

Preface

The book is premised on the view that tort law is more than a collection of doctrines and policies, and that it cannot realistically be understood apart from the processes by which tort disputes are resolved. It is as important for students to grasp the roles of the lawyer, the trial judge, the jury, and the appellate court in resolving a tort claim as it is to understand the doctrinal and policy elements that are at play. We find that providing students with this process perspective greatly enhances their appreciation for the actual nature, functions, and limits of tort law. To aid this effort to study tort law in motion, the book includes a series of problems that challenge students to apply their doctrinal understanding to concrete circumstances. We have found that students, even in their first weeks of law study, benefit significantly from the effort and find it interesting and rewarding. There is no need, however, to assign all, or indeed any, of the problems, for the book is also designed to function as a traditional casebook. Finally, the book seeks to enrich and broaden students' understanding by providing integrated discussions of tort theory and policy issues and by raising important ethical considerations.

We have made a few structural changes in this seventh edition. Most visibly, we have subdivided former Chapter 3 into two chapters: Chapter 3, on duty of care and proof of breach, and Chapter 4, on proximate causation, special categories of nonrecovery, and defenses. The order and presentation of these materials has not been otherwise substantially altered. We did, however, feel that the negligence materials had simply become too lengthy for a single chapter. We have also added an entirely new chapter on international and comparative aspects of tort law in Chapter 15. A variety of cases and commentaries are presented there for those who wish to dip their feet into this important and growing area. In addition to these changes, we have also significantly updated Chapter 10 on liability insurance. We have also added four new problems to the book. In several places, we have referred to and quoted from the proposed final draft of the American Law Institute's Restatement (Third) of Torts: Liability for Physical Harm. As with previous updates, however, this edition retains the book's original flavor. Those who have used the earlier editions will find this edition comfortably familiar.

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