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| **Law 433C.001** | **Personal Injury Advocacy** | **Spring Term 2025** |
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| Professors:SANDRA KOVACSand TANYA MARTIN | Tel: (604) 681-9344Email: tmartin@kazlaw.ca Email: sk@kazlaw.caOffice: 1900-570 Granville Street, Vancouver BC  | Mondays 5:00 – 8:00 pmUBC Allard HallFaculty of LawRoom 121 |
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**COURSE SCHEDULE**

**Spring Term Classes: January 6 - April 8.**

**Holidays: Family Day, February 17; Good Friday & Easter Monday, April 18- 21.**

**Spring Term Reading Week: February 18 – 21.**

**WEEK 1: January 6, 2025** - **Introduction (TM/SLK)**

* Introduction to course topics, grading, assignments and objectives.
* Personal injury as a specialized subsection of Tort Law requiring proof of liability for a recognized tort, causation, and damages.
* Types of personal injury claims: motor vehicle accidents, occupier’s liability, sexual violence, physical violence, product liability, municipal liability, slip and fall, professional negligence/malpractice, sports injuries, etc.
* Motor vehicle claims in British Columbia – Tort and Part 7/10 (Rehabilitation Benefits) claims.
* The various tort regimes applicable to motor vehicle claims in Canada: no-fault insurance (Quebec), optional no-fault (Saskatchewan and Manitoba), thresholds, deductibles and caps applied to tort claims (Ontario, Alberta, and Maritimes), and rehabilitation benefits (all provinces).
* ICBC’s new “no fault” regime in British Columbia
* Tort Reform in Canada and Hot Coffee discussion.

**WEEK 2:** **January 13, 2025 - Liability (SLK)**

* The elements of proving liability in negligence:
	+ Duty of care
	+ Breach of that duty (an actionable wrong);
	+ Causation; and
	+ Damages.
* Burden of proof
* Standard of proof
* Apportionment of fault
* Vicarious liability: why, how, and when
* Applying the theory of proving liability in motor vehicle collisions, with reference to real case examples:
	+ Left turn collisions
	+ Rear-end collision
	+ Agony of the collision
* Applying the theory of proving Occupier’s liability, with reference to real case examples
* Applying the theory of proving assault and battery, with reference to real case examples

**WEEK 3:** **January 20, 2025** – **Causation (TM)**

* Defining causation in the Supreme Court of Canada
* Two tests for causation: “but for” test and “material contribution test”
* Complex causation issues:
	+ Pre-existing injuries or health conditions;
	+ Multiple tortious and non-tortious events;
	+ Divisible and indivisible injuries
* Psychological injuries as a special case
* Addiction as a special case
* Crumbling Skull doctrine distinguished

**WEEK 4:** **January 27, 2025** - **Non-pecuniary damages (SLK)**

* Non-Pecuniary Damages: Pain, suffering, loss of enjoyment of life, and loss of amenities – quantifying the unquantifiable
* “Rough upper limit” or “cap” for non-pecuniary damages
* The “Minor Injury Cap”
* Non-pecuniary damages in intentional tort claims
* Aggravated versus punitive (non-compensatory) damages

**February 3, 2025 – CANCELLED DUE TO SNOW**

**WEEK 5: February 10, 2025 Pecuniary damages (TM)**

* *Restitutio in integrum* – a principled approach to full compensation, from the SCC Trilogy.
* Past lost earnings
* Future lost earning capacity
* Special damages
* Future cost of care
* Lost homemaking and childcare capacity
* In trust claims

**FEBRUARY 17, 2025: READING WEEK/FAMILY DAY HOLIDAY**

**WEEK 6: February 24, 2025** *-* **Defending personal injury claims (TM)**

* Inevitable Accidents / No Negligence
* Waivers
* Statutory bars
	+ Limitation Periods
	+ *Workers’ Compensation Act* defence
	+ Consecutive collisions: Fault and “no fault” era accidents
* Contributory negligence
* Failure to mitigate
* Credibility
* Surveillance, social media, and investigation of plaintiffs

**WEEK 7: March 3, 2025 – Experts (SLK)**

* The scope of expert evidence
* Strategic use of experts – which experts and why?
* Rule 11 of the Civil Rules of Court
	+ IME applications;
	+ Timing of expert reports;
	+ Disclosure obligations;
	+ Notice of objections to admissibility
* Admissibility of expert reports
* Direct-examination of experts
* Cross-examination of experts

**WEEK 8: March 10, 2025 - Motor vehicle accident case study (TM)**

* Developing themes for the plaintiff’s case.
* Interviewing the plaintiff and investigating the claim.
* Host Liability overlap
* Discovery of documents
* Examination for discovery
* Expert reports
* Pre-trial case management
* Client management
* Trial

**WEEK 9: March 17, 2025 – Sexual torts case study (SLK) BY ZOOM**

* Interviewing the plaintiff and investigating the claim.
* Anonymity
* Limitation period
* Who to sue
* Identifying the cause(s) of action
* Theory / theme of the case.
* Discovery of documents
* Examinations for discovery
* Expert reports
* Pre-trial case management
* Client management
* Trial

**WEEK 10 & 11 COMBINED – March 24, 2025**

**Occupier’s Liability case study (SLK)**

* Interviewing the plaintiff and investigating the claim.
* *Occupier’s Liability Act /* Host Liability overlap
* Theory / theme of the case.
* Discovery of documents
* Examinations for discovery
* Expert reports
* Pre-trial case management
* Client management
* Trial

**Medical Malpractice case study (SLK)**

* Know your opponent
* Theory / theme of the case.
* Experts
* Examinations for discovery
* Mediation
* Trial

**WEEK 12: March 31, 2025 – Post-Trial / Settlement Procedures (TM)**

* Mediation
* Formal offers
	+ Offers to settle and cost consequences
	+ Settlement Agreements generally
	+ Terms of a Settlement Agreement
	+ BC Ferry Agreements: Settling with One of Multiple Defendants
	+ Settlement Documentation
* Professional and Ethical responsibilities
* Public Guardian and Trustee review of infant settlements
* Health Care Costs Recovery Act
* Section 83 deductions */* Elimination of subrogation rights under the new s. 83
* Pre-judgment interest
* Post-judgment interest
* Tax gross-up and management fee
* Costs and taxations
* The 6% cap on disbursements
* Appeals

**WEEK 13: April 7, 2025 – Optional class (TM/SLK)**

* Review of Course Materials
* Review of last year’s exam
* Preparing for the exam

**FINAL EXAM: FRIDAY, APRIL 25, 2024 at 9:00 AM**