

Exam # _____

TORTS
FALL 2015

PROFESSOR DEWOLF
December 19, 2015

FINAL EXAM

Instructions

DO NOT GO BEYOND THIS PAGE UNTIL THE EXAM ACTUALLY BEGINS. THIS IS A CLOSED BOOK EXAM! Follow all of the directions of the proctor.

IMPORTANT: This exam will last THREE HOURS. You should plan on spending AT LEAST 20 minutes reading the questions carefully and outlining your answers on a separate sheet of paper. Before writing your answers, REREAD each question to be sure you haven't missed anything.

POINTS are assigned to each section of the exam based on the rough number of minutes it is expected you will need to complete each portion.

(1) *Multiple Choice* (20 points). Please select the best answer. Some answers may give a wrong reason for an otherwise correct result. Make sure that you read all the answers thoroughly and select the one that comes closest to a correct statement of the law. Enter your answers to the multiple choice questions in ExamSoft (or, if you are using bluebooks, at the beginning of your answer to Essay #1).

(2) *Essays*: You will have two essay questions. The division is as follows:

Question 1: **40** points

Question 2: **75** points

PLEASE IGNORE issues relating to legal causation; assume that any but-for cause of an injury is also a proximate cause of that injury. DO NOT cross-refer from one essay answer to the other; make sure that each essay answer stands on its own.

Plan on spending at least 15 minutes at the end PROOFREADING your answers. You may not write ANOTHER WORD after time is called.

A STATUTORY APPENDIX is provided that gives the law of this jurisdiction, the State of Linden, on some issues. If no law is specified on the point you are interested in, please comment on the possible alternatives.

REMEMBER THE HONOR CODE! Don't identify yourself.

MERRY CHRISTMAS / HAPPY HOLIDAYS!

MULTIPLE CHOICE QUESTIONS

1. Betty Boston had a crush on Henry Hampshire. Henry wore a distinctive fedora. She decided to surprise him one day by presenting him with a bouquet of flowers to show her affection. She saw someone of Henry's height wearing the same kind of fedora walking down the hallway at school. Betty ran up behind him, threw her arms around his waist and held the bouquet up to his nose. At the same time she kissed him on the cheek. It turned out that the recipient of this gesture was not Henry but rather John Jackson. If Jackson sued Betty for battery, what would be the likely result?

- (a) Liable, because her conduct would be offensive to a person of reasonable sensibility;
- (b) Liable, but only if Henry suffered substantial harm;
- (c) Not liable, if Betty didn't intend her actions to cause harm;
- (d) Not liable, if a person of reasonable sensibility would not find the conduct offensive.

2. Nelson, the security guard at Linden State University, was responsible for locking up the library at night. The library was open until 11 pm most nights and Nelson was instructed to lock the doors at midnight. However, during finals week the security guards were told to wait until 1 a.m. to lock up because the librarians often let students stay later. Because of a snowstorm the University decided to extend the finals period for an additional two days. An email was sent to all of the security guards informing them of the extension, and a large sign was posted in the security office where Nelson changed into his uniform at the beginning of his shift: "Remember 'finals week' will last through tomorrow." Despite these warnings, Nelson locked up the library at midnight, and two students who tried to leave at 1 a.m. discovered they were locked in and were finally let out when the building was unlocked the following morning. If Nelson were sued by the students for false imprisonment, what result?

- (a) Liable if the students were confined within fixed boundaries and Nelson was at least reckless in causing their confinement;
- (b) Liable, unless the students did not suffer any physical harm;
- (c) Not liable, unless Nelson actually intended to imprison the students, or it was virtually certain that he would do so;
- (d) Not liable, if there was a means of escape, even if the students were unaware of the means of escape.

3. Terry Taylor was a waitress at a barbecue restaurant. One night Terry was extremely tired from caring for her sick child, and while carrying a large tray of food she bumped into the leg of a chair and spilled several dishes on the floor. The stress was so much for her that she just burst into tears and ran into the kitchen saying, "Somebody needs to clean up over near Table 14 because I just can't do it anymore." Her boss, Bill Bradford, told her, "You get your *!# out there and do your job, or you're fired." Terry grabbed Bradford by the lapels and shouted at him, "You rotten @\$*#, if you say one more thing to me I'm going to punch your lights out!" If Bradford sued Terry for assault, what result?

- (a) Bradford prevails, if Bradford found her contact with him offensive;
- (b) Bradford prevails, if Terry intended to have offensive contact with Bradford ;
- (c) Terry prevails, if Terry did not cause Bradford to fear imminent harmful or offensive contact;
- (d) Terry prevails, because Bradford might not have said one more thing.

4. Dr. Ben Casey was a well respected doctor at the local hospital. Martha Miller, aged 37, was pregnant with her first child when she began experiencing labor pains and was taken by ambulance to the hospital. Despite efforts to postpone the delivery, Dr. Casey and the hospital staff unable to prevent Miller from giving birth, and because her baby was born significantly premature, it died. Miller was heavily sedated during the latter stages of the delivery, and was wheeled to the recovery room. When she began to recover consciousness, she asked about her baby and the staff said that Dr. Casey would come and talk to her. Dr. Casey was in the break room trying to collect himself after 12 hours of seemingly nonstop emergencies when he was summoned by the staff to the recovery room. Once there, Miller asked Dr. Casey, "Where's my baby?" Casey answered, "It's dead," and started to leave the room. Miller burst into tears and said, "But was it a boy or a girl?" "I don't remember," said Dr. Casey, "but it sure as heck doesn't matter now." He then called for the staff to take care of her. Miller was wailing uncontrollably and it took the staff two hours to get her to calm down. If Miller sued Casey for the intentional infliction of emotional distress, what result?

- (a) Miller prevails, if Casey's conduct caused her severe emotional distress;
- (b) Miller prevails, if a reasonable person in her place would have suffered severe emotional distress;
- (c) Casey prevails, if he did not intend to inflict emotional distress;
- (d) Casey prevails, if his comments were factually accurate.

ESSAY QUESTIONS

QUESTION 1 (40 points)

On May 18, 2015, David Van Horn stole Gerry Oakes' truck in Springfield County and fled in the truck toward Pine County. Gerry's son-in-law, John Ahrendt, pursued Van Horn. After they entered Pine County, Van Horn attempted to kill Ahrendt by running him down with the stolen truck. Shortly thereafter, Linden State Patrol Officer Andrew Dobbins arrested Van Horn in Pine County. Van Horn was detained in a lock-up facility in Marysville, located in Pine County. Dobbins communicated with Springfield County deputy sheriff Robert Judd, and it was Dobbins' impression that Judd was preparing to prosecute Van Horn in Springfield County. Five days later a state police van arrived in Marysville at the lock-up facility to transport another inmate from Pine County to Springfield County. Dobbins placed Van Horn in the van to be transported with the other inmate. While en route it came to the attention of the driver and the officer supervising the transport that it had been more than 48 hours from the time of Van Horn's arrest and no criminal complaint had yet been filed. Based on the officer's understanding of state law (which requires release if no criminal complaint has been filed within 48 hours of arrest), Van Horn was released on the side of the highway.

Four hours later Van Horn stole another vehicle, and with a companion drove to a neighboring state, where he committed several violent crimes. Specifically, he invaded a home occupied by Merlin and Norma Claus (no relation to Santa!). After terrorizing the Clauses, Van Horn and his companion set fire to the house while the Clauses were still inside. Merlin Claus escaped, but his wife Norma died in the fire.

Mr. Claus has now filed a tort claim against the State of Linden seeking damages from the fire and murder of his wife. You work for the Linden Attorney General and you have been asked to prepare a memorandum analyzing the likelihood that the State would be held liable. Assume for purposes of your analysis that if the State were found liable a jury would find that Merlin Claus suffered \$500,000 in economic damages and \$500,000 in non-economic damages.

QUESTION 2 (75 points)

After undergoing surgery at Our Lady of Diversity Hospital (“OLDH”) for the removal of two malignant lung tumors, Linda Piper developed adult respiratory distress syndrome (“ARDS”). She was placed on the Bear 2 Adult Volume Ventilator (“Bear 2”), manufactured by Stamina Products, Inc. (“Stamina”) to assist her breathing. Mrs. Piper remained in a comatose state throughout the subsequent events.

An expiratory arm is attached to the Bear 2. The expiratory arm begins with an exhalation valve and a water collection trap. The water trap is connected to a flow tube with a mounted flow sensor to measure the volume of exhaled gas. Attached to the end of the flow tube is a one-way check valve which permits air flow in only one direction. The check valve, also manufactured by Stamina, prevents the patient from inhaling through the expiratory arm, ensuring that any gas going into the patient comes from the sterile ventilator. The component parts of the Bear 2 expiratory arm are diametrically indexed; this means the parts cannot be reversed, superimposed, or placed in a configuration other than the intended sequence unless other components are added.

A respiratory therapist at the hospital used a rubber universal adaptor, manufactured by Bear, to connect a bacterial filter to the flow tube on the Bear 2 ventilator used by Mrs. Piper. The therapist added the filter to the ventilator to prevent bacteria emitted through Mrs. Piper's expiration from contaminating those who worked near her.

Approximately ten days after Mrs. Piper was placed on the Bear 2, a nurse accidentally knocked off the expiratory arm causing the ventilator alarms to sound. The nurse attempted to reassemble the parts and sought the help of another nurse because no respiratory therapist was on duty at the time. One of the nurses inverted the one-way check valve on the ventilator when reassembling and the alarms on the Bear 2 continued to sound.

The proper procedure in this situation is to disconnect the patient from the ventilator and use other medical equipment to manually assist breathing. However, Mrs. Piper was not removed from the ventilator for several minutes, during which the inverted check valve permitted her to inhale but prevented her from exhaling. Because the check valve was inverted, the pressure increased in Mrs. Piper's chest, preventing blood from returning to the heart or circulating to the brain, which in turn caused serious, neurological damage. After this incident, Mrs. Piper's condition steadily deteriorated. With her family's consent, she was eventually taken off the ventilator and died shortly afterward.

The Bear 2, first manufactured in 1982, evolved from the Bear 1 ventilator which was developed in the mid-1970s. Both machines incorporated a one-way check valve but only the Bear 1 required the use of a universal adaptor, a flexible fitting that connects parts having different diameters. The universal adaptor was needed to attach the water trap to the flow tube on the Bear 1. Over a period of fourteen years, Bear received reports of eight incidents in which the expiratory arm of the Bear 1 became dislodged and the one-way check valve was reassembled in reverse.

Bear redesigned its ventilator so that the Bear 2 water trap fits directly into the flow tube of the expiratory arm; therefore a universal adaptor is no longer included as a component part, nor is it required for assembly. However, instructions for the water trap indicate a universal adaptor is necessary to test the Bear 2 prior to use, and no warning is provided to deter use of the adaptor after testing.

It was undisputed that the one-way check valve could not be inserted backwards into the Bear 2's standard component parts. However, with the addition of a universal adapter into the Bear 2 expiratory arm, the one-way check valve could be reversed despite diametrical indexing.

It was common for respiratory therapists to modify the expiratory arm by adding parts

including the addition of bacterial filters. This was a common and well-known practice in the respiratory therapy industry, and Bear knew its ventilators were being modified.

You work for a law firm that represents plaintiffs in personal injury cases. Fred Piper, Linda's surviving spouse, has come to your office to inquire of the likelihood that he might receive tort compensation for Linda's death. Assume that a jury would award \$1,000,000 in economic damages and \$750,000 in non-economic damages if liability were established. Please prepare an analysis of Mr. Piper's prospects.

LINDEN REVISED STATUTES

Linden Tort Claims Act

Title 12. Courts and Civil Proceedings

Chapter 7. Special Actions and Proceedings in Which the State is a Party

Article 2. Actions Against Public Entities or Public Employees

§ 12-820. Definitions

In this article, unless the context otherwise requires:

1. "Employee" includes an officer, director, employee or servant, whether or not compensated or part time, who is authorized to perform any act or service, except that employee does not include an independent contractor. Employee includes noncompensated members of advisory boards appointed as provided by law and leased employees.

2. "Injury" means death, injury to a person, damage to or loss of property or any other injury that a person may suffer that would be actionable if inflicted by a private person.

3. "Leased employee" means a person providing services to a public entity under a lease agreement and is not an independent contractor or temporary employee.

4. "Maintenance" means the establishment or continuation in existence of facilities, highways, roads, streets, bridges or rights-of-way by a public entity and does not mean or refer to ordinary repair or upkeep.

5. "Prisoner" means a person incarcerated while awaiting sentence or while serving a sentence imposed by a court of law.

6. "Public employee" means an employee of a public entity.

7. "Public entity" includes this state and any political subdivision of this state.

8. "State" means this state and any state agency, board, commission or department.

§ 12-820.01. Absolute immunity

A. A public entity shall not be liable for acts and omissions of its employees constituting either of the following:

1. The exercise of a judicial or legislative function.

2. The exercise of an administrative function involving the determination of fundamental governmental policy.

B. The determination of a fundamental governmental policy involves the exercise of discretion and shall include, but is not limited to:

1. A determination of whether to seek or whether to provide the resources necessary for any of

the following:

- (a) The purchase of equipment.
 - (b) The construction or maintenance of facilities.
 - (c) The hiring of personnel.
 - (d) The provision of governmental services.
2. A determination of whether and how to spend existing resources, including those allocated for equipment, facilities and personnel.
 3. The licensing and regulation of any profession or occupation.
 4. The establishment, implementation and enforcement of minimum safety standards for light rail transit systems.

§ 12-820.02. Qualified immunity

A. Unless a public employee acting within the scope of the public employee's employment intended to cause injury or was grossly negligent, neither a public entity nor a public employee is liable for:

1. The failure to make an arrest or the failure to retain an arrested person in custody.
2. An injury caused by an escaping or escaped prisoner or a youth committed to the department of juvenile corrections.
3. An injury resulting from the probation, community supervision or discharge of a prisoner or a youth committed to the department of juvenile corrections, from the terms and conditions of the prisoner's or youth's probation or community supervision or from the revocation of the prisoner's or youth's probation, community supervision or conditional release under the psychiatric security review board.
4. An injury caused by a prisoner to any other prisoner or an injury caused by a youth committed to the department of juvenile corrections to any other committed youth.
5. The issuance of or failure to revoke or suspend any permit, license, certificate, approval, order or similar authorization for which absolute immunity is not provided pursuant to § 12-820.01.
6. The failure to discover violations of any provision of law when inspections are done of property other than property owned by the public entity in question.
7. An injury to the driver of a motor vehicle that is attributable to the violation by the driver of § 28-693 (reckless driving) or § 28-1381 (driving under the influence).
8. The failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under any federal law or any law of this state.
9. Preventing the sale or transfer of a handgun to a person who may lawfully receive or possess a handgun.
10. The failure to detain a juvenile taken into temporary custody or arrested for a criminal offense or delinquent or incorrigible act in the appropriate detention facility, jail or lockup.

B. The qualified immunity provided in this section applies to a public entity or public employee if the injury or damage was caused by a contractor's employee or a contractor of a public entity acting within the scope of the contract. The qualified immunity provided in this section does not apply to the contractor or the contractor's employee.

§ 12-820.04. Punitive and exemplary damages; immunity

Neither a public entity nor a public employee acting within the scope of his employment is liable for punitive or exemplary damages.

§ 12-821. General limitation; public employee

All actions against any public entity or public employee shall be brought within one year after the cause of action accrues and not afterward.

§ 12-823. Judgment for plaintiff; amount; interest and costs

If judgment is rendered for the plaintiff, it shall be for the amount actually due from the public entity to the plaintiff, with legal interest thereon from the time the obligation accrued and with court costs.

Title 12. Courts and Civil Proceedings
Chapter 16. Uniform Contribution Among Tortfeasors Act

§ 12-2501. Right to contribution; definition

A. Except as otherwise provided in this article, if two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

B. The right of contribution exists only in favor of a tortfeasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tortfeasor is compelled to make contribution beyond his own pro rata share of the entire liability.

C. There is no right of contribution in favor of any tortfeasor who the trier of fact finds has intentionally, wilfully or wantonly caused or contributed to the injury or wrongful death.

D. A tortfeasor who enters into a settlement with a claimant is not entitled to recover contribution from another tortfeasor whose liability for the injury or wrongful death is not extinguished by the settlement nor in respect to any amount paid in a settlement which is in excess of what was reasonable.

E. A liability insurer, which by payment has discharged in full or in part the liability of a tortfeasor and has thereby discharged in full its obligation as insurer, is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasor's pro rata share of the common liability. This subsection does not limit or impair any right of subrogation arising from any other relationship.

F. This section and §§ 12-2502, 12-2503, 12-2504, 12-2508 and 12-2509 do not:

1. Impair any right of indemnity under existing law. If one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from any obligee for any portion of his indemnity obligation.

2. Apply to breaches of trust or of other fiduciary obligation.

3. Create a right of contribution against an employer or other person who has paid or who is liable for workmen's compensation in connection with an injury or death pursuant to title 23, chapter 6,1 unless the employer or other person is subject to direct suit under § 23-1022. For purposes of determining the amount of pro rata shares under this article, any employer or other person who has paid or who is liable for workmen's compensation shall not be considered unless the employer or other person is subject to direct suit under § 23-1022.

G. As used in this article, "property damage" means both physical damage to tangible property and economic loss proximately caused by a breach of duty.

§ 12-2502. Pro rata shares

In determining the pro rata share of tortfeasors in the entire liability:

1. Their relative degrees of fault are the basis for allocation.
2. If equity requires, the collective liability of some as a group constitutes a single share.
3. Principles of equity applicable to contribution generally apply.

§ 12-2503. Enforcement

A. Whether or not judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced by separate action.

B. If a judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion on notice to all parties to the action.

C. If there is a judgment for the injury or wrongful death against the tortfeasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

D. If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, his right of contribution is barred unless he has either:

1. Discharged by payment the common liability within the statute of limitations period applicable to the claimant's right of action against him and has commenced his action for contribution within one year after payment.

2. Agreed while action is pending against him to discharge the common liability and has within one year after the agreement paid the liability and commenced his action for contribution.

E. The recovery of a judgment for an injury or wrongful death against one tortfeasor does not of itself discharge the other tortfeasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair a right of contribution.

F. The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death is binding as among the defendants in determining their right to contribution. If the claimant's case is tried, the trier of fact shall apportion and determine the respective degrees of fault of the defendants to the action.

§ 12-2504. Release or covenant not to sue

If a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death both of the following apply:

1. It does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the others to the extent of any amount stipulated by the release or the covenant or in the amount of the consideration paid for it, whichever is the greater.

2. It discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor.

§ 12-2505. Comparative negligence; definition

A. The defense of contributory negligence or of assumption of risk is in all cases a question of fact and shall at all times be left to the jury. If the jury applies either defense, the claimant's action is not barred, but the full damages shall be reduced in proportion to the relative degree of the claimant's fault which is a proximate cause of the injury or death, if any. There is no right to comparative negligence in favor of any claimant who has intentionally, willfully or wantonly caused or contributed to the injury or wrongful death.

B. In this section, "claimant's fault" includes the fault imputed or attributed to a claimant by operation of law, if any.

§ 12-2506. Joint and several liability abolished; exception; apportionment of degrees of fault; definitions

A. In an action for personal injury, property damage or wrongful death, the liability of each defendant for damages is several only and is not joint, except as otherwise provided in this section. Each defendant is liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment shall be entered against the defendant for that amount. To determine the amount of judgment to be entered against each defendant, the trier of fact shall multiply the total amount of damages recoverable by the plaintiff by the percentage of each defendant's fault, and that amount is the maximum recoverable against the defendant.

B. In assessing percentages of fault the trier of fact shall consider the fault of all persons who contributed to the alleged injury, death or damage to property, regardless of whether the person was, or could have been, named as a party to the suit. Negligence or fault of a nonparty may be considered if the plaintiff entered into a settlement agreement with the nonparty or if the defending party gives notice before trial, in accordance with requirements established by court

rule, that a nonparty was wholly or partially at fault. Assessments of percentages of fault for nonparties are used only as a vehicle for accurately determining the fault of the named parties. Assessment of fault against nonparties does not subject any nonparty to liability in this or any other action, and it may not be introduced as evidence of liability in any action.

C. The relative degree of fault of the claimant, and the relative degrees of fault of all defendants and nonparties, shall be determined and apportioned as a whole at one time by the trier of fact. If two or more claimants have independent claims, a separate determination and apportionment of the relative degrees of fault of the respective parties, and any nonparties at fault, shall be made with respect to each of the independent claims.

D. The liability of each defendant is several only and is not joint, except that a party is responsible for the fault of another person, or for payment of the proportionate share of another person, if any of the following applies:

1. Both the party and the other person were acting in concert.
2. The other person was acting as an agent or servant of the party.
3. The party's liability for the fault of another person arises out of a duty created by the federal employers' liability act, 45 United States Code § 51.

E. If a defendant is found jointly and severally liable pursuant to subsection D, the defendant has the right to contribution pursuant to this chapter. In an action arising out of a duty created by the federal employers' liability act (45 United States Code § 51), a person or entity, other than an employee of the defendant, whose negligence or fault caused or contributed to the plaintiff's injury or death shall contribute to the defendant pursuant to this chapter. An action for contribution shall be adjudicated and determined by the same trier of fact that adjudicates and determines the action for the plaintiff's injury or death. The trier of fact shall adjudicate and determine an action for contribution after the court enters a judgment for the plaintiff's injury or death. On motion before the conclusion of the trial, the plaintiff is entitled to an award against the defendant for actual expenses the plaintiff incurred as a direct result of the defendant's claim for contribution. The expenses shall include reasonable attorney fees as determined by the court.

F. For the purposes of this section:

1. "Acting in concert" means entering into a conscious agreement to pursue a common plan or design to commit an intentional tort and actively taking part in that intentional tort. Acting in concert does not apply to any person whose conduct was negligent in any of its degrees rather than intentional. A person's conduct that provides substantial assistance to one committing an intentional tort does not constitute acting in concert if the person has not consciously agreed with the other to commit the intentional tort.

2. "Fault" means an actionable breach of legal duty, act or omission proximately causing or contributing to injury or damages sustained by a person seeking recovery, including negligence in all of its degrees, contributory negligence, assumption of risk,

strict liability, breach of express or implied warranty of a product, products liability and misuse, modification or abuse of a product.

§ 12-2507. Treatment of counterclaims and cross claims

A counterclaim or cross claim for injury to person or property or for wrongful death shall be treated as an independent claim for purposes of § 12-2506. A claim and counterclaim shall not be set off against each other except by agreement of both parties.

§ 12-2508. Redetermination of contribution shares

On motion made not later than one year after a judgment imposing joint and several liability and determining contribution rights is entered, the court shall determine whether all or part of a tortfeasor's contribution share under § 12-2502 is uncollectible from that tortfeasor. If a contribution share is totally or partially uncollectible, the court shall redetermine the contribution shares of the other tortfeasors so that the uncollectible contribution amount is paid, based on the ratio of the percentages of the contribution shares of the other tortfeasors. The court's order redetermining the contribution shares shall include a judgment for the uncollectible amount against the tortfeasor whose share is totally or partially uncollectible and in favor of the other tortfeasors.

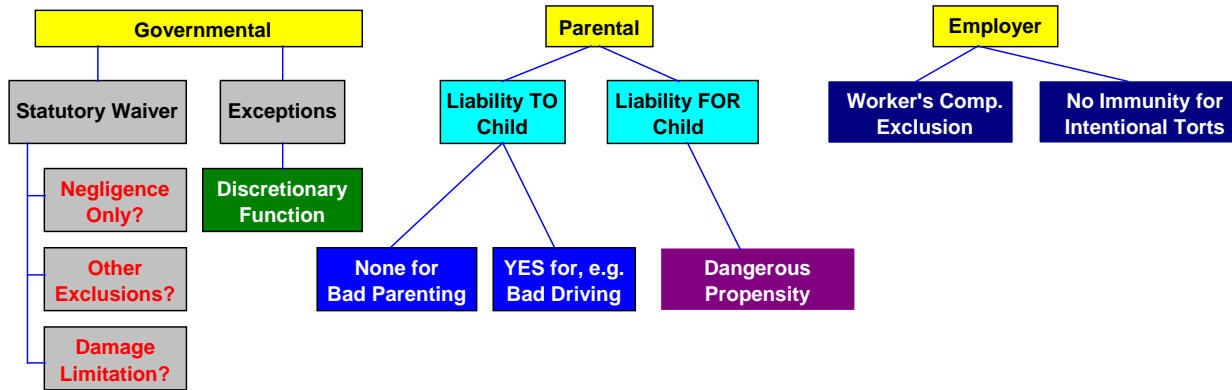
§ 12-2509. Scope of contribution and comparative negligence

A. The right to contribution under §§ 12-2501 through 12-2504 applies to all tortfeasors whose liability is based on negligence, strict liability in tort or any product liability action, as defined in § 12-681, including warranty.

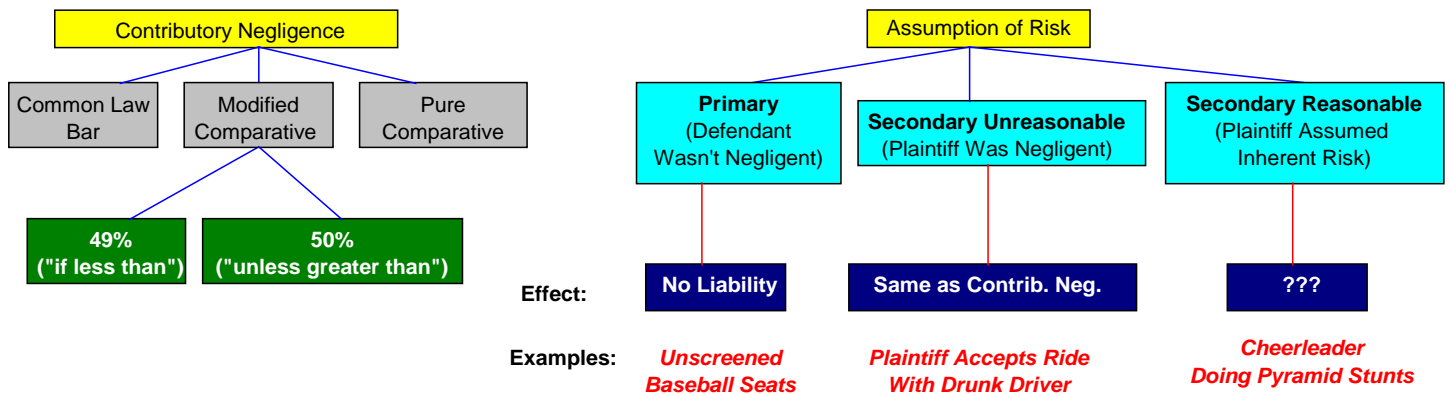
B. If an action involves claims for relief alleging both negligence and strict liability in tort, and if § 12-2505 is applied with respect to the negligence claims for relief, the reduction in damages under § 12-2505 shall be applied to the damages awarded against all defendants, except that contributory negligence, as distinguished from assumption of risk, is not a defense to a claim alleging strict liability in tort, including any product liability action, as defined in § 12-681, except claims alleging negligence.

C. For purposes of § 12-2502, § 12-2503, subsection F and § 12-2505 with respect to cases involving assumption of risk, the relative degree of fault of a person strictly liable in tort is the defect causing injury to the claimant. Among two or more persons strictly liable in tort who are entitled to claim contribution against each other, the relative degree of fault of each is the degree to which each contributed to the defect causing injury to the claimant.

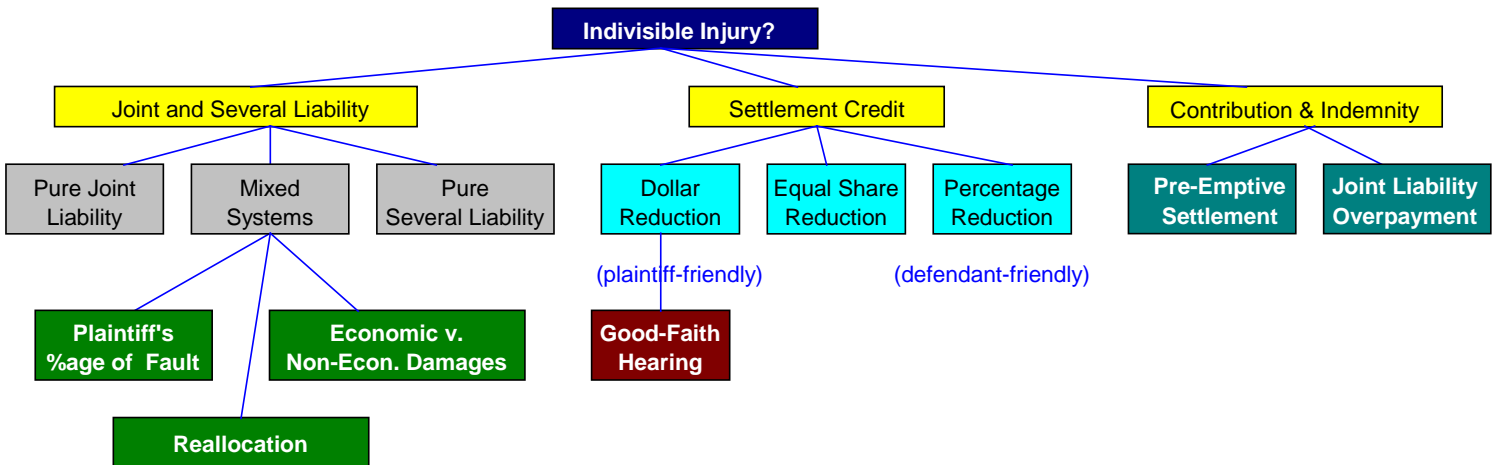
**Chapter 4
Immunity**



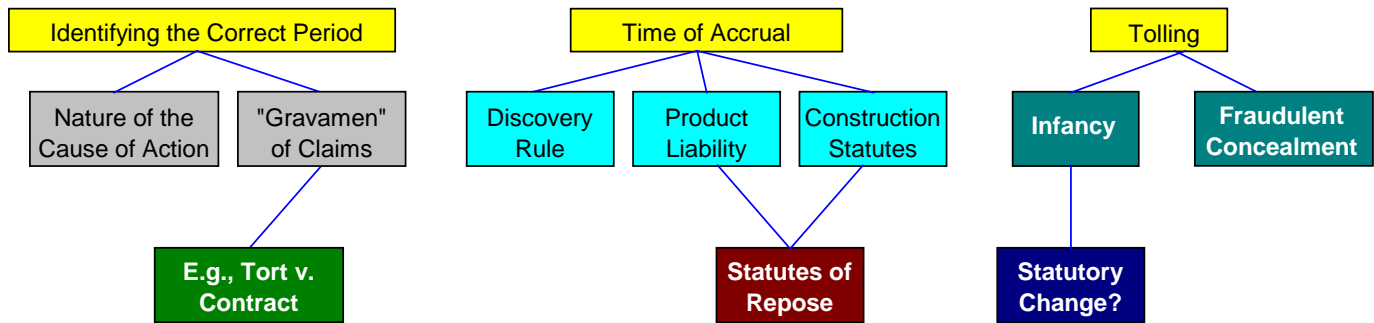
**Chapter 5
Contributory Fault**



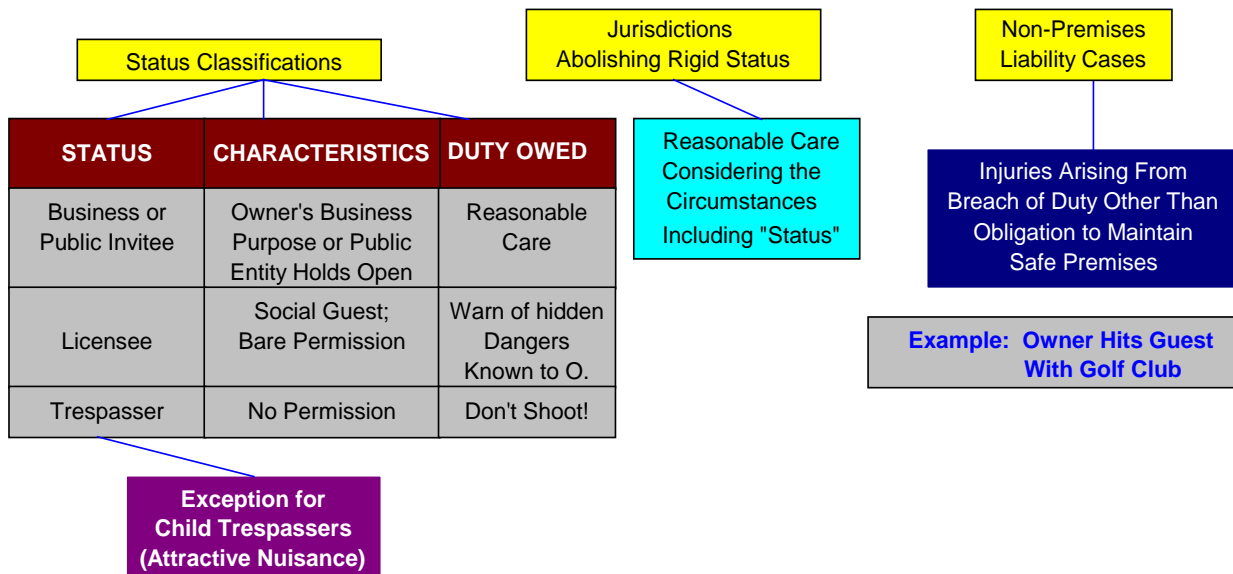
**Chapter 6
Multiple Tortfeasors**



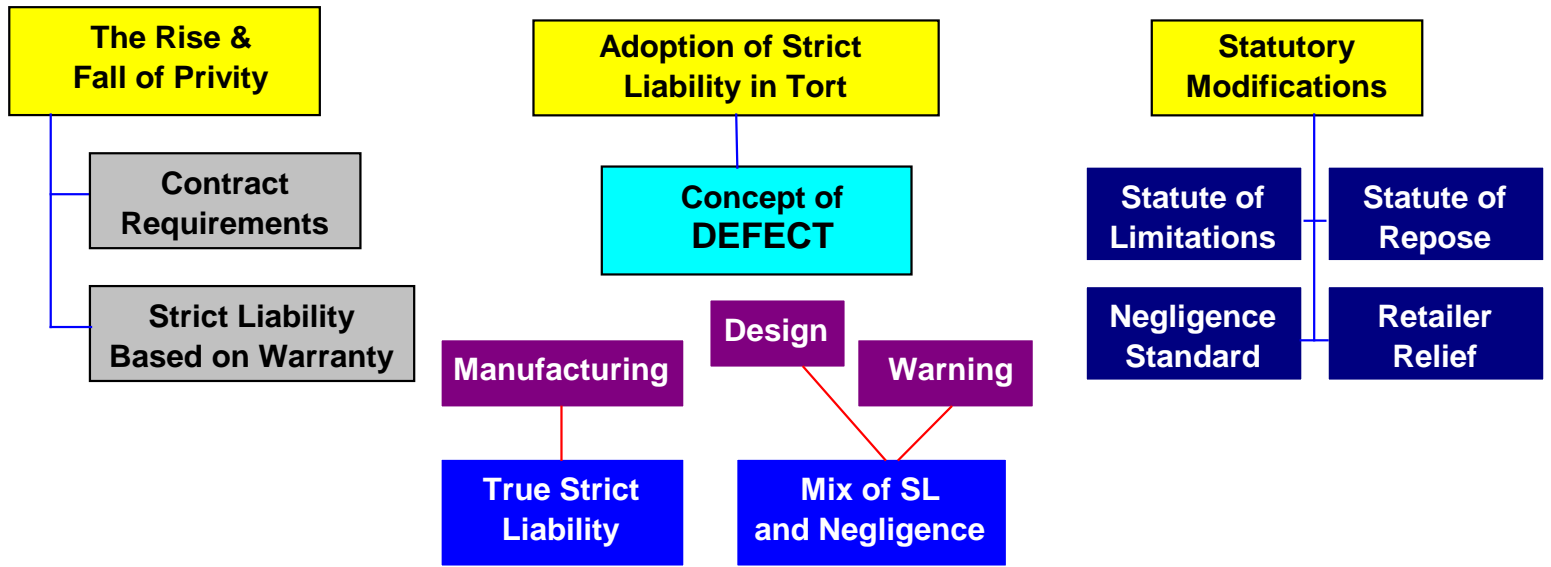
Chapter 7
Statutes of Limitation



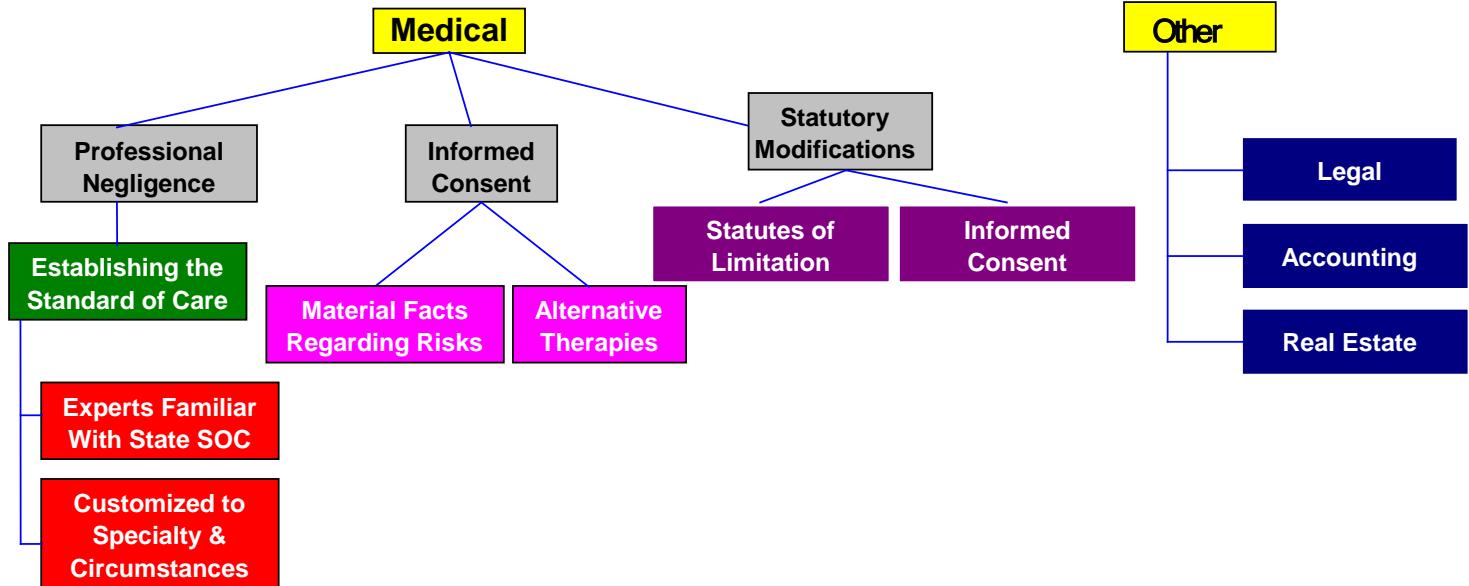
Chapter 8
Premises Liability



**Chapter 9
Product Liability**

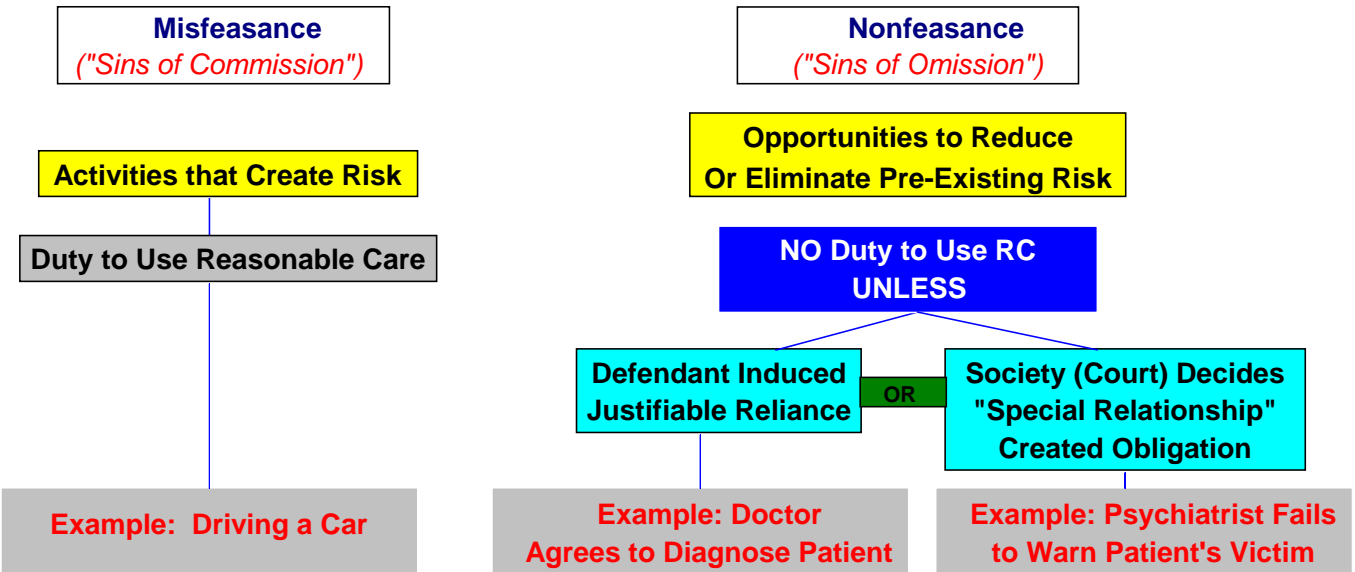


**Chapter 10
Professional Malpractice**



Chapter 11
**Rescuers, Justifiable Reliance
 and Special Relationships**

**What Triggers a Defendant's
 Duty to Use Reasonable Care?**



Chapter 12
**Intentional Torts:
 The Prima Facie Case**

Battery & Assault		
	Intent Element	Damage
Battery	Intent to Cause Harmful or Offensive Touching or Apprehension thereof	Touching Results
Assault	(same)	Apprehension

