TABLE OF CONTENTS

Preface	vii
Table of Abbreviations	xiii
Table of Cases and Table of Legislation	XV
1. DISMANTLING TORT LAW	I
Introduction	I
Torts as Recipes	2
The Anatomy of a Tort	10
Correlativity and the Forward-Looking Functions of	10
Tort Law	15
Legislation and Correlativity	19
A Summary So Far	19 21
A Law of Torts or a Law of Tort?	2 I
Beyond the Law of Tort	
Tort Law as a Set of Ethical Principles	23
The Relationship Between Tort Law and Morality	24
Conclusion	25
Conclusion	27
2. SANCTIONED CONDUCT	28
Liability-Attracting Conduct	29
Voluntary Conduct	29
Deliberate Conduct	32
Intentional Conduct	32
Reckless Conduct	33
Fraudulent Conduct	34
Motive	35
Negligent Conduct	36
Conduct Neither Intentional or Negligent	45
The Ethical Imperatives of Tort Law	49
Non-Compliance with Statutes	52
Illegal Conduct	57
Causality	58
Conduct Giving Rise to a Defence	58
Negligence	58

CONTENTS

 \mathbf{X}

Consent Illegality	60 62
Acts and Omissions	63
Conclusion	65
3. Protected Interests	66
Interests in One's Person	67
Physical Interests	67
Dignitary Interests	71
Civil and Political Interests	74
Property Interests	75
Property	75
Interference with Property	78
Contractual Interests	83
Contractual Rights	83
Contractual Expectancies	86
Non-Contractual Expectancies	87
Trade Values	88
Wealth and the Concept of Financial Loss	88
The Requirement of Damage	89
A Hierarchy of Interests	90
Countervailing Interests	91
Public Interests	91
Private Interests	92
Conclusion	94
4. Sanctions	96
Sanctions for Liability-Attracting Conduct	97
Judicial and Non-Judicial Remedies	97
Non-Monetary Remedies	98
Monetary Remedies	102
Ethical Underpinnings of the Law of Tort Damages	115
Sanctions for Victim's Conduct	I 20
Conclusion	122
5. Reconstructing Tort Law	123
Interests in One's Person	124
Physical Interests	124
Dignitary Interests	134
Civil and Political Interests	138

Property Interests	139
Real Property	139
Chattels	145
Intangible Property	145
Tort Law and the Protection of Property Interests	148
Contractual Interests	150
Contractual Rights	150
Contractual Expectancies	155
Non-Contractual Expectancies	160
Trade Values	162
Infliction of Financial Loss	163
Causality	166
Causation	167
Burden of Proof	171
Remoteness	176
Causation and Victim's Conduct	178
Conclusion	179
6. The Distinctiveness of Tort Law	181
The Argument So Far	181
The Place of Tort Law in the Law of Obligations	182
Tort Law and Contract Law	183
Tort Law and Equity	186
Tort Law and the Law of Restitution	194
The Distinctiveness of Tort Law	196
The Unity of Tort Law	197
Mapping the Law of Obligations	201
Conclusion	204
7. Anatomy, Functions and Effects	206
The Functions of Tort Law	206
The Relationship Between the Anatomy of Tort Law and	
Its Functions and Effects	208
General Approach	208
Intrinsic Functions	213
Direct Extrinsic Functions	214
Indirect Extrinsic Functions	226
Arguments for the Abolition of Tort Law	23 I
Conclusion	237
Index	239