The eleventh edition of this casebook marks yet another change in the four short years since Catherine M. Sharkey joined Richard A. Epstein as a coeditor of the casebook. The most conspicuous changes in the eleventh edition of the casebook are visual, as the physical book has been redesigned in light of the new sensibilities of the age. For the first time the book contains pictures, cartoons, tables, and charts that are set off from the main text to supply visual background information about the persons, places, and things that hold center stage in the cases and materials of the book. The design of these materials has been spruced up with red headings to mark transitions and with boxes that contain key provisions of the various Restatements of Torts and other materials. The text, too, has been revised in light of the reduced number of credits allocated to torts in the first year curriculum. In response to these pressures, we have shortened the material somewhat by thinning out the notes and eliminating some of the principal cases. We have also consolidated the materials of the insurance contract and the no-fault systems into a single chapter that touches both.

That said, we have strived to preserve those key intangibles, the basic character and feel of the book. Accordingly, its basic organization and structure are consistent with the broad objectives of the first edition of the casebook, which first appeared in 1959 by the late Professors Charles O. Gregory and Harry Kalven, Jr., both exceptional and imaginative scholars. Their second edition followed some ten years later, and was in fact the book from which Professor Epstein first taught torts at the University of Southern California in 1969. In 1972, he joined the faculty of the University of Chicago Law School. In January 1974, with Gregory in retirement, Professor Kalven asked Epstein to collaborate with him on the third edition of the casebook. Kalven’s tragic death in October 1974 cut short that brief collaboration before it began. Thereafter Professor Gregory reentered the lists to read and comment on the drafts of the third edition that Epstein prepared, which appeared in 1977. The preparation for the fourth edition of Epstein, Gregory and Kalven, which appeared in 1984, was done by Epstein alone. Gregory died in April 1987, after a rich and full life. Epstein was then the sole editor of the fifth (1990), sixth (1995), seventh (2000), eighth (2004), and ninth (2008) editions on ever shorter cycles. Even after so much time and revision, much of the case selection and organization of this book reflect the initial judgments of Gregory and Kalven, whose pioneering spirit and rich imagination brought so much to the study of torts.

The tenth edition reflected the new partnership between Epstein and Sharkey, who initiated a new set of changes. That edition merged the material on joint and several liability into the chapter on causation. The material on vicarious liability
was inserted at the end of the now-Chapter 7 on strict liability, to which was also added the materials on trespass to chattels and conversion that had formerly been included in Chapter 1. Extensive references were made to the key provisions of the Third Restatement of Torts: Liability for Physical and Emotional Harm, approved by the American Law Institute in 2011. To these were added the changes in both appearance and organization for the eleventh edition, as set out above. Even with these changes, the casebook also carries over many of the features from earlier editions, including extensive historical materials on the evolution of tort law, the expanded treatment of public nuisance law, recent developments in products liability law, expansion of the materials on various types of injuries in damage cases, and the heavier emphasis on web-based communications under the law of defamation and privacy.

As with earlier editions, however, our intention 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 this casebook, which is to stress the alternative visions of tort law as they developed in the nineteenth (and the now complete) twentieth centuries. Toward that end, we have retained in the eleventh 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. But by the same token, we reviewed in detail the many major changes in tort law that took place in the years between 1968 and 1980. Although many of those developments continue to remain important, others have been either modified or rejected in favor of more traditional doctrines. It is no longer likely in 2016 that strict liability rules will exert greater sway in medical malpractice cases, or that market share liability will expand much beyond the original DES cases. We have sought to keep pace with these new developments both through common law and, increasingly, through legislation.

Five previous editions of this book were dedicated to the memory of Charles Gregory and Harry Kalven. Time has moved on. In 2004, Epstein dedicated the eighth edition of the book to the memory of his contemporary, the late Gary Schwartz, who died in 2001, one of the most insightful, learned, and fair-minded tort professors of any generation. For many years his kindness, generosity, and insight helped improve the earlier editions of the casebook. The ninth edition was dedicated to the late Bernard D. Meltzer, himself a casebook author of great distinction, who passed away at age 92 in 2007. In the tenth edition, we moved from the past to the future, and dedicated jointly this edition to the next generation, our grandchildren and children, respectively. We have done the same in the eleventh edition, happy that their expanded ranks (by one) are all happy and well.

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