

**TORTS (Law 9151 1)**  
Fall 2013 – Tuesday and Thursday, 12:50 to 2:20 p.m. – Room 101  
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**Office Hours:**

My official office hours are 10:00-11:00 a.m. on Tuesdays and Thursdays. You are also welcome to e-mail me to set up an appointment anytime.

**Readings:**

The text for this course is Dobbs, Hayden, & Bublick *TORTS AND COMPENSATION: PERSONAL ACCOUNTABILITY AND SOCIAL RESPONSIBILITY FOR INJURY* (7<sup>th</sup> ed., 2013). There are numerous commercial outlines and hornbooks available. Abraham, *The Forms and Functions of Tort Law*, 3<sup>rd</sup> ed., and Dobbs, *The Law of Torts*, are two you may find helpful.

**Learning Outcomes for the Course:**

There is a lot to learn in the first year of law school, and it is not just “the law.” You will be learning a new language and new skills, including how to read, understand, analyze, and critique reported case decisions and how to make clear and persuasive legal arguments.

Tort law is an important foundational topic in law school. First, tort law introduces you to the common law process of law making. Many of today’s laws are the result of legislative enactments, but historically in the United States law was (and to a great extent, still is) developed in the courts, through judicial decisions. Second, tort law is important because it is one of two broad categories of civil wrongs (the other is breach of contract); if you understand the core principles and theories of tort and contract law, you will be able to analyze most legal problems. Finally, tort law is one of the principal ways that society defines personal accountability and social responsibility (two other ways are criminal law and social norms).

At the conclusion of this course, you should be able to (and will be tested on your ability to):

1. Read, analyze, and apply the holding, reasoning, and rule of a case to new factual situations;
2. Understand the development of common law through the tort regime;
3. Articulate the elements and related doctrines of several intentional torts and a claim for negligence;
4. Articulate and apply the applicable limitations and defenses to the torts you learn; and
5. Explain the purposes of the tort law system and evaluate its ability to provide adequate remedies for injuries.

**Grading:**

Grades will be based on an in-class midterm exam (20%) and a final exam (80%).

The midterm will be an 80 minute, in-class exam. The final exam will be a *cumulative*, 3 hour, “limited” open book, scheduled exam. “Limited” open book means that you may bring the Casebook, any additional assigned materials, and your own notes that you yourself have created and written, whether individually or in concert with fellow classmates. You may *not* bring in any hornbooks, commercial study guides, or notes that you have copied from elsewhere. Both exams likely will include multiple choice and/or essay questions, but I reserve the right to change my mind about format. Excellent in-class performance could result in a grade increase of one-half of one grade (e.g., from a B to a B+).

**Format of the class, and class participation:**

All class members are expected to have done the reading and to be prepared to participate. Each class, a different subset of students will be expected to have thoroughly briefed the cases in the day’s readings, and can anticipate being called upon to elucidate aspects of the briefing. They will be “on,” so to speak. Everyone, however, will be expected otherwise to participate in the class discussions. Students will also from time to time be asked to work in groups during class.

There will be at least two short, in-class quizzes delivered at the start of class that will test you on material covered in recent prior class meetings. Quizzes will not impact your grade, except to the extent that failure to take a quiz may adversely impact the class participation component of your grade.

**Computers in Class:**

We learn best when we are not distracted. To improve your learning and that of your colleagues, any device, other than a computer, that can be turned off, must be turned off. Think hard about using a computer during class. Instead of a laptop, I recommend that you take hand-written notes in class, and bring hard copies of your case briefs and reading notes. If you disregard this excellent advice, you may use a laptop during class. Use of computers during class for purposes unrelated to class (such as checking e-mail, having Facebook open, buying shoes, etc.) is prohibited. If you use your laptop for purposes unrelated to class, you forfeit the privilege of using a computer during our class for the remainder of the semester.

**Attendance:**

Regular and punctual class attendance is required. An attendance sheet will be sent around at the start of class each day. You will be expected to sign in for yourself, in your own handwriting. You may not sign in on behalf of anyone else. Missing more than 5 classes is grounds for being withdrawn from the class.

We start promptly at 12:50 p.m. Do your best to be in your seat, prepared to begin before that time. Late arrivals are disruptive, and risk missing out on cookies. Additionally, if you must leave early for any reason, you must notify and receive permission from the professor in advance.

**Assignments:** This syllabus is subject to change as we move through the semester. Any changes will be announced in class, and a revised syllabus will be distributed if necessary.

| <b>Date</b>                            | <b>Assignment</b>                         | <b>Topic</b>  |
|--|---|---|
| Th., Aug. 22                           | 1-32                                      | Intro to Torts and the Common Law;<br>Case Briefing   |
| T., Aug. 27<br>Th, Aug. 29             | 35-71                                     | Intentional Torts   |
| T., Sept. 3<br>Th., Sept. 5            | 35-71 (cont.)<br>73-103                   | Intentional Torts, cont.<br>Intentional Torts: Defenses   |
| T., Sept. 10<br>Th., Sept. 12          | 73-103 (cont.)                            | Intentional Torts: Defenses, cont.<br>Review Intentional Torts (catch-up as needed); Exam Practice                                |
| T., Sept. 17<br>Th., Sept. 19          | 107-126<br>126-140                        | Negligence PFC; Duty of Care<br>Specification of Particular Standards or Duties   |
| T., Sept. 24<br><b>Th., Sept. 26</b>   | Review<br><b>Midterm</b>                  |   |
| T., Oct. 1<br><br>Th., Oct. 3          | 141-163<br><br>163-187                    | Breach of Duty: Assessing Foreseeable Risks and Costs<br>Assessing Responsibility; Proving Conduct; Violation of Private Standard |
| T., Oct. 8<br>Th., Oct. 10             | 187-204<br>205-236                        | Res Ipsa Loquitur<br>Harm and Factual Cause   |
| T., Oct. 15<br><del>Th., Oct. 17</del> | 237-258<br><b>NO CLASS, MIDTERM BREAK</b> | Proximate Cause   |
| T., Oct. 22<br>Th., Oct. 24            | 259-279<br>281-312                        | Proximate Cause, cont.<br>Contributory Negligence   |
| T., Oct. 29<br>Th., Oct. 31            | 313-328<br>329-350                        | Assumption of the Risk<br>Defenses Not on the Merits  |
| T., Nov. 5<br>Th., Nov. 7              | 495-511<br>539-549; 556-577               | Nonfeasance<br>Duty to Protect from 3 <sup>rd</sup> Persons   |
| T., Nov. 12<br>Th., Nov. 14            | 639-654                                   | Review and Catch-Up as Needed<br>Vicarious Liability  |
| T., Nov. 19<br>Th., Nov. 21            | 654-669<br>671-691                        | Vicarious Liability, cont.<br>Strict Liability  |
| T., Nov. 26                            |   | Review Session: <u>bring questions</u>  |