

TORTS
(LAW 5418 – Fall 2020)
Prof. Mantel
DRAFT Syllabus and Course Policies

Professor Jessica Mantel
Office TUII 104G (in Health Law suite)
(713) 743-1836
E-mail: jmantel@central.uh.edu
Office Hours: Thursday 4-5:00

Course Materials:

DAN B. DOBBS, PAUL T. HAYDEN, ELLEN M. BUBLICK, TORTS AND COMPENSATION (Concise Edition, 8th ed. 2017).

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 you 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. This will be a **CLOSED BOOK EXAM**. 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 web site 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.

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html.

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08. Please be aware that under the sexual misconduct policy, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

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: 3-7; *Prosser v. Keeton* exercise
- B. Overview of Damage Awards: 12-16
- C. Overview of Procedure: 17-24
- D. The Role of Fault: 7-10 (skip *Dillon v. Frazer*); Kerr, *How to Read a Legal Opinion*; *How to Brief a Case*

II. INTENTIONAL TORTS

- A. Battery: 27-44
- B. Other Intentional Torts: 44-60
- C. Defenses to Intentional Torts: 61 (skip Grimes), *Touchet v. Hampton*, 64-88

III. COMMON LAW ELEMENTS OF NEGLIGENCE

- A. Duty of Care
 - The Reasonable Person: 91-108
 - Negligence Per Se: 108-120
- B. Breach of Duty
 - Risk-Utility: 121-135 (skip *Bernier*), 140-144
 - Multiple Parties: 145-149
 - Proving and Evaluating Conduct, Custom, and Compliance with Laws: 149-164 (skip *Miller v. Warren*, but read notes on p. 164)
 - Res Ipsa Loquitur: 165-176
- C. Actual Harm: 177-179
- D. Factual Cause: 179-188 (skip *Lasley*), *Anderson v. Minneapolis*, 189-204
- E. Proximate Cause
 - Scope of Risk: 205-225
 - Intervening Causes: 225-240

IV. DEFENSES TO NEGLIGENCE

- A. Contributory & Comparative Negligence: 241, 243-246 (skip *Pohl*), 252-272
- B. Assumption of Risk: *Boyle v. Revici*, 274-285, 291-292
- C. Statute of Limitations: 293-297 (skip Note: Latent Potential Harms), 299 (Note: Tolling and Grace Periods) -304

V. DAMAGES: 649-656, 661-671

PART II

VI. ADDING COMPLEXITY TO NEGLIGENCE CLAIMS

- A. Landowners: 314-321, *O'Sullivan. v. Shaw*, 330-332
- B. Government Entities: 375-376 (skip *Olson*), 378-387, 398-399 (Note: The Public Duty Doctrine)
- C. Nonfeasance: 407-408 (skip *Estate of Ciley v. Lane*), *Yania v. Bigan*, 409-410 , 414 (Notes 2-4)-422, 440-442 (Section 5)
- D. Protection from Third Persons: 443-453, 455-460, 448-453 (skip *Tarasoff*), 469-472

VII. OTHER TYPES OF HARMS

- A. Emotional Harms
 - Intentional Infliction of Emotional Distress: 475-483
 - Negligent Information of Emotional Distress: 483-497 (skip *Boyles*), 498-499 (*Camper v. Minor*)
- B. Wrongful Death and Survival Actions: 515-528

VIII. VICARIOUS LIABILITY, STRICT LIABILITY AND PRODUCTS LIABILITY

- A. Vicarious Liability: 531-534, 542-552
- B. Strict Liability: 569-574
- C. Products Liability: 575-590 (skip *Knitz*), 595-608