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## PREFACE

*Business, Defamation, and Privacy Torts* focuses on how individuals and businesses go about protecting intangible personal rights and recover for infringement of those rights, subject of course to the full range of defenses, some unique to this area, and some carryovers from physical and emotional torts. The thirteenth edition (2024) of our *Cases and Materials on Torts*, previewed the arrival of this advanced, companion casebook. It is our hope that these two books work a sensible division between the basic first-year torts course and an advanced, upper division course (or seminar) on torts.

This volume expands material previously covered in *Cases and Materials on Torts* (12th ed., 2020), specifically, Part Two, “Torts Against Nonphysical Interests,” including the chapters on defamation, privacy, misrepresentation, and economic harms. We have inverted the order, so that we may highlight the general theme that connects these seemingly disparate areas of advanced tort law: When and why, if ever, are economic harms recoverable in tort? To begin, there are certain breaches of duty for which pecuniary losses must be honored, lest the common law fail in its promise to prevent force and fraud. More specifically, just as we all enjoy the right to be free from the threat of physical harm, so too we have the right to receive protection for the ability to make new contracts free from force and threats of force, and to be assured that others will not seek to knowingly induce breach of our existing contracts. By the same token, we also deserve to have our reputation, and those of our goods and services, protected from harmful falsehoods. Distinct privacy rights of two sorts also receive protection: first, the right to keep personal information about ourselves private, and second, to control the use of our name and likeness in commercial and business ventures.

Similar to our approach in *Cases and Materials on Torts*, our intention here has been to update the materials while preserving historical and conceptual continuity between the present and the past. In so doing, we have sought to keep one of the distinctive features of our casebooks, which is to stress the alternative visions of tort law as they developed in the nineteenth and twentieth centuries, along with the ever-larger footprint of the twenty-first century. Toward that end, we have retained in this first edition those great older cases, both English and American, that have proved themselves time and again in the classroom, and which continue to exert great influence on the modern law. By the same token, the Internet has ushered in new challenges across the board, including thorny issues of liability for actors in the “platform economy.” We have sought to keep pace with these new developments, which occur both through common law and, increasingly, through legislation and regulation.