

Torts: Spring, 2006

Professor David Jung

Room 406

100 McAllister Street

565-4639

jungd@uchastings.edu

Office hours: Weds. 10:40-12:30

Torts: Spring, 2006

Tuesday, 1:40-3:30 Room E

Thursday, 1:40-2:30 Room B

Friday, 12:40-1:30 Room E



Welcome to the **Center for State and Local Government Law**

U.C. Hastings College of the Law - San Francisco, California

Professor David J. Jung, Director

Clinics

CSLGL opened its doors in the Fall of 2003. Building on the work of the 21 year old Public Law Research Institute, now a part of the center, CSLGL offers a wide variety of opportunities for students, scholars and lawyers. Through the Center's [Local Government Law and Legislation Clinics](#), students learn about state and local government law hands-on through a combination of classroom work and internships. Through the Center's [Conferences and Colloquia](#), scholars, lawyers and students convene to share ideas and to encourage research based upon their expertise. Through the [Public Law Research Institute's \(PLRI's\)](#) reports and working papers, students and faculty work together to promote research on vital public law issues.

Conferences & Colloquia

PLRI

Hastings is the only public law school in California offering a program of study and research focusing on state and local government law.

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■ CSLGL News

PLRI, in association with the American Bar Association's Section on Individual Rights and Responsibilities and the ABA's Section on Environment, Energy & Resources, is pleased to announce the publication of the report **Environmental Justice for All: A Fifty-State Survey of Legislation, Policies and Initiatives**. The ABA has made the report available on its web site at no cost: [click here to access the report](#)

Course requirements

- Required: Franklin and Rabin, Tort Law and Alternatives, 7th edition, 2001.
 - ◆ Recommended: A good legal dictionary
 - ◆ Secondary sources
 - ☞ Casebook, page 16, note 7
 - ☞ [Library Guide to Study Aids](#)

Study Aids

The screenshot shows a Microsoft Internet Explorer browser window. The title bar reads "Study Aids - Microsoft Internet Explorer". The address bar contains the URL "http://www.uchastings.edu/library/torts". The main content area displays a table of study aids under the heading "Torts". The table is organized into two columns: "HORNBOOKS" and "STUDY GUIDES". Below the table, there is a "Top" link and a section for "Wills and Trusts". The browser's status bar at the bottom shows the "Internet" icon.

Torts	
HORNBOOKS	STUDY GUIDES
Basic Principles of Tort Law By Shapo KF1250 S46 1999 (Circ. Desk)	The Law of Torts: Examples and Explanations KF1250 Z9 G58 2000 (Circ. Desk/Reserve Stacks)
The Law of Torts Dobbs KF1250 D58 2000 (Circ. Desk)	Torts in a Nutshell, 3rd ed. KF1250 Z9 K53 1999 (Reserve Stacks)
Prosser and Keeton on the Law of Torts By Prosser and Keeton KF1250 P7 1984 (Circ. Desk)	Torts: Roadmap Law Course Outlines KF1250 Z9B43 1997 (Circ. Desk)
	Understanding Torts KF1250 D58 2000 (Circ. Desk)

[Top](#)

Wills and Trusts

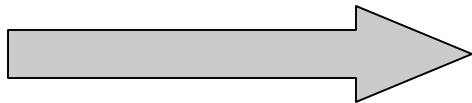
Course requirements

- Required: Franklin and Rabin, Tort Law and Alternatives, 7th edition, 2001.
 - ◆ Recommended: A good legal dictionary
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 - ↳ [Library Guide to Study Aids](#)
- Grading: Traditional, essay style final exam.

What is Tort Law?

Tort law is common law. Sources of Law:

- Federal Law
 - ◆ Federal Constitution -- text and decisional law
 - ◆ Federal Statutes
 - ◆ Federal Regulations
- State Law
 - ◆ State Constitutional -- text and decisional law
 - ◆ State statutes and regulations
 - ◆ Common law



What is the Common Law?

- Common Law is judge-made law.
- The basic requirement is that courts follow precedent.
- Judges derive legal principles by looking at how other cases were decided, deducing a general principle, and applying it to the facts of this case.
- In deriving those principles, judges follow two basic rules:
 - ◆ Treat like cases alike.
 - ◆ Only decide the case before you.
 - ◆ But you must decide that case.

What is Tort Law?

- Tort: Medieval Latin root for “twisted”, “injury”, or “wrong”
- Action brought by an individual against someone who injured him / her, court awarded money to the plaintiff. Earliest cases involve injuries to property, assaults.
- Predates the criminal law, traceable to 14th Century

Why do we need tort law?

What is Tort Law?

Three “kinds” of torts:

Intentional torts: act in a way that is intended to do harm, harm results, subject to liability

Negligence: act carelessly, harm results, subject to liability

Strict liability: sell a defective product that causes harm, subject to liability

engage in an unusually dangerous activity, cause harm, subject to liability

What is Tort Law?

Some examples:

- People injured in accidents
- People harmed by defective products
- Intentional torts: Assault, Battery
- Defamation
- Fraud, interference with economic advantage

What is Tort Law? A formal definition.

- The body of rules that determine when an injured party can recover compensation for an injury from another party through a civil action.
 - ◆ Civil, not criminal
 - ◆ Obligation arising out of law, not out of contract

What is Tort Law? A functional definition.

A social system for

- ◆ Distributing the costs of injuries that are a “by-product” of a complex society.
- ◆ Compensating people who have been injured by particular forms of conduct.

What is Tort Law?

A social system for

- ◆ Distributing the costs of injuries that are a “by-product” of a complex society.
- ◆ Compensating people who have been injured by particular forms of conduct

OR

- ◆ A body of rules that are required to protect the rights of those who are injured by the conduct of others by requiring wrongdoers to “make good” the harm

When should unintended injury result in liability?

What are the options?

- Never: a no liability rule
 - ◆ left to own devices?
 - ◆ system of social insurance?
- A rule of fault-based liability

When should unintended injury result in liability?

Hammontree v. Jenner

(California Ct. App. 1970)