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| Law 435C.001 | Personal Injury Advocacy | 2023 Term 2 |
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| Professors:MARC KAZIMIRSKI and SANDRA KOVACS | Tel: (604) 681-9344Email: mak@kazlaw.ca Email: sk@kazlaw.caOffice: 1900-570 Granville Street, Vancouver BC  | Mondays 5:00 – 8:00 pmUBC Allard HallFaculty of LawRoom 121 |
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**COURSE SCHEDULE**

**WEEK 1: January 9, 2023** - **Introduction (MAK/SLK)**

* Introduction to course topics, grading, assignments and objectives.
* Personal injury as a specialized subsection of Tort Law requiring proof of liability for a recognized tort, causation, and damages.
* Types of personal injury claims: motor vehicle accidents, occupier’s liability, sexual violence, physical violence, product liability, municipal liability, slip and fall, professional negligence/malpractice, sports injuries, etc.
* Motor vehicle claims in British Columbia – Tort and Part 7/10 (Rehabilitation Benefits) claims.
* The various tort regimes applicable to motor vehicle claims in Canada: no-fault insurance (Quebec), optional no-fault (Saskatchewan and Manitoba), thresholds, deductibles and caps applied to tort claims (Ontario, Alberta, and Maritimes), and rehabilitation benefits (all provinces).
* ICBC’s new “no fault” regime in British Columbia
* Tort Reform in Canada and Hot Coffee discussion.

**WEEK 2:** **January 16, 2023 - Liability (SLK)**

* The elements of proving liability in negligence:
	+ Duty of care
	+ Breach of that duty (an actionable wrong);
	+ Causation; and
	+ Damages.
* Burden of proof
* Standard of proof
* Apportionment of fault
* Vicarious liability: why, how, and when
* Applying the theory of proving liability in motor vehicle collisions, with reference to real case examples:
	+ Left turn collisions
	+ Rear-end collision
	+ Agony of the collision
* Applying the theory of proving Occupier’s liability, with reference to real case examples
* Applying the theory of proving assault and battery, with reference to real case examples

**WEEK 3:** **January 23, 2023** – **Causation (MAK)**

* Defining causation in the Supreme Court of Canada
* Two tests for causation: “but for” test and “material contribution test”
* Complex causation issues:
	+ Pre-existing injuries or health conditions;
	+ Multiple tortious and non-tortious events;
	+ Divisible and indivisible injuries
* Psychological injuries as a special case
* Addiction as a special case

**WEEK 4:** **January 30, 2023** - **Non-pecuniary damages (SLK)**

* Non-Pecuniary Damages: Pain, suffering, loss of enjoyment of life, and loss of amenities – quantifying the unquantifiable
* “Rough upper limit” or “cap” for non-pecuniary damages
* The “Minor Injury Cap”
* Non-pecuniary damages in intentional tort claims
* Aggravated versus punitive (non-compensatory) damages

**WEEK 5: February 6, 2023 – Pecuniary damages (MAK)**

* *Restitutio in integrum* – a principled approach to full compensation, from the SCC Trilogy.
* Past lost earnings
* Future lost earning capacity
* Special damages
* Future cost of care
* Lost homemaking and childcare capacity
* In trust claims

**WEEK 6: February 13, 2023** *-* **Defending personal injury claims (TM/MV)**

* Inevitable Accidents / No Negligence
* Waivers
* Statutory bars
	+ Limitation Periods
	+ *Workers’ Compensation Act* defence
	+ Consecutive collisions: Fault and “no fault” era accidents
* Contributory negligence
* Failure to mitigate
* Credibility
* Surveillance, social media, and investigation of plaintiffs

**FEBRUARY 20, 2023: READING WEEK/FAMILY DAY HOLIDAY**

**WEEK 7: February 27, 2023 – Experts (RD/DG)**

* The scope of expert evidence
* Strategic use of experts – which experts and why?
* Rule 11 of the Civil Rules of Court
	+ IME applications;
	+ Timing of expert reports;
	+ Disclosure obligations;
	+ Notice of objections to admissibility
* Admissibility of expert reports
* Direct-examination of experts
* Cross-examination of experts

**WEEK 8: March 6, 2023 - Motor vehicle accident case study (MAK/JG)**

* Developing themes for the plaintiff’s case.
* Interviewing the plaintiff and investigating the claim.
* Host Liability overlap
* Discovery of documents
* Examination for discovery
* Expert reports
* Pre-trial case management
* Client management
* Trial

**WEEK 9: March 13, 2023 – Sexual torts case study (SLK/MH)**

* Interviewing the plaintiff and investigating the claim.
* Anonymity
* Limitation period
* Who to sue
* Identifying the cause(s) of action
* Theory / theme of the case.
* Discovery of documents
* Examinations for discovery
* Expert reports
* Pre-trial case management
* Client management
* Trial

**WEEK 10: March 20, 2023 – Occupier’s Liability case study (SLK)**

* Interviewing the plaintiff and investigating the claim.
* *Occupier’s Liability Act /* Host Liability overlap
* Theory / theme of the case.
* Discovery of documents
* Examinations for discovery
* Expert reports
* Pre-trial case management
* Client management
* Trial

**WEEK 11: March 27, 2023 – Post-Trial / Settlement Procedures (MAK)**

* Mediation
* Formal offers
	+ Offers to settle and cost consequences
	+ Settlement Agreements generally
	+ Terms of a Settlement Agreement
	+ BC Ferry Agreements: Settling with One of Multiple Defendants
	+ Settlement Documentation
* Professional and Ethical responsibilities
* Public Guardian and Trustee review of infant settlements
* Health Care Costs Recovery Act
* Elimination of subrogation rights under the new section 83
* Section 83 deductions
* Pre-judgment interest
* Post-judgment interest
* Tax gross-up and management fee
* Costs and taxations
* The 6% cap on disbursements
* Appeals

**WEEK 12: April 3, 2023 – Optional class (MAK/SLK)**

* Review of Course Materials
* Review of last year’s exam
* Preparing for the exam

**April 10, 2023 – Easter Monday**

**FINAL EXAM: TUESDAY, APRIL 25, 2023 at 9:00 AM**[EXAMINATION TIMETABLE (ubc.ca)](https://allard.ubc.ca/sites/default/files/2022-07/Exam_Schedule_Spring_2023_0.pdf)