

SYLLABUS

TORTS Fall 2021
Professor Tamayo
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Office #447

Required Course Materials:

Dobbs, Hayden and Bublick, TORTS AND COMPENSATION, 8th ed., (West 2017).

Glannon, Joseph W., EXAMPLES AND EXPLANATIONS: THE LAW OF TORTS, 5th ed., (Aspen 2015) [referred to as “E&E”] in hardcopy or free online through WUCL law library link.

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.

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 policies 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.

Class Attendance and Participation: 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. **We expect to conduct fully in-person classes during the fall semester.** 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.

Office Hours:

- My office hours are flexible in order to accommodate your schedules. If you wish to meet with me, please email me and include 1) three possible meeting times (including evenings and weekends) when you are available, and 2) the matter or issue that you wish to discuss. I will promptly respond and set up a meeting with you.

Remote Classes: If it becomes necessary to transfer to remote classes, please access the Zoom sessions through WISE and use your Willamette account rather than your personal account. Remote 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.** Please test your technology regularly and before each class and contact WITS if you are experiencing issues.

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 respond shortly thereafter.

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.

CLASS READINGS

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

Stewart v. Motts

Posas v. Horton

Creasy v. Rusk

Stevens v. Veenstra

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-147-190

Pipher v. Parsell

Limonas v. School District Lee County

Indiana Consolidated Insurance Co. v. Mathew

Stinnett v. Buchele

Bernier v. Boston Edison Co.

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

A. Determining Actual Harm and “But-For” Test pp. 215-228

Right v. Breen

Hale v. Ostrow

Salinetto v. Nystrom

Landers v. East Texas Salt Water Disposal Company

Lasley v. Combined Transport, Inc.

E&E: pp. 189-209

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.
Minnich v. Med-Waste, Inc.

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.

Genie v. Matak

McCarthy v. Olin Corp.

Liriano v. Hobart

E&E: pp. 345-397

B. Defenses, pp.801-814

Bowling v. Hale

Hughes v. Magic Chef

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