SYLLABUS

TORTS Fall 2020
Professor Tamayo
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Office #447

Required Course Materials:

The required course texts are:


All of the required reading for this class is contained in one or more of the above sources. Although we may not discuss the “E&E” assignment in class, you should have completed the assigned reading for each class period.

No audio, visual or any other type of recording a Torts class is allowed without my prior written consent. Such unauthorized recording may constitute a violation of the WUCL Honor Code.

OFFICE HOURS: In order to maximize your convenience, I am available to meet with you during the day as well as evenings and weekends. If you wish to meet with me, please email me at ytamayo@willamette.edu, provide three available meeting times, and I will quickly arrange for a meeting.

Learning Outcomes:

The primary objective of this course is for students to learn and develop a working understanding of the law of torts. In this course, we will study the legal rules and principles of intentional torts, negligence, defenses, special duties, immunities, imposed liability, and a variety of other tort causes of action. We will look in depth at the tort system and the actors within it as we understand and synthesize the course materials. I expect you to develop legal reasoning skills, make well-reasoned persuasive arguments, and evaluate social polices behind the law that will be required for success in this course and for future success as an attorney in the effective representation of clients.
Accessing Zoom Classes:

*Important-* access the Zoom sessions through WISE and use your Willamette account rather than your personal account.

Attendance and Participation Expectations for Remote Courses:

**Class Attendance:** This class meets three times per week. We will cover a substantial amount of material each class; therefore your attendance is important. Attendance will be taken and reported to OSA for each class.

**Class Presence and Participation:**

- It is essential that you come to class fully prepared to participate in meaningful discussion. If you are called on and unprepared three times, the third time will result in your final grade being adjusted downward by one-half grade.
- Class attendance requires both video and audio participation. **If you fail to turn on the video aspect of zoom you will be marked absent for the class.** Technology problems are foreseeable. Please test your technology regularly and before each class and contact WITS if you are experiencing issues.

Work Expectation and ABA 310 Standards:

In order to receive credit for this course, the ABA requires that you conduct minimum 2 hours of out-of-class work for every hour of class.

Expectations for ZOOM sessions:

- Please treat remote learning as if you were physically in the classroom.
- Find a quiet place away from distractions including children, other electronic devices and pets.
- Show up on time, prepared, and commit to being present the entire class time.
- Please dress as you would for an in-class meeting.
- Please do not eat during class time.
- In order to avoid any unnecessary interruptions, ensure those in your household know when you are in class.
- Chat box should not be used during class. If you have a question please use the “hand raising” feature.
- I will do my best to answer your questions during class. If we run out of time, please e-mail me your question and I will attempt to response shortly thereafter.
PART 1: A FIRST LOOK AT TORTS

Chapter 1. Tort Law: Aims, Approaches, and Processes
A. Introduction to Tort law, pp. 3-16
   Van Camp v. McAfoos
   Dillon v. Frazer

Chapter 2. Reading Torts Cases: Trial Procedures, pp. 19-31

PART 2: INTENTIONAL TORTS

Chapter 3. Intentional Torts to Person or Property
A. Establishing a claim for intentional tort; battery, pp. 35-40
   Snyder v. Turk
   Cohen v. Smith
   E&E: pp. 3-22
B. Defining intent, pp. 42-52
   Garratt v. Dailey
   White v. Muniz
C. Assault and False Imprisonment, pp. 55-64; 68-72
   Cullison v. Medley
   McCann v. Wal-Mart Stores, Inc.
   E&E: pp. 23-90

Chapter 4. Defenses to Intentional Torts—Privileges
A. Defenses to intentional torts, pp. 77-92
   Grimes v. Soban
   Katko v. Briney
   Brown v. Martinez
   Gortarez v. Smitty’s Super Valu, Inc.
   E&E: pp. 91-113
B. The special case of consent; other privileges, pp. 92-99, 99-103
   Robins v. Harris
   Kaplan v. Mamelak
   Doe v. Johnson
   Surocco v. Geary
   Vincent v. Lake Erie Transportation Co.

PART 3: THE PRIMA FACIE CASE FOR NEGLIGENCE

Chapter 5. Duty of Care
A. Defining duty in negligence, pp. 111-130
Chapter 6. Breach of Duty

A. Assessing Foreseeable Risk: Evaluating & Proving Conduct pp. 147-190
   - Pipher v. Parsell
   - Limones v. School District Lee County
   - Indiana Consolidated Insurance Co. v. Mathew
   - Stinnett v. Buchele
   - United States v. Carroll Towing Co.
   - Santiago v. First Student, Inc.
   - Upchurch v. Rotenberry
   - Thoma v. Cracker Barrel Old Country Store, Inc.

B. Common Custom pp. 190-194
   - The T.J. Hooper

C. Res Ipsa Loquitur pp. 197-205
   - Byrne v. Boadle
   - Warren v. Jeffries

Chapter 7. Harm and Factual Cause

A. Determining Actual Harm and “But-For” Test pp. 215-228
   - Right v. Breen
   - Hale v. Ostrow
   - Salineto v. Nystrom
   - Landers v. East Texas Salt Water Disposal Company
   - Lasley v. Combined Transport, Inc.

B. Proof pp. 233-242
   - Summers v. Tice
   - Mohr v. Grantham

E&E: pp. 117-141

B. Negligence Per Se pp. 131-145
   - Chaffin v. Brame
   - Martin v. Herzog
   - O’Guin v. Bingham County
   - Getchel v. Lodge

E&E: pp. 143-162

Chapter 6. Breach of Duty

A. Assessing Foreseeable Risk: Evaluating & Proving Conduct pp. 147-190
   - Pipher v. Parsell
   - Limones v. School District Lee County
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   - Stinnett v. Buchele
   - United States v. Carroll Towing Co.
   - Santiago v. First Student, Inc.
   - Upchurch v. Rotenberry
   - Thoma v. Cracker Barrel Old Country Store, Inc.

B. Common Custom pp. 190-194
   - The T.J. Hooper

C. Res Ipsa Loquitur pp. 197-205
   - Byrne v. Boadle
   - Warren v. Jeffries

E&E: pp. 163-185

Chapter 7. Harm and Factual Cause

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   - Salineto v. Nystrom
   - Landers v. East Texas Salt Water Disposal Company
   - Lasley v. Combined Transport, Inc.

B. Proof pp. 233-242
   - Summers v. Tice
   - Mohr v. Grantham

E&E: pp. 211-235
Chapter 8. Scope of Liability (Proximate Cause)
   A. Understanding proximate cause, pp. 249-271
      Thompson v. Kaczinski
      Palsgraf v. Long Island Railroad Co.
      Hughes v. Lord Advocate
      E&E: 237-251
   B. Intervening Acts pp. 271-289
      Marcus v. Staubs
      Delaney v. Reynolds
      Derdiarian v. Felix Contracting Corp.
      Ventricelli v. Kinney System Rent A Car, Inc.
      Marshall v. Nugent
      E&E: pp. 251-263

PART 4: DEFENSES TO THE NEGLIGENCE CASE

Chapter 9. Fault of the Plaintiff
   A. Contributory Negligence & Comparative Fault pp.295-307
      Butterfield v. Forrester
      Pohl v. County of Furnas
      E&E: 563-567
   B. Defenses, pp.311-318
      Bexiga v. Havir Manufacturing Corp.

Chapter 10. Assumption of the Risk
   A. Assumption of the risk, pp. 329-349
      Moore v. Hartley Motors
      Simmons v. Porter
      Gregory v. Cott
      Rountree v. Boise Baseball
      Coomer v. Kansas City Royals
      E&E: 539-562

Chapter 11. Defenses not on the Merits, pp. 353-372
   Crumpton v. Humana, Inc.
   Lincoln Electric Co. v. McLemore
   Vreeland v. Ferrer
PART 5: LIMITING OR EXPANDING THE DUTY OF CARE ACCORDING TO CONTEXT OR RELATIONSHIP

Chapter 12. Carriers, Host-Drivers and Landowners
A. Limiting/Expanding the duty of care, pp. 377-414
   Gladon v. Greater Cleveland Regional Transit Authority
   Bennett v. Stanley
   Rowland v. Christian
   Kentucky River Medical Center v. McIntosh
   Pagelsdorf v. Safeco Insurance Co.

Chapter 13. Duties of Health-Care Providers
A. Standard of Care pp.417-426
   Walski v. Tiesenga
   Vergara v. Doan
B. Good Samaritan, pp. 427-429
   Hirpa v. IHC Hospitals, Inc.
C. Informed Consent, pp.429-431
   Harnish v. Children’s Hospital Medical Center

Chapter 14. Family Members and Charities, pp. 461-473
   Neel v. Sewell
   Commerce Bank v. Augsburger
   Hoppe v. Hoppe
   Picher v. Roman Catholic Bishop of Portland

Chapter 15. Governmental Entities, Officers and Employees, pp. 475-491
A. Federal Tort Claims Act,
   United States v. Olson
B. Discretionary or Basic Policy Immunity
   Whisnant v. United States
C. Feres Doctrine,
   Purcell v. United States

PART 7: SPECIAL TYPES OF HARM

Chapter 19. Emotional Harm
A. Intentional & Negligent Infliction of Emotional Distress, pp. 615-642
   Chanko v. ABC
   GTE Southwest, Inc. v. Bruce
Roth v. Islamic Republic
Mitchell v. Rochester Railway
Catron v. Lewis
Stacy v. Rederiet
Dillon v. Legg, Thing v. Lachusa (n.2, p.631)
Camper v. Minor
E&E: pp. 297-321

B. Future Harm pp. 643-649
Potter v. Firestone Tire & Rubber Co.
Norfolk & Western Railway v. Ayers

Chapter 20. Prenatal Harms, pp.651-663
Remy v. MacDonald
Shull v. Reid

Chapter 21. Wrongful Death, pp. 665-681
Weigel v. Lee
Laney v. Vance

PART 8: THE EBB AND FLOW OF COMMON LAW STRICT LIABILITY FOR PHYSICAL HARMs

Chapter 22. Vicarious Liability, pp. 685-716
Riviello v. Waldron
Fruit v. Schreiner
Hinman v. Westinghouse Electric Co.
Edgewater Motels, Inc. v. Gatzke
Montague v. AMN Healthcare
Mavrikidis v. Petullo
Pusey v. Bator
O’Banner v. McDonald’s Corp.
E&E: pp. 513-535

Chapter 23. Common Law Strict Liability, pp. 721-742
Rylands v. Fletcher
Dyer v. Maine Drilling & Blasting, Inc.
E&E: pp. 323-343

Chapter 24. Tort Liability for Defective Products, pp. 743-801
A. Establishing Prima Facie Cause
Lee v. Crookston Coca-Cola Bottling Co.
Knitz v. Minster Machine Co.
PART 11: ECONOMIC AND DIGNITARY TORTS

Chapter 32. Communication of Personally Harmful Impressions to Others

A. Defamation—Libel and Slander, pp. 1011-1032
   Note, pp.1011-1012; Notes, 1012-1016; Note, 1016-1019
   New York Times Co. v. Sullivan
   Notes, pp.1023-1025
   Gertz v. Robert Welch, Inc.

B. Privacy, pp. 1040-1047
   Solano v. Playgirl
   Notes, pp. 1043-1044; Notes, 1045-1047