



Session 31

Tort Law

Cases 2

Case 1: Krouse v Chrysler Canada Ltd

Bob Krouse was a well-known professional football player with the Hamilton Tiger-cats who played as the number 14. Grant Advertising produced an advertising scheme for Chrysler which included a cardboard scorecard that was distributed to the public, known as the "Plymouth Pro Football Spotter" which allowed football fans to track scores. On the Spotter was an image of Krouse from behind with his number 14 clearly visible. Krouse sued Chrysler for use of his image without his consent. At trial he had argued invasion of privacy, breach of confidence, unjust enrichment, passing off, and appropriation of personality and was awarded damages of \$1,000 with costs based on the tort of passing off.

- Does the law recognize a tort of appropriation of personality?
- If so, is Chrysler liable for misappropriation of the defendant's image?
- Is Chrysler liable for passing off?

Case 2: Canada paper Company v Brown

Brown owns a house that is close to a paper mill which was in operation before the house was purchased. After a time, the paper mill began using sulfates in their processes, which emitted fumes so noxious that they rendered Brown's house uninhabitable at times. Brown brought an action for an injunction which was successful, and Canada Paper appealed..

Is an injunction reasonable when it shuts down the primary industry in a small town?

Case 3: Dobson v Dobson

Cynthia Dobson was a pregnant woman. While in the 27th week of pregnancy she was driving her car when her negligent actions caused a car accident. The foetus was permanently injured, and was born prematurely that day. Her son, Ryan Dobson, suffered physical and mental injuries, including cerebral palsy. His grandfather launched a tort claim for damages against his mother. Ryan was successful at the Court of Appeal, which his mother appealed.

Should a mother be liable in tort for damages to her child arising from a prenatal negligent act that allegedly injured the foetus in her womb?

Case 4: Hollis v Dow Corning corp.

Dow produced breast implants that were implanted in Hollis. After 17 months the implants ruptured inside of her body and caused injuries. Hollis is suing the company stating that they negligently manufactured the implants and that they failed to give the doctor (Birch) the proper information and he therefore could not give her enough information to make informed consent. The respondent was successful at trial and the Court of Appeal found that the appellant was not negligent in their manufacturing, but dismissed the appeal anyway because the defendant did not properly inform the doctor of the risks.

Did the Court of Appeal err in finding Dow liable to the respondent for failing to adequately warn the implanting surgeon, Dr. Birch, of the risk of a post-surgical rupture?