
Preface

Most prefaces are written jointly by the coauthors, but in this instance we thought it might be instructive for readers to get two separate perspectives. The addition of a new author to an old book usually represents a generational shift. In this Second Edition, however, it is a shift of two generations: Epstein is now 82 and entered the teaching profession in 1968, while Dickinson is half that age at 41. He began teaching in 2021 after a lengthy tour of duty in practice and proposed this collaboration to Epstein the following year. This book has been an exhausting labor of love for the two of us, who have profited mightily from working together. Here are our separate thoughts.

RICHARD A. EPSTEIN:

I have been a torts professor ever since I graduated law school in 1968. In 1972, the late Harry Kalven asked me to be, in a one-generation shift, the coeditor of the Third Edition of *Cases and Materials on Torts*. Harry died shortly thereafter, so that Charles O. Gregory, then 71 years old, came out of retirement to oversee the many changes that I made, which were vast, given the huge transformation of the tort law that had taken place since the Second Edition was completed in 1969. I then did new editions alone in 1984, 1990, and 1995, when I was asked by the then-publishers to write a one-volume treatise on torts that reflected not just the general law, but my particular takes on most of the dominant topics, starting with intentional torts, the relationship between negligence and strict liability, the place of defenses, the theory of proximate causation, and the various business and dignitary torts that redress reputation, privacy, and economic harms. The 1999 First Edition was the product of that invitation. The book's approach was to situate much nineteenth-century tort law within the context of the earlier English cases and then to carry the analysis up to the present with references to the many developments thereafter, especially those postdating William Prosser's seminal work in the 1960s.

Much happened in the next twenty-five years, but I could not bring myself to undertake alone a massive revision to update the book to make it salient to the digital age—until Greg Dickinson approached me and Aspen with an offer that neither of us could refuse. The Aspen staff, in particular Joseph Terry, Joanne Butler, and Eric Song, ensured that the transition would be seamless. Greg would take the lead on updating the source material, and we would work together to integrate the new cases and new scholarship into an updated Second Edition that

Preface

would remain anchored in the past. From my point of view, that division of labor between Greg and me has worked like a charm. We both sought to preserve the character of the First Edition while making it relevant to the new age. This new edition is therefore a product of collaboration from two different generations, two generations apart. I am confident our wonderful working relationship has made for a comprehensive whole that is readable, accessible, and up-to-date.

June 29, 2025

Richard A. Epstein
Norwalk, CT

GREGORY M. DICKINSON:

This project began for me only in 2022, when I spotted a dusty copy of the First Edition on an old library shelf. I was unaware of the book's existence, but as a new torts professor I was naturally familiar with its legendary author, Richard Epstein. I retrieved the book from the shelf, perused its contents, and soon found myself eagerly flipping through its pages to see what Epstein would have to say about this and that doctrine of tort law. I was engrossed. There is, of course, no shortage of books on tort law, from the committee-drafted, footnote-laden Restatements to the workmanlike student and practitioner hornbooks. But the Epstein treatise was something different. It guided the reader through the law of torts with a blend of historicity, intellectual rigor, ideological balance, and careful authority that I had seen before only in the famous torts treatise of William Prosser. The book read like Prosser for the generation that followed him.

Pleased as I was to have found it, however, I could not help but notice that the First Edition was decades out-of-date, having kept pace neither with the digital revolution nor the great body of scholarship that has developed since the 1990s. Timidly, for there was temerity enough in the asking, I inquired of Epstein why there had never been a new edition and whether he would consider one with the help of a second author. To my delight, he agreed that a fresh edition was in order and that he would undertake the project if I would take the laboring oar on the updates. As a brand-new professor I could never have understood the immensity of the project that lay ahead, but the result is worth the effort. This Second Edition continues to employ Epstein's proprietary blend of Roman and English legal history, economic analysis, and classical liberalism to study the path of our inherited common law, while charting pathways forward for tort law's most pressing issues.

June 30, 2025

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