
Law 435C.001**Personal Injury Advocacy****2022 Term 2**

Professors:
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Mondays 5:00 – 8:00 pm
UBC Allard Hall
Faculty of Law
Room 121
(Zoom until January 24)
Meeting ID:
896 2353 7971
Passcode: 062876

COURSE SCHEDULE**WEEK 1: January 10, 2022 - Introduction (Via Zoom)****Meeting ID: 896 2353 7971****Passcode: 062876****Join Zoom Meeting:**

<https://us02web.zoom.us/j/89623537971?pwd=S0w2K3hCTjFUa01hbWpVakc3a1V1QT09>

- 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 17, 2022 - Liability (Via Zoom)

Meeting ID: 896 2353 7971

Passcode: 062876

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- 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 24, 2022 – Causation (In Person, COVID-permitting)

- 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 31, 2022 - Non-pecuniary damages

- 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 7, 2022 – Pecuniary damages

- *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 14, 2022 - Defending personal injury claims

- 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 21, 2022: READING WEEK/FAMILY DAY HOLIDAY

WEEK 7: February 28, 2022 – Experts

- 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 7, 2022 - Motor vehicle accident case study

- 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 14, 2022 – Sexual violence case study

- 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 21, 2022 – Occupier's Liability case study

- 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 28, 2022 – Post-Trial / Settlement Procedures

- Mediation
- Formal offers
- 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 4, 2022 – Optional class

- Review of Course Materials
- Review of last year's exam
- Preparing for the exam

FINAL EXAM: THURSDAY, APRIL 26, 2022 at 9:00 AM

[EXAMINATION TIMETABLE – April 2022 \(ubc.ca\)](#)