

THE AMERICAN LAW OF TORTS

Your **2022 supplements to THE AMERICAN LAW OF TORTS**, today's most authoritative multi-volume treatise on the substantive law of torts, cover hundreds of new decisions reflecting ongoing developments in this dynamic field of law.

Among the many new developments and changes in tort law discussed in your 2022 Cumulative Supplement pamphlets are the following:

6:12.10 Complaint or petition [NEW]; In determining if sovereign immunity bars action against public employee, courts need not look to course of proceedings when complaint clearly specifies if public employee being sued in the employee's individual or official capacity. *Estate of Long by and through Long v. Fowler*, (N.C., 2021).

6:29.10 Community colleges [NEW]; Under Ohio law, a community college is a political subdivision for purposes of sovereign immunity. *Holmes v. Cuyahoga Community College*, (Ohio App., 2021).

7:14.10 Standing to sue generally [NEW]; A party has standing to maintain an action upon alleging an injury in fact that falls within his or her zone of interest. *Hamm v Board of Elections in City of New York*, (New York App., 2021).

10:19.10 Gross negligence and contract [NEW]; Absent allegations of a breach of a duty independent of a contract, causes of action based on negligent or grossly negligent performance of a contract are not cognizable. *320 West 115 Realty LLC v All Building Construction Corp.*, (New York App., 2021).

12:61.10 Products liability [NEW]; Assumption of the risk is a complete defense to products liability claims involving unreasonably dangerous products. *Sheard v. Hattum*, (S.D., 2021).

13:6.10 Burden of proof [NEW]; To the extent that a party defendant seeks to have the benefit of comparative fault of another as an affirmative defense, the defendant bears the burden of proof by a preponderance of the evidence that the other party's fault was a cause-in-fact of the damage being complained about. *Hankton v. Stat*, (La., 2020).

15:88.10 Undue advantage [NEW]; If an attorney has taken undue advantage of a client, their transaction is voidable. *Borries v. Murphy*, (Miss., 2021).

16:2.30 Fraud [NEW]; In general, emotional distress damages cannot be recovered in a fraud action. *Knudsen v. J.R. Simplot Company*, (Idaho, 2021).

16:25.10 Contract [NEW]; Party's legitimate exercise of contractual rights cannot, as matter of law, give rise to claim of intentional infliction of emotional distress. *Watkins & Eager, PLLC v. Lawrence*, (Miss., 2021).

19:29 Animals [NEW]; Tenant's pit bull was not dangerous instrumentality to impose duty of reasonable care on landowner in bicyclist's action against landowner seeking damages for injuries allegedly sustained when the bicyclist fell after dog chased and attacked dog bicyclist had on leash, as Massachusetts nuisance or dangerous dog statute prevented dogs from being regulated by breed. *Creatini v. McHugh*, (Mass.App.Ct., 2021).

19:30 City activities [NEW]; Municipality has duty to maintain its parks and playgrounds in reasonably safe condition, and this duty includes not only physical care of the property but also prevention of ultrahazardous and criminal activity which it knows about. *C. B. v Incorporated Village of Garden City*, (New York App., 2021).

Also new are revised Volumes 1 and 1A, issued in December 2021, providing important, up-to-date coverage for these essential, foundational tort and personal injury topics:

Volume 1

- Chapter 1: Orientation and Perspective
- Chapter 2: Conflict of Laws in Tort Cases
- Chapter 3: Multiple Tortfeasors
- Chapter 4: Imputed Liability for Tortious Acts of Another (beginning)

Volume 1A

- Chapter 4: Imputed Liability for Tortious Acts of Another (end)
- Chapter 5: Defenses; Bars (or Mergers) to Recovery or to Defenses