

Notes About Edits and Editions

Unmarked Edits Generally

(Applicable to all volumes)

Key to making a casebook is editing down cases. Many of these edits have been marked as described in the Preface at the front of this book, within the section “Editing Marks.” Described there are some superscript symbols that indicate edits (e.g., ~ tilde denoting matter omitted; ↵ and ↴ bent arrows indicating footnote material incorporated into the regular text).

This section discusses edits to readings that are not marked within the text. They have been left unmarked because to mark them would have made the text substantially less readable.

In general, whole citations and portions of citations have been liberally removed from the readings. Parallel citations have been removed generally. Where a reading’s original formatting didn’t matter as to substance but could matter as to the reader’s convenience, it may have been changed. Sometimes court opinions employ strange or awkward formatting – usually in connection with citations. In many such cases alterations were made to fit conventions and serve readability. In particular, spaces have been added or deleted in cases where the observed style was unconventional and jarring. Typesetting for citations has sometimes been changed, such as from lower-case to small-caps for titles of journals – for example in *Tarasoff v. UC Regents* and *Weirum v. RKO*. Formatting of headings has been changed. In cases where case names were printed in roman type, case names have generally been italicized. Where quotation marks occurred around a blockquote, they generally have been removed. Lengthy portions of quoted material have sometimes been re-set as blockquotes. Dashes and ellipses have been set in a uniform typographical style regardless of how they appeared in the original document. Official headnote references have been eliminated. In addition, I have sought to remove all indicia of additions to any text made by unofficial publishers. Footnote references and footnotes have been removed without notation.

The author attributions at the beginnings of case readings, in general, are not attributable to the original source. In various places, the spelled-out word “section” was replaced with the § symbol, including in *Rowland v. Christian*, *Beswick v. CareStat*, and the text discussing California Civil Code §847.

Case citations have generally been changed so that where the court uses a secondary-reference citation style, if it is the first reference in the case as it appears in edited form in this casebook, the secondary-reference cite has been replaced with the full

citation as is appropriate for use on first reference. In some cases, punctuation was changed to accommodate cites that were eliminated without notation.

Idiosyncratic Unmarked Edits in this Volume

The following notes memorialize particular aspects of unmarked edits in particular readings:

Bard v. Jahnke: Blockquotes were brought into the regular text. End-of-sentence periods occurring outside of quotations were brought inside the quotations. Notation was omitted that quotes contain internal quotes and citations. Separate paragraphs have been combined. Brackets around years were replaced with parentheses.

Silkwood v. Kerr-McGee (in Chapter 13, Strict Liability): In the transcript of Spence's argument, the paragraphing is my own. Some of the punctuation has been changed to enhance readability, and some capitalization may be different as well. See the "Rights Information" section in the front matter of this book for information about the "FACTS" section.

DOJ Press Release on Toyota Unintended Acceleration: The original press release referred to Toyota as "TOYOTA" in all capital letters. The all-caps style was replaced with regular capitalization to enhance readability.

Leichtman v. WLW Jacor: Spaces added into citation.

Sousanis v. Northwest Airlines: The word "the" was changed to "she" to reverse what appears to be a transcription error possibly attributable to the reporter rather than the court. The original passage appearing in the reporter volume is "a chronic back condition that worsens if the is forced to sit for too long." The changed version is "a chronic back condition that worsens if she is forced to sit for too long."

Boring v. Google: Section heading removed without notation.

Intel Corp. v. Hamidi: Brackets were changed to parentheses; paragraph breaks were removed without notation.

Kirby v. Sega: The citation format of the statute cite was altered.

Spell v. McDaniel: Some footnote material is presented in a different place in the text than it appeared in the original.

Silkwood v. Kerr-McGee (in Chapter 24, Punitive Damages): In the transcript of Spence's argument, the paragraphing is my own. Some of the punctuation has been changed to enhance readability, and some capitalization may be different as well.

Great Lakes Dredge Dock Company v. Tanker Robert Watt Miller: Headings within the case originally were lettered or numbered. These letters and numbers have been removed without notation.

Kohl v. United States: Paragraphing and cite formats were changed without annotation. Cites were truncated to omit portions of cites referencing omitted portions from quotes.

Dobson v. Dobson: Brackets were changed to parentheses to avoid the appearance that insertions were the casebook's and not the court's.

Calbom v. Knudtson: The character "s" was replaced with "§" in multiple places.

Committee on Children's Television v. General Foods: Material from footnotes was worked into the text without annotation, and the text was changed to accommodate this.

Obsidian Finance Group v. Cox: Citations omitted without notation.

Masson v. New Yorker: Citations reformatted.

Version/Edition Changes

(Volume Two, Version 2.1)

Overall:

- Technical improvements were made to the document to improve navigability in electronic and printed form, including the introduction of running headers.
- Typos in various places were corrected.
- **Considerable effort has been made so that there would be no pagination changes between Version 2.0 and Version 2.1.**

For teachers, the most important changes to know about in Version 2.1 compared to 2.0 are the following, which concern a corrected case name and substantive changes:

- Chapter 13.F: Fixed the case name of *Indiana Harbor Belt R.R. v. American Cyanamid*. Previously the words "Harbor" and "Belt" were transposed in places.
- Chapter 17.B, p. 158, in the section "False Imprisonment: Method of Confinement": The text was revised to clarify that where the confinement is accomplished by detaining the plaintiffs chattels, there's a reasonability requirement. Thus, the bolded/underlined text was added into the following sentence: "A plaintiff who is "free" to walk away only by surrendering chattels **that would be unreasonable to leave without** – is not free at all under the eyes of false-imprisonment law." This addition was made to avoid giving an enterprising student the apprehension that meeting the defendant in person and demanding the subject chattel could convert any regular trespass-to-chattels claim into false imprisonment.
- Chapter 21.C., pp. 280-281, the section "Defense of others" was rewritten, particularly in terms of how it describes the status of alternative rules regarding whether the defense is available in the circumstance that the defendant made a reasonable mistake as to the existence of a threat to the third person. As revised, the text refrains from characterizing one approach as the majority view and one

as the minority view. Instead, the text now uses the phrase **“traditional rule”** with regard to not allowing the defense in cases of reasonable mistake and uses the phrase **“more modern view”** for allowing the defense in such circumstances. Additionally, throughout the section, text has been variously revised or re-written for clarity and readability.

- Chapter 24.D., pp. 376 et seq, a section heading and subsequent text has been revised to use the term **“split recovery”** to refer to tort reform measures that divert a portion of damages to the state. The term “split recovery” is typical in jurisdictions employing the concept. Also in that section, regarding the prevalence of punitive damages caps, the text was revised to say they apply in “[m]any” states in lieu of trying to provide a more specific characterization – previously stated as “[a]bout half” the states.
- Chapter 29.C., p. 564, regarding intrusion upon seclusion, the block text providing the simplified statement of the blackletter rule has been revised to include the word “intentionally” in the first element. Some sources don’t include a reference to intent in their simple statement of the rule. But many do, and as a matter of substance, courts generally require the intrusion to be intentional.

To illustrate the variety and range of approaches that appear in relevant state statutes, this volume was written with a number of anecdotal examples of statutory provisions from specific states. But statutes change. **Here are updates/corrections regarding examples of specific state law:**

- Chapter 23.C., p. 337: Revised and updated because of 2023 changes to California’s 1975 law capping noneconomic damages for medical liability cases. A new sentence has been inserted: “It stayed in place until 2023, when provisions were made to increase caps and provide for ongoing adjustments that would account for inflation.” Previously, there were a few sentences providing now-outdated historical context, explaining that California’s cap had remained unchanged since 1975 and describing how inflation has affected its value in real terms. Those passages have been removed, and nearby wording reworked.
- Chapter 23.C., p. 337: Regarding West Virginia, the following sentence was inserted: “The caps are indexed to increase with inflation and in 2021 were \$706,752 and \$353,376 respectively.”
- Chapter 23.F., p. 340: Concerning court-ordered interest, text has been deleted that concerned specific examples regarding interest rates set by Arkansas and New Mexico law, with nearby text reworked. A new sentence was inserted: “Randomly browsing 2024 cases revealed courts applying rates of 4.25%, 7.75%, 8%, 8.5%, 9%, 10%, and 12%, plus one court that varied the rate each pre-judgment year, moving around between 2.25% and 5.5%.”
- Chapter 24.D., p. 377: In describing Arkansas statute, wording was polished a bit. E.g., “general cap” was replaced with language that describes the law as “generally limiting” punitive damages.

- Chapter 24.D., p. 378, corrections were made to the numbering of New Hampshire statutory provisions and the text now uses the phrase “enhanced compensatory damages” rather than “liberal compensatory damages” to reflect what is apparently the more common way of referring to this particular doctrinal concept in New Hampshire.
- Chapter 25.B., p. 401: Corrected to reflect 2013 changes to Montana statute regarding the cap amount for liability of parents for children’s acts.
- Chapter 25.D., p. 404, updates/corrections were made regarding dollar values set by statutes in Rhode Island and Wyoming regarding debtor homestead exemptions.

Attempting to err on the side of being over-inclusive, here are other revisions that amount to more than fixing a typo:

- Chapter 25.C., p. 403: relaying the facts of the example case of *Walt Disney World Co. v. Wood*, the text was slightly reworded to avoid describing what the relevant attraction is named “today” – thus to avoid textual obsolescence at the hands of a theme park.
- Chapter 25.E., p. 405, in the discussion of difficult-to-reach defendants, the paragraph concerning the example of taking deposition testimony in Japan has changed. There are minor revisions in substance and some polishing aimed at making the example a bit more informative and clear.
- Finally: Pages toward the front – information about the book itself, copyright, author, the casebook’s approach, and so forth – were updated and revised. A request for teacher/student feedback was added. The section “Notes About Edits and Editions” has been revised.

A complete accounting of all changes between the 2.0 and 2.1 versions can be obtained by running a comparison of the DOCX files, available at <http://ericejohnson.com/projects/tcc>.

(Volume Two, Version 2.0)

A complete view of all changes between the first edition and second edition can be obtained by running a comparison of the DOCX file of the first edition, available at <https://www.cali.org/books/torts-cases-and-contexts-volume-2>, and the DOCX file of this edition, available at <http://ericejohnson.com/projects/tcc>.

Keep in mind that if you don’t like any of these changes, you can always use the older edition. And the Creative Commons license even allows you to mix portions of the older edition with this edition. (See the notices at the beginning of this book for details.)

The following is a list of salient changes:

- Three chapters were removed from Volume Two, with plans to place them in a forthcoming Volume Three. Those chapters, with their former numbering, are:

15. Safety and Health Regulation, 27. Immunities and Tort Liability of the Government, and 28. Constitutional Torts.
- Because of the three chapters that were removed, the remaining chapters have been re-numbered.
 - The cover image has been changed to a dirty lime green traffic cone. (Volume One has a clean lime green safety cone.)
 - Within chapters, first-level sections have been lettered (A, B, etc.).
 - Various typos and other minor errata were corrected. The text has been updated and polished in myriad places. Text was added or re-written in various places to better explain concepts or provide additional context.
 - Font size has been changed so that font sizes smaller than 12 points are not used. This change is to enhance accessibility for persons with visual impairments.
 - Various sections at the front, including “About the Author” and “Notices” have been updated.
 - The “Preface” was re-written in portions.
 - In Chapter 13 “Strict Liability”:
 - The case *Isaacs v. Monkeytown U.S.A.* was removed and *Bard v. Janke* was added in its place.
 - In the intentional torts chapters, some higher-level organization was added, using “Explanation” and “Exploration” in chapter section headings to divide up explanatory narrative material on the one hand, and cases and readings on the other.
 - In Chapter 16 (formerly 15) “Battery and Assault”:
 - The explanatory section on damages (“Battery: Damages”) was moved so that it is just before the *Leichtman v. WLW Jacor* case.
 - In Chapter 20 (formerly 21) “Trespass to Chattels and Conversion”:
 - The case of *Intel v. Hamidi* has been edited down very substantially. I cut out about one-half – going from about 23 pages in the first edition down to 12.
 - The case of *Moore v. UC Regents* has been edited down somewhat, cutting out about one-eighth of what was in the first edition.
 - In Chapter 22 (formerly 23) “General Issues in Remedies”:
 - Portions of the sections on “Injunctions” and on “Other Legal and Equitable Remedies” have been substantially re-written.
 - In Chapter 23 (formerly 24) “Compensatory Damages”:
 - In *Spell v. McDaniels*, footnote material has been moved to a different place in the inline text. (As noted in the Preface, this casebook does not use footnotes; instead, cases’ footnoted material is inserted inline into the text.)
 - The problem at the end of this chapter has been renamed. (The text of the problem, however, has not been altered.)

- Chapter 25 (formerly 26) “Multiple Tortfeasors” has been placed within Part VII “Special Issues with Parties and Actions.” Previously, it was found within Part VI “Remedies.” Another way to explain this change is that the heading of “Part VII. Special Issues with Parties and Actions” has been moved such that it is now before the “Multiple Tortfeasors” rather than after it.
- In Chapter 26 (formerly 29) “Thresholds of Life”:
 - The section regarding Loss of Consortium (Section D) has been substantially revised to add additional explanatory matter.
 - The *Dobson v. Dobson* case has been edited down somewhat, cutting out about one-eighth of what was in the first edition.
- In Chapter 28 (formerly 31) Defamation:
 - A new quote, from Mark Twain, has been added at the beginning of the chapter.
- The last part, formerly called “Aftermatter,” has been renamed “Notes about Edits and Editions.” The section you are reading now, about changes made in this edition, was added to it.