Advanced Torts: Cultural Conflict and the Intentional Torts
Syllabus
Spring Term 2013

I. Introduction

A. Intra-and-Intergroup Conflict and Documentary Films

1. “Happy Endings” (Chris Irrizarry, director) (Fifth Annual Media that Matters Festival 2005)


B. The Relevance of Culture and Context: Starting with Hair


4. Denny v. Elizabeth Arden Salons, Inc., 456 F.3d 427 (4th Cir. 2006) (discrimination claim generated by a receptionist’s statement that the salon did not “do black hair”)

5. “Hair Piece: A Film for Nappyheaded People” (Ayoka Chenzira, director) (Women Make Movies/Carnelian Films 1985) (an historical overview of black women’s struggle to achieve social recognition of their beauty as reflected in their changing hairstyling techniques and concerns)

6. “Back to My Roots” (from Inside Ru Paul: A Video Compilation for Cyberfans) (World of Wonder 1993) (an entertaining music video that portrays beauty salons as black cultural institutions)

C. A Different Methodology: Contextual Analysis

1. Jones v. Fisher, 42 Wis.2d 209, 166 N.W.2d 175 (1969) (battery action brought by a nursing home employee attacked by her former employers)


3. “Maid to Stay” (Aparna Talaualicar, director) (Third World Newsreel 1999) (an account of the lives of domestics from South Asia working in New York City and their attempts to organize to secure better working conditions)


II. Assault and Battery -- A Structural Analysis

A. Race Plus Violence

1. U.S. v. Ebens, 800 F.2d 1422 (6th Cir. 1986) (appeal of a verdict in the civil rights action arising from the murder of Vincent Chin)


B. Battery and the Construction of Women's Consent to Medical Procedures
1. Thibodeaux v. Jurgelsky, 898 So.2d 299 (La. 2005) (husband’s informed consent to a wife’s hysterectomy)

2. “La Operación” (Ana María García, director) (Cinema Guild 1982) (an account of the impact of the U.S. Government’s policy regarding population control on the reproductive freedom of Puerto Rican women)


7. “Daisy: Story of a Facelift” (Michael Rabbo, director) (National Film Board of Canada 1982) (the story of a middle-aged woman's facelift, including footage of the procedure, the reflections of the male director on the impact of patriarchy on women's ideas of beauty, and a soundtrack replete with Willie Nelson singing “September Song”)

C. Consent by Status or Conduct

1. Gender and Sexual Orientation

a. Restatement (Second) of Torts § 892 (1979)


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d. “Senorita Extraviada (Missing Young Woman)” (Lourdes Portillo, director) (Women Make Movies, 2001)

e. Estate of Konerak Sinthasomphone v. Milwaukee, 878 F. Supp. 147 (E.D. Wis. 1995) (litigation against the employer of the police officers who could have saved one of Jeffrey Dahmer's victims)


2. Male Bonding Associations (frats, teams, and gangs): Self-regulation through Consent or External Oversight and Control?


e. “College Football: A Celebration of Teamwork” (NCAA Productions 1995) (a video illustration of the rule regarding on-field celebrations which suggests a cultural conflict between young, significantly minority players and older, tradition-bound coaches and athletic directors)

g. “The Heart of the Game” (Ward Serrill, director) (Miramax Films 2005) (the story of a girls high school basketball team that battled for the eligibility of a star player after she became a mother)

h. In re Khalil H., 48 A.D.3d 83, 910 N.Y.S.2d 553 (2010) (applying hazing statute to high school student who recruited complainant to join his gang and videotaped the “jumping in” initiation)

i. “The Interrupters” (Steve James, director) (Kartemquin Films 2011) (grassroots association of former gang members endeavoring to break the cycle of killing and retaliation in Chicago)

D. Incapacity to Consent

1. Renguette v. Board of School Trustees, 540 F. Supp.2d 1036 (S.D. Ind. 2008) (7th grader sexually assaulted by 9th grader on school bus, both expelled)

2. “Desire” (Julie Gustafson, director) (Women Make Movies 2005) (tracking the coming of age of four girls from pre-Katrina Orleans, two from a prestigious private school and two from the Desire housing project)

3. “Sound and Fury” and “Sound and Fury: Six Years Later” (Josh Aronson, director) (Aronson Film Associates 2001, 2006) (exploring over time the revolutionary impact of cochlear implants on “deaf culture” and the families of deaf children)


7. “Family Affair” (Chico Colvard, director) (C-Line Films 2010) (a brother’s take on family violence incurred by his older sisters)

E. Self-Defense as a Matter of Status


2. “The Confessions of Bernard Goetz” (MPI Video News 1987) (a commercially-produced video for mass distribution, with substantial segments of Goetz’s confession--along with interviews with jurors, experts, and people on the street--all of which go a long way toward explaining why Goetz won)


III. False Imprisonment

A. Imprisonment in the Context of Institutional Care


B. Restraint and Consumption: The Wars in the Stores

1. Withers v. Dick’s Sporting Goods, Inc., 636 F.3d 958 (8th Cir. 2011) (“shopping while black” claim denied where male plaintiff was present merely to provide support and carry bags of successful companion and their daughter)
2. “60 Minutes: Dillard’s” (CBS television broadcast March 25, 2001) (Ed Bradley reporting on deaths of minority male customers at the hands of department store security guards)


4. “Sa-i-gu (April 29)” (Dai Sil Kim-Gibson & Christine Choy, directors) (NAATA 1993) (an account of the impact of the LA Rebellion that followed the verdict in the Rodney King case from the perspective of Korean-American women whose businesses were destroyed)

**C. Imprisonment in the Employment Context**


**IV. Intentional Infliction of Emotional Distress**


2. “Jesus Camp” (Heidi Ewing & Rachel Grady, directors) (Magnolia Pictures 2006) (recounting the experiences of children who attend a summer camp for evangelicals in North Dakota)

**V. Nuisance and Culturally Driven Conflicts over Space**
A. Gentrification as a Nuisance

1. “Flag Wars” (Linda Goode Bryant & Laura Poitras, directors) (Zula Pearl Films 2003) (a depiction of both sides in the cultural conflicts and legal disputes generated by the gentrification of a black neighborhood in Columbus, Ohio by “homesteaders” who were mainly white, bourgeois lesbians and gays)


B. Nuisance, Immigration, and Necessity

1. “Farmingville” (Carlos Sandoval & Catherine Tambini, directors) (Camino Bluff Productions Inc. 2004) (depicting both sides in the political and social conflict over the creation of a hiring site for Latino workers in a Long Island town)

C. Nuisance as Rebellion

1. Africa v. City of Philadelphia, 158 F.3d 711 (3rd Cir. 1998) (litigation arising out of the bombing of the MOVE house in West Philadelphia)

2. “The Bombing of Osage Avenue” (Louis Massiah, director) (Scribe Video Center 1987) (an examination of the events surrounding the bombing of the MOVE row house in West Philadelphia, the death of 11 of its inhabitants, and the destruction of 61 surrounding homes)

VI. Defamation and Invasion of Privacy

A. Consent to Filming and the Stigmas of Class

1. Candelaria v. Spurlock, 2008 WL 2640471 (E.D.N.Y.) (publicity action brought by McDonald’s employee who appears briefly in “Super Size Me”)

3. “Born Rich: An Inside Look at the Lives of . . .” (Jamie Johnson, director) (Sony Music Distribution 2004) (an video exploration of the values of the children of extremely wealthy parents and the difficulty they all have in talking about money; made by an heir to the Johnson & Johnson fortune who may be hereafter friendless)

4. “Troop 1500" (Ellen Spiro & Karen Bernstein, directors) (Mobilus Media 2005) (a look at the difficulties confronted by members of a Girl Scout troop that meets monthly in the prison where their mothers are incarcerated)