Taft Law School.

Baby Bar.

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>> Good evening, everybody and welcome to tonight's Baby Bar series. The purpose of tonight's lecture is to give you the overview of the subject matter of for the up coming Baby Bar. You've had the class but give you some ideas in how to discuss it on the examination and better understanding of how they test. These sessions are recorded for your convenience. If you want to go back, go to the website and student section and pick whatever class you would like to hear and if you have questions, post them in the answer box. That's the box that I can see and monitor. Let's ahead and get started.

You should have been sent out by e‑mail a tort checklist.

Is everybody hearing me loud and clear?

With your tort checklist, if you have one or memorized, use the one you have. If you don't have, I highly recommend because you will use the checklist to help you identify issues and in writing your examination. So checklist is helpful especially under the pressure of examination.

In order to do well, you need a checklist and you need it for issue recommendation and, of course, go through the checklist to make sure you didn't miss issues. We have tendencies sometimes that get in hurry because we are worried about the time that we leave one or two issues off the examination that will hurt us. The more issues that are relevance the better you are going to do.

When you read an essay question, when you read multistate question, you start with the call of the question. This is important for the Baby Bar. Guess what?

You are not going to know the subject matter. So it's not you are in a tort class and it's going to be tort. You are responsible to determine the subject matter being tested. So always with call of question. And this will help you in several ways. One by reading the call you will determine the subject matter. Tort, contract or criminal law. And once you start practicing these, you will see 99.9 percent of the time you will know the subject matter being tested.

And you also want to make a determination is it a specific call or narrowing it down and that will help you with regard to the examination of what's being tested.

For example, if I tell you in regard of the call, was there a valid contract form. That's narrow it down to the contract formation issue. So it's going to dictate how far you need to go.

Writing a nonissue is killing your time and you are not talking about proper analysis in breaking things apart. And they are looking for the leaving off issues.

So call of the question.

The first thing you should have is called intention torts. With intention torts you have intends. Substantial certainty or transfer intent, you need to make sure that intention tort, how do they test. Like an example assault. Are words actionable. Generally no.

However, a key area they like to test is eminency. If I say I'm going to hit you tomorrow, there's no eminency. So support the facts.

With battery they want to test but an extension of one self. So again, if you don't understand how these issues come up that's going to hurt you. And what I mean by that is if I kick your dog on a leash because I'm mad at you or a plate and I knock it off, can you argue for extension of one self. A common misunderstanding is blowing smoke in your face, that is a battery.

So I don't always necessary physical contact with your being.

False imprisonment are words alone sufficient, guess what, they are. If I threat confinement. If pulse imprisonment there are two areas to be aware of. Intention, physical or psychological confinement of another.

What they are going to test here is let's say, you are in a coma and in a hospital and I accidentally locked the door oops, can you cause actionable for your family for false imprisonment?

No. It's only when you are aware of the pulse imprisonment or damaged by the confinement. So they are going to test that.

A lot of times I see on the multitest you try something on the dressing room, he locks the door and leaves, oops I didn't check the dressing room and goes back and sees you there, we are closed and you need to leave. Is that a case of false imprisonment?

Intent, confinement, but you need to be aware of the confinement. That's something they test.

Trespass, the trick there is it's not land of another. You are walking on the grass area, that establishes the actual intent.

Same thing with trespass to chattel. That's equivalent to trespass to chattel. So you need to aware.

So also with trespass, they will use the term trespass, is it intentional or negligent trespass. You will see in the actuals.

In the airline pilot and flying a jet, I need to do an emergency landing. Versus if they tell you the plane inadvertently fall from the sky, that's negligent trespass. It's going to be based on the facts. And the reason you need to know that is because for trespass to land based on the intent, you don't need damages to get punitive versus a negligent trespass, you must have actual damage.

This is something that you do need to be aware of.

Now the first five I gave you, the assault, battery, false imprisonment, trespass to land and trespass to chattel, those are called five to trespass. The two more modern intentional tort conversion and intentional infliction of emotional distress, you can't use the transfer of doctrine. So you need to be careful.

When you see intention torts, you want to make sure that you find all the torts you can find.

So Tom is angry at Pete. So anger. His conduct is coming up next the third part is intentional. While driving to get milk, saw Peter, jumped out of the car and push him.

Break it down.

Jump out of the car, that might be assault. Push is definitely a battery. Stood over, pulse imprisonment. Based on those facts I would bring this up and pursuant to that.

When you are looking at intentional torts, that means you go through the actual elements; right? Actual cause, proximate cause and defenses.

A lot of times on essay, we do not dress causation or intentional torts but we want to make sure that it is satisfied. Because it does come up in multistate. And we talk about damages. And then please look for defenses. So if they are asking on multistate can it be level for battery but you see as defense, the answer is no because he has a viable defense. So you want to carry it all the way through.

What I see a lot of times students miss defenses all the time. With intentional torts, yeah. We know and they are easy and straightforward. When I see on Baby Bar, sometimes students don't do well on intentional torts, why?

Because they don't see all the torts tested. You have to break it part pursuant to the language of the facts.

You have to look at the ands and ors and to see if there are another viable torts. So you want to break it apart.

Another example would be assault and battery. People say they go together. Talk about them. What I look for is if I can see it coming, versus if I hit you and it broke your nose. Oh, I'm going to talk about assault and see the punch coming as well as the battery. So you will see based on the facts. I want to identify when it is at issue to I will get my point. It is about the point.

Break apart the element and see if there's intent there and talk about your damages and always look for defenses.

With intentional torts, student will see battery and assault and trespass, but same conduct they are arguing negligence. Wait. If conduct wasn't intentional and you can support that and meaning it's quite clear, I'm angry and decided to get even with you. That's intent.

So that's there's no way you can get to negligence. So you will know based on the facts. I'm driving home and I'm tired. That's not battery. Certain punitive result or transfer intent. So that would be a negligence.

Another way to test before we go the negligence is look to the conduct. In essence did I desire the act.

And again this is factual. I play tennis and I go to the clubhouse and ordered ‑‑ (break in audio) ‑‑ and I'm in a crowded area. So I pick up my racket and hit someone, would that be equivalent to battery?

Yes, I had the desire of dining the conduct.  ‑‑ doing the conduct. And the act.

I can give you the fact and say it was empty then that would changing. So based on the facts that's how you would flow so pay attention to that.

The next area is negligence. Negligence is highly testable. It is something you want to know and make sure you break apart.

With negligence, you always want to start off with specialty. I use is SOLD. So the S stands for violation of statue. O is omission act. L is land or occupier, licensee, invitee ‑‑ D is duties owed to the lessors of land. So SOLD. When you see negligence tested ask yourself first is there special duty pursuant of the facts being triggered. If yes, that's where we will start.

If it's general duty, you will find general duty of work and you will not find the special duty. So if the special duty fails, then you will fall back the general duty. Hopefully that make sense.

With violation of statue, please make sure you go through the elements. Look for the intent, are you member of the class in which the statue was designed to protect and did you suffer the alleged injury. A lot of times when you apply the statue, it doesn't work pursuant to the facts.

Let's say I don't have my driver's license and I'm driving my car and I park and another car comes and hits me. You didn't get your driver's license we are going to argue negligence. But what's the statue, to make sure that I know the rule of the road. But what's the type of injury?

Me running into somebody and not somebody comes to hit my car where I parked it.

So you want to make sure you break it party and satisfies it based on the fact. So don't make assumption that it's going to succeed.

Your omission to act is you have a duty to act. General rule is no. Unless it's relationship or undertake steps to aid, then yes.

Land or occupier. It is tricky. Someone come to your land. You got to make sure you classify them. So are they a vitae, license tee, trespasser, and argue back to nuisance. If I go into a store to buy something and I'm an invitee. They are benefitting off me. Then let's say employee's only this backdoor and I open it and go back and you can argue that I'm a trespasser because I made it clear nobody else but employee can be beyond this point.

So the statue changes and you need to classify properly.

California doesn't classify when they fail or find me a trespasser then I'll fall back ‑‑ (break in audio) ‑‑ so you understand how far I need to go.

Attractive nuisance, you want to break even the elements if it's tested and pursuant to the fact and those are the special duties you need to be aware of.

General duty, reasonable person, car dose Andrews is a concept that's discussed all the time and generally students are wrong.

All you need to remember is simply rule. It's a remote plaintiff so there's no direct contact. I drive someone and hit somebody. That's a direct contact.

When I saw that frame, a picture. Let's say a neighbor is watching, I'll bring car doe sew \* if you see something not directly districted with that contact. That raises a car doe sew problem.

A telephone pole and boy running to save its cat and the pole lands on another car, that would trigger a car doe sew issue.

Or a guy has shotgun issue and it goes off and hits somebody, she is suing the person in the car. That's remote plaintiff. How did this person get the picture frame. That's remote plaintiff. It's not a hard concept.

A lot of times if you look at the bar website and students talk about all the time. They put it in there just to make sure in case we miss it.

Again, it's so much time.

You have your child for general duty, unless it's adult activity. So make sure you understand what's adult activity.

Common carrier. With that you owe hire duty to whom?

To the occupant and not the outside public. So you want to make sure you pay attention to that.

Breach. Students have hard time with is res ipsa loquitur. You have no idea how the breach occur and it shows a breach circumstantially. So it's based on fairness and policy.

If you go buy something in the store that's defective. Who cause the defect?

You have no way of knowing. There's no way in the fact that I can pinpoint to. So that would raise a res ipsa loquitur type issue.

The case you should be familiar is you are walking down the street and a bag of flowers fall on your head. That's res ipsa loquitur. How did that flower fall on top of your head. You are a plaintiff, you have no idea. We are going to shift the responsibility on to them. That's res ipsa loquitur.

Causation you have actual cause and proximate cause. Please review your proximate cause. It's all of the multistates. Causation exists in every tort. Do we always talk about it on essay?

No. Torts. Invasion of privacy. We have a tendency not to but shouldn't we have proximate cause mastered?

It's not that hard if you answer the right question.

So with regards to proximate cause, what do you need to ask?

The first thing is, is it a direct act or indirect act. So direct act means direct contact.

My car hits yours, that's direct versus indirect contact, my car hit yours and paramedics were called and paramedics falls on your head. So was it independent or dependent?

Since we call chain of motion, yes, that would be dependent which would be part of the chain in motion.

And then foreseeable or unforeseeable, again the negligent act of the third party is always foreseeable.

Half memorized, what is foreseeable. Acts of God, animals and third party. Criminal acts is unforeseeable but if you have some type of notice, would that change?

Absolutely.

So again, we have to pay attention to the facts.

Proximate cause, if you go through the steps and lay it out in the essay, the reader will see that you really understand.

If you break it apart, you will get the answer.

So you have to hit all the elements before it can shift to the defenses after you prove the prima facie case.

With negligence, I use it on a CLARC, C‑L‑A‑R‑C. What's that stands for?

C is contributory negligence.

L is last clear chance.

The A and R are assumption of risk.

And C is comparative negligence.

Why do I set it up this way?

You need to understand with contributory negligence if you've shown that plaintiff contribute to the injuries and failed below the care to themselves, they ‑‑ but the last chance, which is a plaintiff argument can come back and give the plaintiff the right. The last chance to prevent my injuries, then guess what?

Contributory negligence is not a complete ‑‑ (break audio) ‑‑ that's why I put in that order to help.

Assumption of risk, knowledge and comprehend it and comparative, proportionate compare to fault.

The risk, make sure you know. If I see burning building, I run in there that's not assumption of risk. Based on policy that's foreseeable. Fireman, that's your job. So make sure you understand that.

Negligence, again, is highly testable. So it's an area you want to master. It's all over the multistate. It's an area that they know student don't comprehend and they do test it. Know well, do well.

And this Baby Bar looks like you might have tort essay. And full on negligence and products or defamation.

Strict liability where you have animals. What you want to watch out is animal's propensity. Tort trespasses a snake ‑‑ I don't like when they use that one. A bear would maul you. That's not propensity. It's liability regardless of fault. So basically imputing liability based on a dangerous act in and of itself.

The other one is abnormally dangerous activity. This again, liability be imposed regardless of fault. How do we see this?

Well, most of us know, explosion ‑‑ explosives, toxic wastes, but they have on the Baby Bar with exterminator exterminating the house. And normally dangerous activity. People get inside or get the poison can chances be poised and died.

With strict liability. Causation and liability and defenses, carry all the way through.

You can use defense of comparative negligence, you may not use contributory negligence, against policy and assumption of the risk.

You are not looking for fault. On a multistate exam question, if I can find that on the same fact, I go to strict liability. Impose regardless of fault.

If I see strict liability in land, what tort do I look for?

How about a private nuisance?

If I see strict liability in land, they keep blasting and causing cracks in my pool, I can argue, private nuisance. Not 100 percent but a lot of times they do. So something you want to look for. They do crossover with each other.

Product liability. What you are looking at here is it effects your product. Impose liability on manufacture, distributor or retailer.

Manufacturer, distributor or retailer.

Now you are going to have inner, in your checklist of theory.

You've got battery. Negligence. You got warranty and strict liability in tort.

First of all, how do I see battery?

You are going to have see some type of knowledge you are aware. So I sell a product knowing that it can be helpful and I don't disclose it. That could be equivalent to battery.

You have your negligence. Same elements that we just went over. Your warranty, strict liability on tort.

If you see a product liability question, and the call to the effect what theory or theories there will be liabilities, and I know it's products, what's that tell me?

I know I will address on that exam, negligence, implied warranty merchantability and strict liability of tort.

How do I know that?

Three theories you will automatically go through on general call.

Versus strict liability for defective product then you narrow it down on specific issue under product.

When you go through negligence, the duty is difference, discover, correct for manufacture/distributor.

For retailer they have a duty if they have knowledge to warn or correct the situation. So they need to be aware of the defect. If you go to grocery store and you buy milk and it's contaminated, does the grocery store be responsible?

How would they know that?

So the manufacture notified them. Now they are aware and they have a duty and they didn't warn or pull it off the shelf.

Remember, product actually have three types of defects that you do need to show meaning one of them at least. Manufacturing defect. Warning defect. Or design defect.

Currently how I have seen them test on product liabilities is you are looking for two defects. So see if you can argue based on the facts.

Manufacturing defect is more rare one you see is when the manufacturing defect is different than the rest of the line. Warning defect is harm for the product. And the third is in its design.

So couple of examples with spring and parasites. It's invisible. So you will know based on the facts of how they want you to argue.

You have your warranties. You have expressed warranty. With that, you have to see some type of representation. And a lot of times, this is the seller said da‑da‑da, what you will see is the representation of the product itself.

An example of that which is a multistate that a gentleman buys a Mike helmet and it ‑‑ bike helmet. And it says that it will sustain any crash. And it didn't, and now he is suing for express warranty. They miss a representation so he will be recover but at the cost of the helmet. It did protect his head based on the facts.

The other thing you want to watch out is puffery. So in essence this is the best product. This is will last whatever, is that a puffery or is that a misrepresentation of the product will do.

Where is expressed warranty when you are advertising the cream?

With expressed warranty you still need to show causation. Damages and look for defenses which would be like your misuse disclaimer and/or assumption of the risk.

Remember one thing with misuse, they have tested, what do you look for is an anticipated misuse. If it is it's a viable defense. And primary example is using that chair. What do we use the chair for sometimes it becomes our ladder. That's misuse. We have a tendency to use that as ladder but that's a foreseeable misuse.

‑‑ implied that representation ‑‑ anticipation is the car was drivable. So what can be anticipated by the consumer that the product is going to do for them.

You also have warranty for fitness of familiar purpose. There you need to see representation and does it fit for that.

Such as these boots will last any hiking on any mountain. And you pick mountain Everest and it wouldn't last too long.

So based on what I say, if you see implied ‑‑ you should see foreseeable warranty as well, they have the tendency to go together.

If I see expressed liability I will look for implied warranty of fitness. If the call basically general you will always have the implied and merchant ‑‑ always.

Manufacture and retailer you will be under that theory.

The last theory is strict liability and tort. You need to show defective product in the stream of commerce which would be what?

Design, manufacture ‑‑ damage to your actual defenses.

The facts will dictate.

I've seen exams where they say strict liability. Suing their negligence, so make sure you don't get to be in a remote robot type situation. I saw product and this is what I do. The call say that's not what they want. So please pay attention to the call of the question.

If you are suing an endorser, tiger woods endorses a product, can we sue them for products?

The answer is no. Why?

They are not a manufacturer, distributor, retailer. Are they?

So what are you suing them for?

Misrepresentation, most likely negligent misrepresentation as well as negligence.

Again thinker not in the distribution chain ‑‑ they are not in the distribution chain. They are manufacturer, distributor, retailer. So make sure you understand that. People writing on a nonissue and killing your examination.

To that's product in a nutshell.

Product is using pretty good right now to be tested so it's something I want you to go over and you understand the essence, expressed warranty triggered and how strict liability. That means it's a very specific call.

They have 1 bar exam with they took our whole price and scrambled all over the first call is dealing with the product was not defective and narrowed it was it design, manufacturing warranty. They went down defenses. We all talk about defenses. We didn't prove the last theory until the last call which is odd. So you do want to break it apart.

And also two, people look to the pharynx\*.

If I tell you it's a cold drink blender and in the brochure, it says do not use hot product, and the lady made hot soup and put in the blender and lid came off and burned her, and most people found negligent and guess what?

She is not going to recover, because how did they breach the duty? But I gave you the one word that gave you the argument. "Brochure." That's different than an operating manual. They are testing your analytical skills.

Brochure versus operating manual.

There's a difference in the verbiage. The more you understand the language and look at it versus making the assumption that's going to help you with your argument.

Vicarious liability. That does come up and for some reason, people don't talk about a lot.

First, it stands on its own. You go through duty in breach. The next is not vicarious liability. All it is, is you are trying to impute someone else's negligence onto that employer, based on the employer relationship or maybe the parent child relationship. Some relationship existed and impute someone else's conduct onto that person that's vicarious liability.

They test that on the essay. They are tricky to you need to make sure you understand.

Employer/employee need to be within the scope based on your conduct and then you have independent contractor. Well if you have independent contractor, I'm off the hook. But there are certain nondelegable duties that the law doesn't let you delegate so you are still on the hook. Even though you have no control. That's pew your risk nondelegable duty. How about maintenance of your car?

They are not going to delegate that to relief yourself of liability.

How about taking out trees front yard of your home. So if that person you hire is negligent, they are going to come after you.

You have a remedy. Through indemnity through contribution. They are not going to allow you to just delegate it.

Nuisance we did talk about and crossover with what?

Strict liability; right? Private nuisance.

You do have a public nuisance. What's a public nuisance. With public nuisance you want to understand who is suing. If I'm suing, well, it has to be either the Attorney General bringing the cause of action or I, as individual has harm different kind.

So it can't say outside theater and we hear the noise. It's not different kind.

But let's say the amplifier rattle that it's causing the cracking of my home that's harm of different kind. So even though the noise is there, it's got a different damage and it's effecting me and you can argue that it's different in kind.

All right. Another big issue which I haven't decided yet if they are going to test on. Something I have to go back and study in regards to defamation. Defamation by the way if they ask you in the call of the question what intentional torts which they did with Carly and Dolly and Bob. That defamation is done intentionally is an intentional tort, isn't it?

So one is about 3 years ago, they don't like Dolly they wanted her hired and they did intentional acts to her and people missed defamation and yet her employer, Carl, told the superior, you know, she was an alcoholic and some other things about her knowing it's false, well that, you know, blares out to you that's a defamation issue.

See what people didn't understand is it's not my checklist intention torts. You got to use your common sense and break it apart.

Defamation in that particular issue if it does come up, students will talk about it, you've got to dissect the elements and go through them. You can't one or two sentences it's defamation and get out. First of all, look to the actual statement. If I say is John's statement defamatory?

I'm looking for multiple. You want to make sure you break it apart.

With defamation, you can have general damages presumed. And if I find that it's done intentionally I will go for punitive damages.

It's libel percent ‑‑ that's an area students mess up with defamation is danger is real.

Defamation, is it statement of facts or opinion. You need to break it apart and look to the actual language. If I say the judge in court was unfair, and he is stupid and he doesn't know the law. Is that opinion or facts?

That's an opinion. You will know based on the facts.

Publication has to be published intentionally. Punitive damages or negligently. It has to be a third party who you understood and in that area that can trigger libel per quod. If I say Mary is pregnant. That's not defamatory on its face. But when you introduce extrinsic facts ‑‑ (break in audio) ‑‑ you are going to bring those up. Innuendo inducement and that stands on its own.

On its face that it's not clear that it's defamatory. So you need to bring in extrinsic evidence to prove its defamatory meaning. Or it could be the fact that I say the professor gives the female in the class the straight As. There's only one female in the class, extrinsic evidence to show to show defamatory.

Defamation is to determine libel. Libel is written form, is what you see. So remember that includes the media. So on television that would be considered libel, on newspaper, posted on billboard, and slander is something you hear.

But if it's broadcasted, recorded, they are going to be considered that to be libel versus slander is something you hear.

Why do I care?

If it's libel, general damages will be presumed because they figure the permanency.

Slander, you have to prove up general damages in order to recover, of course, unless you can prove what we call slander per se. And you can use numeric CULP. C for crime, U for unchaste act of a female, L for loathsome disease, and P for profession.

So if it meets that category. The courts is going to make the presumption that it's damaging to your reputation to the community. So you don't need to show general damages.

This is where people get lost. Special damages. You never ever presume special damages. Ever. You need to plead and prove them which make sense because your defamation statement may be ill and you need a million dollars medical expenses. I want to see the causal relationship before I pay something like that. Special damages they are never presumed. With defamation, students seem to think, okay libel damage, general damages presumed. Never. And you don't have to have special damages.

If we presume general damages, you have to prove up the special damages if you want them. Make sense?

Now the other thing you want to make clear with defamation is your defenses. If you see a media defendant what defense should come to your find?

Constitution privilege.

Medical louse or constitution suffice.

Public figure and media defense you need standard of malice. People want the news about famous people, athletes, et cetera. Versus me, me, negligence will suffice. I don't have to meet the stand of malice. And you do need to see a media defendant. Plaintiff versus a mere defendant you don't have to go to constitutional privileges.

Qualified privilege does come up. Husband/wife. Good faith privileges with regards to qualify. You want to break these apart and make sure you understand. Versus absolute privilege.

With defamation, remember I told you could be done intentionally. If it's done like that, what other torts we addressed today. I would discuss intentional inflection of emotional distress. If you see defamation done intentionally, you will look for IIED.

The other tort ‑‑ based on the call, so always pay attention to the call of the question. If I see defamation am I looking for?

False eye in the public eye.

In your invasion of privacy, that's an umbrella and it breaks into four. Which one?

So is it false sight, intrusion upon seclusion, disclosure of private facts ‑‑ you need to dictate. The common is false eye in the public eye.

Intrusion upon seclusion, that comes from multistate. It just hasn't been tested. It's where you are crossing the line and not supposed to be in that private area. Getting too close to take a picture, you can't do that. You can't do that.

Public disclosure, public facts, it has to be private facts. Police report, those are not private. Arrest records, are not private. Medical information, that's private.

And appropriation, name or likeness, these do come up and students tend to miss it. You see a pattern, I see a movie star and take a picture and sell the picture, what you need to understand with this tort, you need to be using that photograph for some commercial gain.

Meaning I use as look who came to eat at my restaurant or drop off dry cleaning, I'm using it to benefit my business or could be by voice in regards to someone advertising ‑‑ I remember the Bette Midler case and they thought it was her and it wasn't. You have to disclose it if it sounds like her. That would be appropriation of name or likeness and using her name to substantiate or get a benefit for your business. And that's a no. No. And that does come up in multiple choice.

Another area that I haven't seen in Baby Bar ‑‑ remember, with performance of contract ‑‑ interference of contract has to be existing contract.

With Dolly example, they wanted her fired and they defamed her and that's an employment contract you just interfered her. And you will see that in my exam answer because you interfered with existing employment contract. You could argue that I have seen for Baby Bar purposes.

Another area that we did touch on is misrepresentation. When you do see misrepresentation, it's your job to do what?

Is it negligence?

Is it intentional?

With misrepresentation, if you have intentional misrepresentation that's the same thing as fraud. It's intentional misrepresentation of material fact which justify or rely ‑‑ you have to prove all those elements.

Or the one you should have known realize to the detriment. Maybe you should check into before you made that representation.

Someone's buying your house.

Is it a flooding zone?

No.

Do you know for certain?

You should have known and not make representation at all. So break it apart. So you need to make the determination. So the facts will dictate.

The other thing is crossovers. What I teach is if you see on a contract exam and you see it fits misrepresentation, I might bring it up a tort misrepresentation. If it's done intentionally, if it's breach of contract, general map. But under tort, I might be able to get punitive damages which might be a better recovery.

So if I see a contract dealing with misrep, I will bring up that crossover in tort under the theory of fraud and intentional misrepresentation, because it's going to be better remedy for me and my client.

I haven't seen the essay, that was on the last bar and people didn't see it. They talked about as full tort or full contract. No. It can take it from contracting and go to the tort section.

And also another area, a lot of times they tested on the bar comes your way. And on Baby Bar comes to bar's way. So you want to make the students be aware of.

The key thing with torts is that you have to have a good understanding what?

How the issues come up?

Use your checklist and understand what is the difference in intentional tort versus negligence. Have you see the battery assault tested. The more I can get you to do a issue recognition of how it's come up on a essay that's going to help you. That's going to make you bridge your success.

If you start learning these, you will do well.

Why did I say where there's no trespass, because the facts did say she wasn't aware it was your property.

Why did I miss the conversion for the bowling ball because I thought she made mistake and took the wrong ball, but mistake is not a defense.

So I didn't carry it through and realize the stake is not a defense for intentional torts. We know we tend to lean that way, no tort, and that's incorrect. There's no crime but there's a tort. You want to make sure that you do understand that. I want you to work on and break apart and go through it.

When does the liability cut off let's say proximate cause and make sure you understand that, no, continue.

Practice essay and see when can I stop.

One example student stopped and the facts told you damages were an issue, but they ask you, is the contract enforceable or in breach. It gave you money figures ‑‑ lost profit or actual damages.

What does that tell me?

I better continue.

So you want to continue whether it's torts, contract, et cetera. You carry all the way through.

So if it says what claim, one, I'm probably pretty safe.

If it says what claim or theory, I know I have multiple to go through. Defamation done intentionally ‑‑ habit or relationship. And private nuisance, they have a natural relationship. That's why I point those out and look for them and you want to start training yourself as well so I don't miss things.

And if I see defense in negligence and cause says "defenses," you already know I have three that I must discuss. How do you know that?

Comparative and contributory are difference of jurisdiction, aren't they? To me, I count that as one.

Oh, so you want to understand the game.

It's true in anything. Understand how they play in order to do well and break this apart and gain a good undergo.

So product liability. Go through that. Do you understand when the trigger versus ‑‑ you don't always bring up battery. How do you know battery was at issue?

One good exam out there with roadster. It's two seats. And the manufacturer could have put a kill switch to kill off the air bag. They did nothing. So dad buys the car and puts his girl and they ran into something and air bag deployed and hit the girl and the girl is suing.

What defenses?

Theory, product.

Negligence, product liability.

Most people bought it contributory assumption of risk. What did the girl do?

She didn't do anything.

You need to look for counter arguments. And in that exam, already states in exam because they didn't put the kill switch. Consumption expectation because of kill switch. Counter arguments and not true defenses.

So the more you hear and break these apart will make sense to you but you have to apply it. Without application, you will forget it. So that's what I call as tort in a nutshell.

Any questions?

Torts to me is a good subject. Use your checklist. If you see negligence, you will write to inner checklist. Defamation and write in the order.

But if you see exam that has defamation, intentional inflection and false light, the manner you start ‑‑ you want to make sure you understand what issues are there so you get the whole point value and not miss the issue.

Issues could be defamation, false issue, or sub issues within the elements. If I miss those, that's going to hurt me.

And remedies are end of torts, are your damages. For the Baby Bar what you are responsible for is like your general damages, special damages, punitive damages, reliance damages, obligation of duty to mitigate those damages.

Collateral source rule and satisfaction. And then restitution can come up on the unjust enrichment. That's it for you until the remedy's class, but you are pretty safe in the area that I've listed. Unjust enrichment, that's it for you. Injunction they haven't tested in Baby Bar yet. I don't see that coming.

All right. Anybody have any further questions?

Now, at this point, we kind of reviewed torts, so what should you be doing?

Continue mastering your torts. Practice multistate and do them on the weekend, free open time try to work on your timing in writing essay and time condition and doing multistate, and also start slowly implementing what we talked about because next week you will be reviewing those essay questions and understand why the issue was there and how you articulate based on the exam. There's a discount with Flemming. Just call and tell him you are with Taft Law School and referred you.

I do recommend you take a course. But there's Flemmings out there. To me, it's an individual thing. You've got to call and see what they can do and if they can send you samples.

Flemming teaches through reputation. And some through application. Give them a call and let them know. There are not much bar prep courses out there. But Flemming gives a discount type of situation. Ask them to e‑mail you information on that.

Any other questions before I say good night?

Now if you want to like person, you need to find an actual person. Shoot me an e‑mail, and I can see to research it for you and gear someone towards. One‑on‑one, I don't know if you are local or out‑of‑state because you want someone who knows Baby Bar. Not all states have Baby Bar like California.

So I hope this lecture was hopeful for you guys. I do wish you the best of luck in regard to your study, stay focus on this. The more true effort you put into it, you will see the rewards.

Have a great rest of your evening, and I see talk to you next Tuesday. Good night.

[ End realtime captioning ].

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