

TORTS
(LAW 5418 – Fall 2017)
Prof. Mantel
Syllabus and Course Policies

Professor Jessica Mantel
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Office Hours: Thursday 4-5:00

Course Materials:

DAN B. DOBBS, PAUL T. HAYDEN, ELLEN M. BUBLICK, TORTS AND COMPENSATION (Concise Edition, 7th ed. 2013).

Course Requirements and Policies:

Course Requirements and Grading: This course has two requirements: (1) preparing for class and actively participating in class discussion; and (2) completing a four-hour exam. Only the final exam will be graded.

- (1) **Attendance and Preparedness.** Preparation and active participation in class discussion will be expected. For each class, I will ask questions of the panel of students assigned to be “on-call” that day. The “red” group will be on-call on Mondays, the “blue group” will be on-call on Wednesdays, and the “yellow group” will be on-call on Thursdays. You may take a “pass” day twice a semester provided they ask me *before* class not to call on you. At my discretion, a student’s final grade may be adjusted upward or downward by one notch (e.g., from B to B+, or from B- to C+) in recognition of strong classroom contributions or lack thereof. Pursuant to the Law Center’s policy, you must attend at least 80% of all class meetings; however, you should strive to attend 100%. Missing more than 20% of classes will result in your being dropped from the course. **If you are more than 10 minutes late, you will be marked as absent (please do not sign the sign-in sheet).**
- (2) **Exam.** You will complete a graded four-hour exam. During the exam you may consult three things: (1) your casebook, (2) any *printed* additional course reading, PowerPoint slides, and handouts, and (3) your outline. More details regarding the exam format and content will be discussed as the exam date approaches.

Seating Assignments: At the second class, I will create a seating chart. Please sit in your assigned seat for the remainder of the semester.

Cell Phones/Pagers: During class, all electronic devices should be set to silent mode.

Web site: Handouts, PowerPoint slides, the syllabus, and links to any supplemental materials will be posted on the course at <http://www.law.uh.edu/faculty/jmantel/torts.html>.

Office Hours: I will hold office hours in my office on Thursdays from 4-5 p.m. and by appointment. Please feel free to come by to see me not only about class matters, but also for course selection guidance, career counseling, or any other matter related to your legal education and career.

Continue to next page for reading list

COURSE OUTLINE & READING LIST

A single reading does not necessarily correspond to a single class session. Reading assignments will be announced via email the preceding week. Any supplemental materials will be posted on the class web site. Unless otherwise specified, page references are to the casebook. Part I of the syllabus (below) covers intentional torts, basic negligence principles, and damages. Part II of the syllabus covers adding complexity to negligence claims, vicarious liability, strict liability, products liability, and emotional harms.

PART I

I. INTRODUCTION

- A. Goals of Tort Law: 3-8; *Prosser v. Keeton* exercise
- B. Overview of Damage Awards: 13-17
- C. Overview of Procedure: 19-26
- D. The Role of Fault: 8-11 (skip *Dillon v. Frazer*); Kerr, *How to Read a Legal Opinion*; *How to Brief a Case*

II. INTENTIONAL TORTS

- A. Battery: 29-46
- B. Other Intentional Torts: 46-61
- C. Defenses to Intentional Torts: 63-88

III. COMMON LAW ELEMENTS OF NEGLIGENCE

- A. Duty of Care
 - The Reasonable Person: 91-107
 - Negligence Per Se: 108-120
- B. Breach of Duty
 - Risk-Utility: 121-133 (skip *Bernier*), 137-142
 - Multiple Parties: 142-46
 - Proving and Evaluating Conduct, Custom, and Compliance with Laws: 146-162 (skip *Miller v. Warren*, but read notes on p. 162)
 - Res Ipsa Loquitur: 162-175
- C. Injury: 177-179
- D. Factual Cause: 179-188 (skip *Lasley*), *Anderson v. Minneapolis*, 189-202
- E. Proximate Cause
 - Scope of Risk: 203-222
 - Intervening Causes: 222-223, 225-239

IV. DEFENSES TO NEGLIGENCE

- A. Contributory & Comparative Negligence: 241, 243-246 (skip *Pohl*), 252-268
- B. Assumption of Risk: *Boyle v. Revici*, 270-277, 279-282
- C. Statute of Limitations: 283-288 (skip Note: Latent Potential Harms), 289 (Note: Tolling for Disabilities)-291

V. DAMAGES: 641-648, 654-662

PART II

VI. ADDING COMPLEXITY TO NEGLIGENCE CLAIMS

- A. Landowners: 301-312 (skip *Kentucky River*), *O'Sullivan v. Shaw*, 316-318
- B. Government Entities: 369-370 (skip *Olson*), 372-373 (skip *Feres* Doctrine), 376-382, 388-390 (Note: The Public Duty Doctrine)
- C. Nonfeasance: 399-400 (skip *Estate of Ciley v. Lane*), *Yania v. Bigan*, 403-14 (skip *Farewell*, but read notes 1-4 on pp. 409-410), 430-433 (Section 4)
- D. Protection from Third Persons: 435-45 (skip Note: Duties of Colleges), 448-453 (skip *Tarasoff*), 461-64 (notes)

VII. OTHER TYPES OF HARMS

- A. Emotional Harms
 - Intentional Infliction of Emotional Distress: 467-474
 - Negligent Information of Emotional Distress: 474-488 (skip *Boyles*), 489-90 (*Camper v. Minor*)
- B. Wrongful Death and Survival Actions: 507-515

VIII. VICARIOUS LIABILITY, STRICT LIABILITY AND PRODUCTS LIABILITY

- A. Vicarious Liability: 519-21 (skip Note: Serving Two Masters), 530 (read *Rodebush*) – 540
- B. Strict Liability: 556-561
- C. Products Liability: 563-577 (skip *Knitz*), 582-596