## **INDEX**

#### **ABATEMENT, 227-230**

#### **ABUSE OF LEGAL PROCEDURE, 1061-1093**

See also MALICIOUS PROSECUTION abuse of process, 1079-1082 champerty, 1087-1090 immunity from suit, 1082-1087 judges, 1082-1085 public prosecutors, 1085-1087 maintenance, 1087-1090 spoliation, 1091-1093

#### ABUSE OF POWER

See MISFEASANCE IN A PUBLIC OFFICE

## ABUSE OF PUBLIC OFFICE

See MISFEASANCE IN A PUBLIC OFFICE

# **ABSOLUTE PRIVILEGE, 817**

defamation, 782-786 injurious falsehood, 1027

ACT OF GOD, 242, 261-262, 270-271, 284, 287, 548-549

AGGRAVATED DAMAGES, 129, 613, 646-648, 653, 806-807

## AGENCY, 301, 306, 318, 320-321, 323, 350

traditional test, 306 vicarious liability and, 323, 350

#### AIRSPACE, 45, 53

trespass to, 46-48

#### ANIMALS, 267-295

cattle trespass, 268-273
legislation, 271-272
remedies, 272-273
negligence, 289-295
scienter doctrine, 273-289
dangerous propensity, 277-279
defences, 284-287
domesticated animals, 274, 276-277
knowledge of propensity, 279-280
legislation, 287-289
loss of control, 281-282
ownership or control, 280-281
wild animals, 274-276

# APPORTIONMENT AMONG TORTFEASORS, 1117-1120

## APPROPRIATION OF PERSONALITY, 819-821

#### ARREST, 67, 83

citizens' arrest, 119-122 false arrest, 82, 84, 119, 121, 1062-1064 lawful arrest, 119-124 without a warrant, 117

#### ASSAULT, 33, 75, 80-81, 89, 91-94, 103, 935

See also TRESPASS

# BAD FAITH, 382, 386, 760, 1023, 1101

See also MALICE

BAILMENT, 138, 160, 175, 356

# BATTERY, 15, 27-28, 30, 75-80, 91-96, 99, 109, 111, 337-348

See also TRESPASS

### **BONA FIDE PURCHASER, 163**

#### BREACH OF CONTRACT

See INDUCING BREACH OF CONTRACT

#### **BREACH OF PRIVACY**

See INVASION OF PRIVACY

## **BREACH OF STATUTE, 471, 743-757**

action for, 743-748 duty of care, relationship to, 746, 752 misfeasance in public office, 745 Saskatchewan Wheat Pool, 471, 748-751 effect of decision, 751-757 unlawful means tort, 756

# BUT FOR TEST, 503, 505-512, 514-515, 521-522, 526-527

See also CAUSATION

# CATTLE TRESPASS

See ANIMALS

# CAUSATION, 503-527

but for test, 503, 505-512, 514-515, 521-522, 526-527 foundation of liability, 503 informed consent, 513-514 learned intermediary rule, 512-513 loss of chance, 523-525 material contribution test, 514-522 multiple negligent defendants, 511-512 toxic torts, 525-526

## **CHAMPERTY, 1087-1090**

# **CHARACTERISTICS OF TORTS, 1-13**

```
compensation, 2-6
        distinguished from punishment, 2-3
       provided by other systems of law, 5
       role of damages, 2
   duties imposed by law, 7-13
       contract, contrasted with, 7, 9-11
   functions of tort law, 17-21
       compensation, 18
       corrective justice, 20
       deterrence, 18
       economic efficiency, 20
   private and public wrongs, 11-13
CHATTELS, 4, 48, 131-142, 155-157, 161, 446
   bailment, 138, 160, 171, 175, 323, 356, 664, 716
   damage to, 613-619
   finders, 136, 137
  jus tertii plea, 45, 148, 161-162
   liability for dangerous chattels, 663-687
       damage, 683-687
       dangerous per se, 663-664, 673
       defective design, 674-675
       defective manufacture, 675-676
       duty to warn, 670, 676-683
       eligibility to sue, 671
       history, 663-667
       scope of liability, 667-669
   recaption, 30, 61, 102
   replevin, 175-180
   trespass to, see TRESPASS
CHILDREN
   See MINORS
CITIZEN'S ARREST, 119-122
COMPENSATION
   See DAMAGES
CONCURRENT LIABILITY, 10, 434, 930
   negligent misrepresentation, 9, 412-436
CONSENT, 160, 819-820, 825-826
   acceptance of dangerous work, 580
   defence to torts, 30-31, 57-60, 83, 96, 109-116, 139, 217-218, 259-260, 322, 740
        defamation, 802-804
       negligence, 570-587
       trespass to the person, 109-110
   informed, 379-380, 470, 513-514, 683
   rescuers, 582
```

#### **CONSORTIUM**

See INTERFERENCE WITH FAMILY RELATIONSHIPS

#### CONSPIRACY, 893-912

```
defences, 910-912
    justification, 910-912
    trade unions, 912
elements, 899-910
    agreement, 899-901
    damage, 908-910
    intention, 901-904
    participation, 906-908
    unlawful act or means, 904-906
nature and scope, 893-899
```

## **CONTINGENCY FEES, 1089**

## CONTRIBUTION AMONG TORTFEASORS, 600, 1115-1117, 1123-1130

**CONTRIBUTORY NEGLIGENCE, 94, 218, 286, 571, 703, 706, 725-726, 741** negligence, defence to, 587-605 economic loss, 432-433

# **CONVERSION, 143-170**

```
acts constituting, 146-155
chattels, meaning of, 155-157
defences, 160-163
entitlement to sue, 157-160
history, 143-144
intention, 144-145
remedies, 163-170
damages, 163-170
recaption, 179-180
replevin, 175-179
restitution, 169-170
strict liability, 145
```

# **CUSTOMARY PRACTICE, 249, 480-484**

# **DAMAGES**

```
See also REMEDIES
aggravated, 129, 613, 646-648, 653, 661, 806-807, 816, 889, 1026
assessment, 163-166, 607-609, 619, 623, 626, 658, 782, 804, 840, 883, 1009
collateral benefits, 631, 639-644, 654, 661, 844,
compensatory, 4, 12, 35, 69-71, 79, 105-106, 607, 683, 810, 1048, 1097
categories of, 607
damage to chattels, 613-619
damage to real property, 69-71, 610-613
general, 128, 607
non-pecuniary losses, 634-637
```

```
pecuniary losses, 623-624, 629, 652, 656-658, 805, 815, 909, 1016-1017
        personal injuries, 619-644
          future care, 631-634
          loss of future earnings, 624-629
          pre-trial care, 629-631
        special, 182, 430, 623, 762-764, 804-805, 883, 1022, 1025-1026
   contribution and indemnity, 1124, 1126-1128, 1130
   deterrence, 18, 128, 241, 302, 303, 310, 328, 335, 352, 744, 816, 1050
   exemplary, see PUNITIVE
   fatal accidents, 650-661
        claims by dependants, 654-661
        claims by victim's estate, 650-654
   mitigation of, 107, 166-167, 431, 613, 644-646, 685, 804, 807, 809, 887, 890
   nominal, 29, 48, 70-71, 128, 139, 169, 609, 804
   punitive, 3, 105-106, 127-128, 130, 168, 647-650, 653, 661, 809-810, 832, 889-890,
    937-938, 974, 1010, 1024, 1050
   restitutio in integrum, 2, 607-608, 615, 658-659
   for specific torts
        conspiracy, 908-910
        conversion, 163-170
        deceit, 885-890
        defamation, 804-810
        detinue, 173-174
        fraudulent misrepresentation, 883-890
        inducing breach of contract, 946, 951, 969, 974
        intrusion on seclusion, 815-817
        loss of services, 838, 840-842
        negligence, 607-661
        nuisance, 222-224
        passing-off, 1048-1050
        trespass, 69-72, 128-130
        unlawful means tort, 1009-1010
DANGEROUS ANIMALS
   See ANIMALS
DANGEROUS USE OF LAND, 239-265
   collection or accumulation of dangerous things, 252-253
   defences, 259-265
       act of God, 261-262
        act of stranger, 262-263
        plaintiff's conduct, 259-261
        statutory authority, 263-265
   defendant's purposes, 253-255
   escape, 257-259
   non-natural use, 249-252
   origins and characteristics, 241-244
   rule in Rylands v. Fletcher, 239-249
```

```
relationship to other torts, 244-246
        scope of liability, 246-249
   strict liability, 239-241
DEATH, 650-661
   See also DAMAGES
   liability arising from, 650-654
        at common law, 650
        statutory provisions, 650-654
          dependants' actions, 654-661
          survival of actions, 650-653
DECEIT, 847-892
   damages, 883-890
        aggravated, 889-890
        consequential losses, 885-887
   defences, 890-892
   effect of fraud, 847-850
   elements, 851-883
        damage, 880-883
        false representation of fact, 856-865
        intention to induce reliance, 871-874
        knowledge of falsity, 865-871
        reliance, 874-879
   evolution, 847-850
   marriage, 850, 853-854
   paternity, 854-855
DEFAMATION, 4, 12, 15, 759-812
   defences, 780-804
        absolute privilege, 782-786
        consent, 802-804
        fair comment, 797-802
        justification, 780-782
        qualified privilege, 786-795
        responsible communication on matters of public interest, 795-797
   eligibility to sue, 778-779
   freedom of expression and, 759-761, 772, 780, 795, 811
   group defamation, 772-774
   innuendo, 771-772
   internet, 761, 776-777
   libel and slander distinguished, 762-764
   malice, 782, 786, 789-790, 792-793, 797, 801-802, 806, 808
   meaning and context, 759-761
   publication, 774-777
        application to electronic communications, 776-777
   reference to plaintiff, 772-774
   remedies, 804-812
```

```
damages, 804-810
       injunction, 811-812
   slander, 762-764
   statements constituting, 764, 766-770
   strategic litigation against public participation (SLAPP), 760
DEFECTIVE PRODUCTS
   See CHATTELS
DEFENCES, 284-287, 559-605 780-804, 890-892, 910-912
   See also DEFAMATION, NEGLIGENCE, TRESPASS
   consent, 30, 57-60, 109-116 570-587, 802-804
   contributory negligence, 587-605
   defence of others, 30, 102
   defence of property, 30, 101-102
   ex turpi causa, 126, 563-570
   inevitable accident, 559-563
   justification, 60-63, 67, 82, 780-782, 910-912, 938-940, 950-951, 966, 975-981,
    1012-1013
   mistake, 37, 63, 95-96, 119-120, 132, 1062
   necessity, 31-32, 38, 55-56, 107-109, 125
   provocation, 104-107
   self-defence, 29, 102-104, 125
   statutory authority, 116-124, 218-222, 263-265
   volenti non fit injuria, 470, 570, 572, 582, 891
DETERRENCE, 302-303, 310, 328, 335, 816, 1050
   generally, 18
   market deterrence, 241
DETINUE, 170-175
   defences, 175
   entitlement to sue, 172-173
   remedies, 173-175
   restitution, 174
   trespass, distinguished from, 170-171
DUTY OF CARE, 361-407
   Canadian approaches to, 367-369, 376-381
   neighbour principle, 365
   origins, 365-367
   specific applications, 381-407
       economic loss, see ECONOMIC LOSS
        dangerous chattels, see CHATTELS
       psychiatric harm, 399-407
       public authorities, 381-389
       rescuers, 394-398
        unborn children, 389-394
   test for, 369-376
```

```
foreseeability, 369-371
proximity, 371-374
policy, 374-376
to warn, see CHATTELS
```

## **ECONOMIC LOSS, 409-457**

```
generally, 409-411
Hedley Byrne, 409-411, 422, 426, 428, 438, 684
negligent misrepresentation, 412-436
     concurrent liability in contract, 433-436
     contributory negligence, 432-433
     damage or detriment, 430-432
     defendant's undertaking, 423-424
     disclaimers, 422-423
     end and aim rule, 423-424
     foreseeable reliance, 418-420
     illustrations, 425-428
     reasonable reliance, 420-423
negligent performance of a service, 436-439
     disappointed beneficiaries, 438-439
negligent supply of shoddy goods or structures, 440-447
new duties of care, 454-457
public authorities, See DUTY OF CARE
relational economic loss, 447-454
```

# EMPLOYEES, 733-740

See also EMPLOYERS' LIABILITY, VICARIOUS LIABILITY acceptance of dangerous work, 580, 738, 740 apprentices, 736 independent contractors, distinguished from, 307-309 temporary transfer, 734-735 volunteers, 735-736

# **EMPLOYERS, 729-742**

See also EMPLOYEES, LOSS OF SERVICES, VICARIOUS LIABILITY

# **EMPLOYERS' LIABILITY, 729-742**

```
defences, 740-742
common employment, 741-742
contributory negligence, 741
voluntary assumption of risk, 740-741
duty to employee, 729-733
scope of liability, 731
standard of care, 736-740
statutory provisions, 731-733
```

EX TURPI CAUSA, 33, 112, 126, 139-140, 554, 563-570, 1124 EXCLUSION CLAUSES, 10, 260, 433-434, 436, 576, 849, 891

#### **EXEMPLARY DAMAGES**

See DAMAGES

FAIR COMMENT, 759, 761, 797-802, 826

FALSE ARREST, 82, 84, 119, 121, 1062-1064

FALSE IMPRISONMENT, 81-86, 117, 119, 123, 1062-1063

See also TRESPASS

#### FALSE REPRESENTATION

See DECEIT

# FAMILY RELATIONSHIPS, INTERFERENCE WITH, 829-833

parent and child, 830-833 spouses, 829-830

# FAULT, 6, 15-16, 93, 284, 288-289, 300, 601, 603, 1118-1119

intention, 27-29 negligence, 289 malice, 1023-1024, 1074-1076 strict liability, distinguished from, 16, 27, 96, 239-241

# FORESEEABILITY, 94, 271, 290-291, 403, 405, 416, 439, 447-448, 546-547, 719, 1008

duty of care, 365-371 remoteness, 532-537 standard of care, 464-468

## FRAUD

See DECEIT

# FRAUDULENT MISREPRESENTATION, 349, 848-850, 868, 873, 891

#### **FUNCTIONS OF TORT LAW, 17-21**

See also CHARACTERISTICS OF TORTS compensation, 18 corrective justice, 20 deterrence, 18 economic efficiency, 20

# GENERAL DAMAGES, 623, 805-808, 883, 1009-1010, 1025-1026

#### **GOODS**

See CHATTELS

GROSS NEGLIGENCE, 484-485, 499, 808, 844, 957

ILLEGALITY, 126, 139-140, 283, 285, 563-571, 891

# IMPRISONMENT

See FALSE IMPRISONMENT See also TRESPASS

# INDEPENDENT CONTRACTORS, 297-298, 305-309, 324, 352-358, 701, 716, 734, 740, 1124

See also VICARIOUS LIABILITY

#### **INDUCING BREACH OF CONTRACT, 941-981**

elements, 949-975
damage, 973-975
existence and breach of contract, 952-955
inducement or procurement of breach, 964-973
intention to procure breach, 959-965
knowledge, 955-959
justification, defence of, 975-981
origins and nature, 941-944
rationale for the tort, 944-949

#### **INFANTS**

See MINORS

## INJUNCTIONS, 4, 32, 72-73, 811-812, 919, 936, 946, 1006

See also DEFAMATION discretionary remedy, 234 nuisance, 182, 184, 208, 217, 223-227, 229, 233-235 types of, 225, 1050-1052

# INJURIOUS FALSEHOOD, 1015-1027

absolute privilege, 1027 evolution, 1015-1017 elements, 1022-1026 damage, 1025-1026 disparagement, 1022 falsity, 1023 malice, 1023-1025 slander of quality, 1019-1020 slander of title, 1019

## INNUENDO, 769-772, 801, 1017

# INTENTION

```
generally, 16, 24, 27-28
for specific torts
conspiracy, 894, 901-904, 906, 909
conversion, 144-145, 147-149
deceit, 871-874
inducing breach of contract, 942-943, 947-950, 959-964
intimidation, 914, 932-935
nuisance, 206-209
trespass, 35-38, 42, 56, 75, 77, 86-87, 89-96, 98-99, 100, 135-138
```

## INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, 86-91

See also TRESPASS

#### **INTERFERENCE WITH FAMILY RELATIONSHIPS, 829-833**

parents and children, 830-833 spouses, 829-830

#### **INTIMIDATION, 913-940**

elements, 921- 938
damage, 936-938
intention to injure the plaintiff, 932-935
submission to threat, 935-936
threat, 921-924
unlawful act, 924-932
function of tort, 919
justification, defence of, 938-940
origin and evolution, 913-914
three-party intimidation, 915-919
unlawful means tort, relationship to, 915-918

# **INTRUSION ON SECLUSION, 814-817**

## **INVASION OF PRIVACY, 813-827**

appropriation of personality, 819-821 intrusion on seclusion, 814-817 nuisance, 822 public disclosure of private embarrassing facts, 817-819 statutory provisions, 824-827

# **INVITEES, 699-703**

See also OCCUPIERS' LIABILITY

# JOINT TORTFEASORS

See MULTIPLE TORTFEASORS

#### JUS TERTII PLEA, 45, 148, 161-162, 1023,

#### JUSTIFICATION, 16, 24, 60-63, 67, 938-940

defence to specific torts
conspiracy, 910-912
defamation, 780-782
inducing breach of contract, 946, 950-951, 966, 969, 975-981
unlawful means tort, 1012-1013
use of force, 61, 102, 117-119, 125, 140

## LAND, 184, 186-190, 199, 241, 270, 272, 610

See also DANGEROUS USE OF LAND definition, 45-48 non-natural use, 249-252, 263 occupiers, 714 reasonable use of, 47, 203, 205-206 trespass to, see TRESPASS types of interests in, 41-43 unreasonable use of, 195, 212, 243-244

## LAST CLEAR CHANCE, 588, 597-599, 602

#### **LEGAL AUTHORITY, 55**

See also NUISANCE, TRESPASS

#### LIBEI

See DEFAMATION

#### LOSS

See DAMAGES

## LOSS OF CHANCE, 523-525

See also CAUSATION

## LOSS OF SERVICES, 831, 835-845

damages, 838, 840-842 employer/employee relationship, 836-839 limitations on liability, 842-843 per quod servitium amisit, 835-840 origins, 835-836 scope, 839-840

# **MAINTENANCE, 1087-1090**

# MALICE, 130, 583-584, 648-650, 932, 1084

defamation, 782, 786, 789-790, 792-793, 797, 801-802, 806, 808 meaning of and fair comment, 797, 801-802 and qualified privilege, 786, 789-790, 792-793 and responsible communication, 795-797 injurious falsehood, 1022-1025 misfeasance in a public office, 1096-1097, 1104-1108

# **MALICIOUS PROSECUTION, 1061-1079**

damage, 1078-1079
elements, 1065-1076
lack of reasonable and probable cause, 1069-1074
objective test, 1071
subjective test, 1072-1073
malice, 1074-1076
proceedings initiated by defendant, 1066-1068
proceedings terminated in favour of plaintiff, 1068-1069
false arrest, distinguished from, 1062-1064
nature and scope, 1061-1064

# MASTER AND SERVANT

See EMPLOYEES; EMPLOYERS, LOSS OF SERVICES

MENTAL INCAPACITY, 96-100, 477, 574

## MENTAL SUFFERING

See TRESPASS

## MINORS, 25, 99-100, 109, 567, 592

## **MISFEASANCE IN PUBLIC OFFICE, 1095-1110**

elements, 1100-1110
deliberately unlawful conduct, 1101-1104
knowledge, 1106-1109
material damage, 1109-1110
public office, 1100-1101
malice, 1105-1106
history and context, 1095-1099
role of the tort, 1110

#### **MISREPRESENTATION**

See ECONOMIC LOSS

# MISTAKE, 37, 63, 95-96, 119, 132

See also TRESPASS

## MITIGATION OF DAMAGES

See DAMAGES

## **MULTIPLE TORTFEASORS, 1111-1130**

apportionment, 1117-1120
concurrent tortfeasors, 1115-1117
contribution among tortfeasors, 1123-1124
statutory provisions, 1124-1130
devaluation principle, 1116
joint tortfeasors, 1111-1114
judgment and release, 1120-1123
several tortfeasors, 1114-1115
successive tortfeasors, 1116

# NECESSITY, 31-32, 38, 55-56, 107-109, 125, 139

See also TRESPASS

# NEGLIGENCE

```
See also CAUSATION, DAMAGES, DUTY OF CARE, PROOF OF NEG-
LIGENCE, REMOTENESS, STANDARD OF CARE
animals, 267-268, 289-295
defences, 559-605
consent, 570-587
elements, 572-574
employment, 580-582
express consent, 574-576
impaired driving, 586-587
implied consent, 577-580
rescuers, 582
sports, 583-585
contributory negligence, 587-605
agony of the moment, 480, 591
```

```
causation, 594-599
         legislation, 600-605
         minors, 592
         remoteness, 599
       illegality, 563-570
       inevitable accident, 559-563
  economic loss, see ECONOMIC LOSS
  elements of
       causation, 503-527
       damages, 607-661
       duty of care, 365-369
       remoteness, 529-558
       standard of care, 459-485
  employers, see EMPLOYERS' LIABILITY
  gross negligence, 484-485
  manufacturers, see CHATTELS
  and nuisance, 204
  occupiers, see OCCUPIERS' LIABILITY
NEGLIGENT BATTERY, 76-80, 92-95
  See also TRESPASS
NEGLIGENT MISREPRESENTATION
  See ECONOMIC LOSS
NERVOUS SHOCK
  See DUTY OF CARE, INTENTIONAL INFLICTION OF EMOTIONAL
    DISTRESS
NON-NATURAL USE OF LAND, 249-252, 263
NON-PECUNIARY LOSSES, 624, 634-638, 807
NOVUS ACTUS INTERVENIENS
  See REMOTENESS
NUISANCE, 181-238
  adoption of
  defences, 213-222
       coming to the nuisance, 215-217
       consent, 217-218
       prescription, 213-215
       statutory authority, 218-222
  definition, 181-182
  factors affecting liability, 196-213
       intensity and duration, 201-202
       locality principle, 196-199
       motivation, intention, and knowledge, 206-208
       sensitive plaintiff, 199-200
       unreasonableness, 189, 190, 195
```

```
private nuisance, 183-230
        by damage, 186-189
        by interference, 189-196
   public nuisance, 230-238
        private actions for, 235-238
        remedies, 233-235
   remedies, 222-230
        abatement, 227-230
        damages, 222-224
        injunctions, 224-227
  right to sue, 184-186
   trespass, distinguished from, 183, 229
OCCUPIERS' LIABILITY, 689-727
   defences, 722-726
        assumption of risk, 722-725
        contributory negligence, 725-726
   landlords, 726-727
   scope of liability at common law, 691-710
   statutory provisions, 710-727
        scope of protection, 712-715
        standard of care, 715-722
   types of entrants, 697-710
        contractees, 697-699
        invitees, 699-703
        licensees, 703-707
        trespassers, 707-710
PASSING-OFF, 1029-1060
   elements, 1034-1048
        damage, 1046-1048
        misrepresentation and confusion, 1042-1046
        reputation and goodwill, 1035-1042
   expansion of tort, 1052-1056
   history, 1030-1032
   rationale, 1032-1034
   remedies, 1048-1052
        compensatory damages, 1048-1050
        delivery up or destruction, 1052
        injunction, 1050-1052
   trademarks legislation, 1056-1060
PECUNIARY LOSSES, 623-633, 652, 656-658, 909, 1026
PER QUOD SERVITIUM AMISIT
   See LOSS OF SERVICES
```

PERSONAL LIABILITY, 967

vicarious liability, distinguished from, 297-300

#### **PRIVACY**

See INVASION OF PRIVACY

#### PRIVATE NUISANCE

See NUISANCE

# **PRIVATE WRONGS, 11-13**

## **PRIVILEGE**

absolute, 782-786, 817 and defamation, 782-795 and injurious falsehood, 1027 maintenance and champerty qualified, 786-795

# PRODUCT LIABILITY

see CHATTELS

## **PROFESSIONALS**

See STANDARD OF CARE

# **PROOF OF NEGLIGENCE, 487-501**

res ipsa loquitur, 488-501 applicability, 495-498 effect, 498-500 expiry, 490-491 scope, 493-495

# PROVOCATION, 104-106, 111

# PROXIMATE CAUSE

See REMOTENESS

# **PROXIMITY**

See DUTY OF CARE

#### PUBLIC NUISANCE

See NUISANCE

# **PUBLIC WRONGS, 11-12**

PUBLICATION, 770, 774-777, 782, 793, 811

# **PUNITIVE DAMAGES**

See DAMAGES

# PURE ECONOMIC LOSS

See ECONOMIC LOSS

# **QUALIFIED PRIVILEGE, 786-795**

absolute privilege, distinguished from, 782 malice, 786, 789-790, 792-793 responsible communication, distinguished from, 795-797

# REASONABLE FORSEEABILITY

```
See FORESEEABILITY
```

REASONABLE PERSON, 81, 95, 199, 223, 365, 380, 462-467, 471-472, 514, 548, 683, 705, 866, 1022, 1069

See also STANDARD OF CARE

RECAPTION, 30, 61, 102, 140, 179-180

See also GOODS

RELATIONAL ECONOMIC LOSS, 411, 447-453, 836, 841

RELEASE, 574, 576-577, 582, 584-585, 849, 1000-1001, 1121-1123, 1125

RELIANCE, 372, 589, 756, 1029

deceit, 871-879

negligent misrepresentation, 412-432, 438-439, 454

## REMEDIES

See also DAMAGES

abatement, 227-230

injunctions, 72-73, 234-235, 811-812, 1050-1052

replevin, 175-180

restitution, 169-170, 930-931

specific relief, 174-175, 179, 946

self-help, 179-180

for specific torts

conversion, 163-170

deceit, 883-890

defamation, 804-810

detinue, 173-175

nuisance, 222-230

# REMOTENESS, 529-558

directness test, 531-532

factual causation, distinguished from, 529

foreseeability test, 532-536

novus actus interveniens, 543-549

rescuers, 549-550, 552

SAAMCO principle, 537, 555-558

thin skull principle, 537-539

# **REPLEVIN, 175-180**

See also GOODS

# RES IPSA LOQUITUR

See PROOF OF NEGLIGENCE

# RESCUERS, 550, 552, 582

duty owed to, 394-398, 549

remoteness, 398

**RESPONSIBLE COMMUNICATION, 759, 789-790, 795-797** 

See also DEFAMATION

# RESTITUTION, 3-4, 12, 169-170, 173-174, 930-931

## RYLANDS V. FLETCHER

See DANGEROUS USE OF LAND

## SCIENTER DOCTRINE

See ANIMALS

SELF-DEFENCE, 29, 102-105, 125

# SELF-HELP, 56, 61, 68, 140, 272

abatement, 227-230 necessity, 31-32, 38, 55-56, 107-109, 125, 139 recaption, 179-180

## SEVERAL TORTFEASORS

See MULTIPLE TORTFEASORS

#### SLANDER, 762-764, 804, 1015-1027

See also DEFAMATION, INJURIOUS FALSEHOOD libel, contrasted with, 762 of quality, 1019-1020 of title, 1019

## SPECIAL DAMAGES

See DAMAGES

# SPECIAL RELATIONSHIP

See PROXIMITY

# STANDARD OF CARE, 459-485

See also BREACH OF STATUTE
customary practice, 480-484
gross negligence, 484-485
reasonable person test, 462-465, 467, 471-471, 474-475, 479, 484
special standards, 474-480
children, 477-478
mental or physical incapacity, 478-480
professionals, 475-477
unreasonable conduct, 462-464
failure to take precautions, 468-472
foresight and severity of harm, 464-468
social utility, 472-474

# STATUTORY AUTHORITY, 263-265

nuisance, 218-222 trespass, 116-124

#### STRICT LIABILITY, 16, 96, 1015, 1043

 $See\ also\ ANIMALS,\ CONVERSION,\ DANGEROUS\ USE\ OF\ LAND\ cattle$  trespass, 268-270

```
dangerous use of land, 239-265
   detinue
   fault, distinguished from, 239
   generally, 239-248
SUCCESSIVE TORTFEASORS
   See MULTIPLE TORTFEASORS
SURVIVAL OF ACTIONS, 650-655, 660, 840
THIN SKULL PRINCIPLE, 222, 531, 535-539, 554, 701
TORTFEASORS
   See MULTIPLE TORTFEASORS
TRADEMARKS
   See PASSING-OFF
TRADE UNIONS, 912
TRESPASS, 4-5, 23-142
  cattle, see ANIMALS
   common elements, 23-32
       actionable per se, 29
       consequences of, 32-34
       directness, 25-26
       force, 23-24
       intention and fault, 27-29
       voluntariness, 24-25
   to goods, 131-142
       defences, 139-142
       liability, 132, 137, 139, 141
          subject matter, 132-134
       recaption, 140
       standing to sue, 134-139
          actual possession, 134-138
          right to possession, 138-139
   to land, 35-73
       airspace and subsoil, 45-48
       defences, 55-67
          consent, 57-60
          entry as of right, 56
          justification, 60-63
          legality under statute, 63-65
          necessity, 55-56
          recaption of chattels, 61
          recovery of land, 61
       liability, 35-55
          acts constituting trespass, 49-52
          continuing trespass, 52-54
```

conversion, 145

```
defendant's state of mind, 35-38
          trespass ab initio, 54-55
          voluntary and involuntary trespass, 35-36
        remedies, 68-73
          damages, 69-72
          injunction, 72-73
          self-help, 68
       standing to sue, 39-45
          actual possession, 41-42
          ownership or right of possession, 39, 40
          unlawful possession, 43-45
   to the person, 75-130
       damages, 128-130
          aggravated, 129
          punitive or exemplary, 130
        defences, 101-128
          consent, 109-116
        fights, 112-113
       generally, 109-110
       medical treatment, 113-116
       sports, 111-112
          discipline, 125
          ex turpi causa, 126
          necessity, 107-109
          protection of property, 101-102
          provocation, 104-107
          self-defence, 102-104
          statutory authority, 116-124
       lawful arrest, 119-124
        defendant's state of mind, 91-100
          intention and negligence, 91-95
          mental disorder, 96-99
          minority, 99-100
          mistake, 95-96
       forms, 75-91
          assault, 80-81
          battery, 76-80
          false imprisonment, 81-86
          intentional infliction of emotional distress, 86-91
TRESPASSERS, 33, 44, 58-59, 68, 101, 139, 285, 694-695, 704, 707-710, 715, 721
   See also OCCUPIERS' LIABILITY
   intention, 24, 27-29, 35-38, 75, 86-96, 136-138
UNBORN CHILDREN
   See DUTY OF CARE
UNJUST ENRICHMENT, 229, 239, 953, 1049, 1124-1125
```

## UNLAWFUL MEANS TORT, 916-918, 934, 943, 971-972

elements, 987-1012
damage, 1008-1012
intention to harm the plaintiff, 1003-1008
unlawful means, 988-1002
breach of statute, 987, 990, 992-993, 998-1000
evolution, 983-987
justification, defence of, 1012-1013

#### UNLAWFUL THREATS

See INTIMIDATION

## **UTMOST GOOD FAITH, 857**

# **VICARIOUS LIABILITY, 297-360**

```
direct liability, distinguished from, 297-300
rationale for, 300-304
scope of liability, 331-360
    agents and employees, 331-337
    distinguishing employees from independent contractors, 307-309
independent contractors, 352-360
special instances, 313-331, 337-352
    borrowed employees, 325-331
    the Crown, 317-320
    fraud, 348-352
    hospitals, 313-317
    motor vehicles, 320-325
    non-sexual battery, 337-341
    sexual battery, 341-348
statutory provisions, 317-320
```

# VOLENTI NON FIT INJURIA, 7, 470, 570, 572, 582, 891

See also CONSENT

VOLITION, 28, 49, 95, 479, 545

WAIVER, 574-576, 584-585, 724

See also CONSENT

# WILD ANIMALS

See ANIMALS

# WRONGFUL DEATH

See DEATH

#### WRONGFUL INTERFERENCE

See UNLAWFUL MEANS TORT