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REMEDIES IN TORT

Klar

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Editors: Jennifer Leitch and Allan Hutchinson

Founding Consultants: Lewis N. Klar, Allen Linden, Earl Cherniak and Peter Kryworuk

This five-volume national work provides thorough coverage of the law relating to recovery in tort actions in Canada. The first three volumes focus on specific torts while the fourth volume covers substantive and procedural issues common to all tort litigation. The first volume also includes the Master Table of Contents. The final volume includes a Table of Cases, and a comprehensive index.

What's New in This Release

This release features updates to Chapters 2 (Assault and Battery), 6 (Defamation), 15 (Malicious Prosecution), 16 (Negligence (General)), 19 (Negligence (Special)), 20 (Nuisance), 27 (Developing Torts), 29 (Liability), 29A (Vicarious Liability), and 30 (Damages).

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Highlights

Chapter 6—DEFAMATION—6:29 Judicial Proceedings— In *Tuharsky v. O’Chiese First Nation*, 2025 CarswellAlta 1715, the plaintiff was plaintiff was former general counsel of the defendant First Nation. Defendant engaged in litigation with former lawyers and in course of that litigation, negative comment about the plaintiff made in pleading and hearings; plaintiff sues in defamation. Chambers judge rejects absolute privilege claim of defendant; on appeal, defamation claim dismissed. Once statement made within a step in judicial proceeding there is an absolute privilege regardless of the content of statement or motive behind it. Moreover, it is not relevant whether the statement was false or made with malice; nor is there any exception for statement about a non-party in the proceeding.

Chapter 16—NEGLIGENCE (GENERAL)—16:26 Residual Policy— In *Paddy-Cannon v. Canada (Attorney General)*, 2025 CarswellOnt 8084, plaintiffs were indigenous children placed with non-indigenous family members after being taken into care. Plaintiffs suffered emotional and physical abuse while with family members and sue Canada in negligence as a result of government failing to follow through on plan to return plaintiffs to indigenous family in Saskatchewan. Canada owed the plaintiffs an ad hoc fiduciary duty (required to act in best interest of the children and were a defined group of individuals that were vulnerable to Canada’s control) and had a positive duty of care to the plaintiffs (grounded in fact that Canada had control of the plan for a return. Plan was inter-provincial and Canada’s responsibility indigenous people’s culture and identity). Moreover, harm associated with loss of culture, language and identity was reasonably foreseeable.

Chapter 20—NUISANCE—20:21 Injunctions— In *Hill v. Herd*, 2025 CarswellBC 1530, homeowner at trial successfully establishes nuisance claim as against adjacent gas station that renovated its business thereby creating light and sound pollution as well as fumes to impact the homeowners’ enjoyment of their property. Despite finding a nuisance, the trial judge refused to issue an injunction against the gas station; this on the basis that some measures had been taken to lessen the nuisance, the renovations provided for safer delivery and storage of fuel and the gas station was integral to the community; the trial judge instead ordered damages. While the trial judge erred in referring to the injunction sought as a discretionary equitable remedy rather than there being a prima facie basis in successful nuisance claims. The trial judge was justified in declining to issue an injunction based on the facts.