

# LECTURE NOTES: Torts

## Negligence

### I. Negligence:

- A Failure to use the care that a reasonable and prudent man would use in the same circumstances
- B Negligence is not a state of mind, but focuses on conduct or behavior

### II. Elements of Negligence:

- A Did the defendant owe a duty of reasonable care to the defendant?
- B Did the defendant breach the duty owed?
- C Was defendant's breach the proximate cause of plaintiff's injury?
- D Were there legally compensable damages?

### III. Duty of Reasonable Care:

- A Prudent man standard: (reasonable person standard)
  - 1. physical attributes
  - 2. mental condition
  - 3. age
  - 4. knowledge, skill, intelligence

- B Act or omission. (misfeasance, nonfeasance)
- C Source of duty
  - 1. Case law
  - 2. Statutory law
- IV. Breach of Duty of Reasonable Care
- V. Proximate Cause:
  - A Cause in fact
    - 1. "but-for" rule
    - 2. substantial factor rule
  - B Foreseeable risk
  - C Intervening cause (superceding cause)
- VI. Monetary Damages
  - A Compensatory
    - 1. special damages (economic)
    - 2. general damages (non-economic)
  - B Punitive [exemplary]

C Loss of Consortium

D Mitigation of damages:

1. Doctrine of avoidable consequences
2. Collateral Source rule