SYLLABUS

TORTS Fall 2018
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Required Course Materials:

The required course texts are:

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


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. It is essential that you come to class fully prepared to participate in meaningful discussion. Failure to do so will result in grades being adjusted downward by one-half grade as discussed in the Student Handbook.

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.

Course Objectives:

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.
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; 68-71
      *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

2
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, 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
   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
   Salinetro 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
Chapter 8. Scope of Liability (Proximate Cause)
A. Understanding proximate cause, pp. 249-269
   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.
   Christensen v. Royal School District No. 160

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
   Durre v. Wilkinson Development
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. 417-429
   Walski v. Tiesenga
   Vergara v. Doan
   Harnish v. Children’s Hospital Medical Center
   Ybarra v. Spangard
   States v. Lourdes Hospital
C. Statutory Reforms & Elder Abuse, pp. 444-459
   Horizon/CMS Healthcare v. Auld

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. 615-633
   Chanko v. ABC
   GTE Southwest, Inc. v. Bruce
   Roth v. Islamic Republic
   Stacy v. Rederiet
   Mitchell v. Rochester Railway
   Catron v. Lewis
   Dillon v. Legg
   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
   Rivello 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
      New York Times Co. v. Sullivan
      Gertz v. Robert Welch, Inc.
   B. Privacy, pp. 1040-1046
      Solano v. Playgirl