises I have used shortened forms after the initial citation to the work. These are as follows: Harper, James & Gray, *The Law of Torts* (2d ed. 1986), cited as Harper, James & Gray; Prosser and Keeton, *The Law of Torts* (5th ed. 1984), cited as Prosser & Keeton; Minzer, Nates, eds., *Damages in Tort Actions*, cited as Minzer, Nates; Schwartz, *Comparative Negligence*, cited as Schwartz; and Speiser, *Recovery for Wrongful Death and Injury*, cited as Speiser.

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PART I

Intentional Torts

