

TORTS

Spring 2023

12322 – 5418 – Koch

Professor(s): Valerie Gutmann Koch

Credits: 4

Time: 6:00 – 8:00 pm Tuesday & 6-7:20 pm Thursday

SYLLABUS & COURSE POLICIES

Professor Valerie Gutmann Koch

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Office Hours: to be determined after classes begin. You also may contact me by e-mail at any time to set up a time to meet.

Course description: Every required course in the first-year law curriculum serves a dual purpose. First, it introduces you to the foundational principles of American law. Second, it offers you the opportunity to learn how to “think like a lawyer.”

In Torts, this means that you will be learning the language lawyers use when they talk about civil wrongs to persons and property. Whether in the context of a bar fight, medical malpractice, a car accident, or any other scenario, you will learn how to translate your own common-sense intuitions into the language of law so that you are equipped to make persuasive legal arguments. More importantly (because you will find that the law doesn’t always align with your intuitions), you will also learn how to predict, based on legal precedent, how a court might rule in such cases. Finally, you will learn how to evaluate the competing policy concerns faced by legislators and judges when deciding how far to extend civil liability. Learning these analytical skills will help you succeed in law school, on the bar exam, and in the real-world practice of law.

COURSE MATERIALS

- [TORTS: A MODERN APPROACH](#), by Alex B. Long and Teri Dobbins Baxter (Carolina Academic Press 2020)
- A CONCISE RESTATEMENT OF TORTS, THIRD EDITION (American Law Institute 2013)

This course uses UH’s Electronic Blackboard. Please note that all references to “Long & Baxter” are to selected pages from the course book. All additional assigned materials will be posted on Blackboard. You are responsible for staying up to date with the course website.

ASSESSMENTS AND GRADING

Grading: A final that counts for 85% of your grade. Timely completion of the weekly quizzes, written assignments, and forum exercises will count for the remaining 15%.

Final Exam: If you have committed yourself to the course, you will be well-prepared for the final exam. The exam will consist of 1) multiple choice questions, and 2) essay questions that will require you to identify and analyze issues based on one or more hypothetical factual scenarios. The exam will be fully open-book – you may rely on your casebook, the Restatement, your study outline and

class notes, and any outside study materials you find helpful. The final exam will be graded anonymously and in accordance with the law school's grade curve requirements. Further exam details will be provided near the end of the semester.

Quizzes: Many weeks, the course Blackboard site will include one or more quizzes to test your knowledge of particular substantive areas of law. The quizzes are mandatory, but ungraded: if you complete the weekly quizzes on time, you will receive credit for completion regardless of your score. These quizzes are intended primarily as self-assessment tools, and include automatic feedback on correct and incorrect answers. The multiple choice questions on the quizzes are similar to those you will see on the final exam (and the bar).

Written Assignments: You are required to complete several short written assignments throughout the semester – typically, memos in response to hypotheticals similar to those you will see on the final exam. Like the quizzes, these written assignments are graded on a credit/no credit basis. Your academic tutor will provide you with personalized feedback on assignments to help you strengthen your work throughout the semester. **Please send all assignments to Professor Koch AND Rachael Crawford by 9 pm on the Sunday they are due.**

FURTHER OPPORTUNITIES FOR SKILLS DEVELOPMENT

The best way to develop your legal reasoning skills and excel in Torts is to spend substantial time outside of class engaging with the course material. This may involve drafting sample answers to hypotheticals you encounter in class, preparing study outlines, taking practice quizzes, discussing complex issues with a study group, or bringing questions to office hours. Engaging in these opportunities for skills development and feedback outside of class has a secondary benefit as well – it helps you evaluate your progress through the course of the semester.

While none of the following are mandatory, I strongly encourage everyone to consider them:

Outline Drafts: Outlines are useful as a study tool for the final exam – but more importantly, it's the iterative process of preparing an outline during the course of the semester that really helps you learn the material!

Casebook Problems: One of the reasons I selected this casebook is because it includes several practice problems relating to each topic we study. As you do the weekly readings, you should think through the casebook problems, some of which we may discuss in class. An even better opportunity for skills development is for you to actually write out short answers to these problems. This will help you develop your analytical and writing skills, and can be a helpful exercise to engage in with a study group.

COURSE POLICIES

Attendance: You are expected to attend class sessions and to arrive on time. You must comply with the Law Center's overall attendance policy. Your compliance with that policy is a requirement that professors have no discretion to alter or waive. If an emergency, illness, or other conflict arises that prohibits you from attending a class session, please let me know as soon as possible – that will make it easier for us work together to make sure you don't fall behind with the material. I will work with you to help ensure continuity of your learning if

you should be forced to miss a class or two for a *bona fide* work-related, health, or other pressing necessity.

You are not required to contact me to explain your first two absences from class, but I am always glad to hear from you because I am concerned to know if you are busy or swamped at work and I will save you copies of any class handouts if you are away.

Careful Reading: You are expected to attend each class having completed all assigned readings. *Note:* You may be surprised at how long it takes you to complete the reading for each class – this is to be expected, and you are not alone!

Class participation: Because the success of this course is dependent on each student's interest and active involvement, participation in class discussion is expected. You should come to each class session prepared to answer questions about the cases and problems discussed in the week's readings. I will call on students randomly, but this is not intended to be a stressful or intimidating experience. Law school is an opportunity to develop your oral communication skills (and make mistakes, a necessary component of learning!) so that you can feel confident when you enter into legal practice. At my discretion, a student's final grade may be adjusted upward or downward by one "notch" (e.g., from B+ to A-, or from B- to C+) in recognition of classroom contributions or lack thereof. And remember: A big part of participation is listening and thinking about others' points of view.

Recording class: Please do not record class. I like for class to be a safe environment where students feel free to speak their minds and explore speculative ideas without having to worry that their remarks are being memorialized.

As a matter of UH policy, students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Justin Dart, Jr. Student Accessibility Center](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Communicating with me: The best way to communicate with me is via email. I respond to most student questions within 24 hours. On weekends, I will do my best to reply in a timely manner. If you have a question about an assignment that is due on Sunday, please reach out to me by Saturday afternoon so that I have sufficient time to respond. I will use e-mail to send all course-related communications, and I will also post any changes to the course schedule or assignments on Blackboard.

Teaching Assistant: Rachael Crawford is here to help you learn the substantive law of Torts,

and to serve as a mentor as you navigate your first year of law school. Rachael has been through what you're going through, and he has overcome the same challenges you're facing right now. She will be hosting office hours and review sessions throughout the semester; you should consider her your first resources for questions. Rachael will gladly respond to your questions, but she cannot provide personal tutoring services.

CAPS Statement: 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 Texas Lawyers' Assistance Program ("TLAP") also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students:
<https://www.tlaphelps.org/law-students>.

Diversity, Inclusion, and Wellness: This is an inclusive learning space. At UHLC, we are committed to ensuring inclusive online and classroom learning spaces, where you'll be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, to contribute, and to succeed.

In this course, all students are welcome regardless of socio-economic status, age, race, ethnicity, disability, religion, national origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status and other diverse identities that we each bring to class. Our class is richer for this diversity.

Inclusive learning spaces facilitate the innovation and creative thought that enhance student success. This success arises from the participation, support, and understanding of you and your colleagues. I encourage you to speak up and to share your views, but also understand that you are doing so in a learning environment in which we're all expected to engage respectfully and with regard to the dignity of all others.

If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please reach out to me. I want to be a resource for you. If you feel more comfortable speaking with someone besides me, Student Services is an excellent resource: 713-743-2182. Finally, I encourage you to bring any issues negatively impacting UHLC's openness to diversity and inclusion to the Law Center's Diversity and Inclusion committee. The D&I committee's charge includes "[building] on the Law Center's strengths as a diverse and inclusive environment." You can contact the committee directly at UHLCD&I@uh.edu.

Your suggestions are encouraged and appreciated. Please let me know ways to improve the effectiveness of this course for you personally, or for other students or student groups.

Sexual Misconduct: Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids: The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact [the Justin Dart Jr. Student Accessibility Center](#) (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

Class Accommodations: UHLC is committed to ensuring that all students enjoy equal access and full participation.

If you anticipate or experience barriers based on a disability (including any chronic or temporary medical or mental health condition), please feel free to reach out to me so that we may discuss options. If you require any support services, you may contact Ms. Samantha Ary, Academic Records Coordinator. Ms. Ary is located in room 44A TU-II in the Office of Student Services suite, and she can be reached at sary@central.uh.edu or 713-743-7466. Requests for accommodation that involve graded assignments must be directed to Ms. Ary and should be made as soon as possible to allow adequate time to document and to process the request.

If you observe religious or cultural holidays that will coincide with synchronous class sessions or conferences, please let me know as soon as possible, so that we may make arrangements.

Chosen Names and Preferred Pronouns: I want to address each of you in a manner that corresponds to your identity. Although mistakes happen, chosen names and preferred pronouns—including non-binary ones such as they|them|their—and honorifics, such as Rev., Mr. Ms. Mx. Dr., will be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun or if you have concerns about how I or your classmates address you.

My pronouns are she/her. You may call me Professor Koch.

Honor Code: The UHLC Honor Code applies to all aspects of my class. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please ask me if you have any questions regarding how the Honor Code’s provisions apply to specific activities or situations related to my course. It is an Honor Code violation to review the graded assignments distributed to, or written by, any of my students from prior years.

COVID-19 Information: Students are encouraged to visit the University's [COVID-19](#) website for important information including diagnosis and symptom protocols, on-campus testing, and vaccine information. Please check the website throughout the semester for updates.

Vaccinations: Data suggests that vaccination remains the best intervention for reliable protection against COVID-19. Students are asked to familiarize themselves with pertinent [vaccine information](#) and to consult with their health care provider. The University strongly encourages all students, faculty and staff to be vaccinated.

Syllabus Changes: Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through email and the course Blackboard site.

UH Email: Please check and use your CougarNet email for communications related to this course. To access this email, [login](#) to your Microsoft 365 account with your CougarNet credentials.

Security Escorts and Cougar Ride: UHPD continually works with the University community to make the campus a safe place to learn, work, and live. Our Security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety please call [713-743-3333](tel:713-743-3333). Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called Cougar Ride that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

TENTATIVE COURSE SCHEDULE

Week	Coverage	Assignment (all due by 9 pm)
Jan. 17 Jan. 19	Introduction; Intentional Torts (Battery)	Battery Review Problem (due Sunday January 22)
Jan. 24 Jan. 26	Intentional Torts (Assault; False Imprisonment; IIED)	Almost-Assault (due Sunday, January 29)
Jan. 31 Feb. 2	Defenses to Intentional Torts (Consent, Self-Defense, Shopkeeper's Privilege)	Predictive Memo: Intentional Torts Review Problem (due Sunday, February 19)
Feb. 7 Feb. 9	Intentional Torts (Trespass; Conversion; Trespass to Chattels Defense of Property)	
Feb. 14 Feb. 16	Defenses to Intentional Torts (Necessity) Intro to Negligence/Duty	Persuasive Memo: Property Torts and Defense Review Problem (due Sunday, February 26)
Feb. 21 Feb. 22 Feb. 28 March 2 March 7 March 9 March 21	Negligence: Duty and Breach	Doe v. XYZ Client Interview (due Sunday, March 19)
March 23 March 28	Negligence: Cause in Fact	
March 30 April 4	Negligence: Proximate Cause	Written assignment: Proximate Cause Review (due Sunday, April 9)
April 6 April 11 April 13 April 18	Negligence: Defenses; Strict Liability	Written assignment: Liability Waiver Review (due Sunday, April 30)
April 20 April 25 April 27	Strict Liability; Damages; Tort Reform	