

THOMAS JEFFERSON SCHOOL OF LAW
TORTS II – Section 3
COURSE SYLLABUS
Professor Bisom-Rapp
Spring 2017

I. General Information

Class meetings: Monday and Wednesday, 8:00 – 9:15 am

Professor's Office: Room 740

Email: susanb@tjsl.edu

Phone: 619.961.4208

Office hours: I hold office hours on Monday and Wednesday. Please send me an email message to make an appointment. I am happy to meet with you.

Preferred contact method: Drop by the office or send email. I am very responsive to email.

Learning assistant (LA): Bridget Madden is our LA. She will hold weekly office hours and group meetings, and may prepare weekly study questions or materials for the class. Bridget can be reached at: Bridget Madden <maddenba@tjsl.edu>

Course website – TWEN: Please sign up by Monday, January 9th. I post a lot of useful and important material on the TWEN site, including past midterms, past final exams, and PowerPoint slides from the class sessions. Our LA will maintain a folder on the TWEN site with the weekly study questions and/or other useful materials.

II. Course Description

Tort law provides the rules to answer a central question: Under what circumstances should the losses suffered by an injured victim be shifted to another party? Torts II is the advanced course on the law governing liability and compensation for harms caused by civil wrongs, other than contractual breaches. Topics covered include: strict liability, vicarious liability, misrepresentation, products liability, nuisance, and defamation. Defenses and limitations to these actions are covered as well. Additional topics, which will be addressed if time allows, include: privacy and misuse of legal procedure. Regarding all the course topics, we consider whether tort law fulfills its goals of deterring wrong-doing and unsafe conduct, and providing compensation to wrongfully injured parties. We also examine the ways in which tort law encourages personal accountability, social responsibility, and the establishment of community standards.

III. Learning Outcomes/Essential Skills

This course helps students develop skills that are essential to legal practice. These skills require significant effort to master. I have high expectations for my students. You are legal professionals-in-training. Together we will work hard, and also have fun, so that at the completion of the course you should be able to:

1. Read, brief, and understand cases. After reading a case, you should be able to identify the case's procedural posture, background facts, legally significant facts, the issue(s) at hand, the legal rule(s) applied, the holding, the court's reasoning, the reasoning of any concurrence or dissent, and the court's disposition. You

should also be able to synthesize a line of related cases and understand how to apply case law to new factual situations. To achieve this outcome, we will engage in Socratic dialog about the class readings and you will diligently prepare original briefs of all cases assigned. **Book briefs are not acceptable for this class.** From time-to-time, I may ask students to turn in their briefs for review.

2. Provide effective legal analysis. Using the IRAC format, you should be able in writing and orally to make an effective legal argument that: identifies legal issues; provides the legal rules applicable to a given set of facts; applies those rules and the relevant facts in a way that supports a position and distinguishes unfavorable rules and facts; and provides the appropriate conclusion or outcome. We will develop this skill through a practice midterm, the midterm examination, and the final examination. In class you may be asked to analyze a problem orally using the IRAC format. You will also have the opportunity to turn in practice essays to me or to your LA throughout the semester.
3. Read and apply substantive Tort law content. You should be able to articulate the elements and related doctrines of all the causes of action covered in the course. You should also be able to articulate the defenses and limitations applicable to the torts you learn, and the interrelationship among different torts causes of action. These concepts are tested on the bar exam and require your mastery. These rules will be covered in your readings, in PowerPoint presentations, in class discussions, in the LA's weekly study questions or other materials, and tested on the practice midterm, the midterm examination, and the final examination.
4. Understand some legal problem-solving and client counseling skills. You should understand some basic skills required to counsel clients about legal issues. These include fact investigation, identifying legal issues in simple and complex circumstances, how evidence might be obtained to assist the client in proving a case, and identifying different alternatives that might achieve a client's goals. This outcome will be pursued primarily through role playing in class.

IV. Grading

Your grade for the course will be calculated by totaling the points you earn on the midterm and the final examination. That point total is subject to Thomas Jefferson School of Law's first year curve, which is set forth in the Student Handbook. The midterm examination is worth a maximum of ten percent (10%) of the total points available for the course, and is a one hour examination. The midterm will consist of fourteen multiple choice questions and an essay. Each of the two components of the midterm should be completed in thirty minutes. The midterm will cover strict liability, vicarious liability, and misrepresentation.

The final examination is worth a maximum of ninety percent (90%) of the total points available for the course, and represents three hours of testing. That examination consists of twenty-five multiple choice questions and two one-hour essays. The final examination is cumulative; the exam potentially covers all the material in the course. Each student will receive an individualized

grading sheet indicating the points earned for each issue and sub-issue raised in the midterm and the final exam essays.

V. Classroom Expectations

Studying law is a demanding endeavor that prepares you for the rigors of being a lawyer. Being prompt and showing up for client meetings and court appearances is expected of a legal professional. The same is true for law students. Once in the classroom, professional conduct is required. I expect students to adhere to the following requirements:

1. You must attend class regularly. The law school's attendance policy allows no more than four absences in this class. You should aim, if possible, for perfect attendance.
2. You must be punctual. Please plan to be in the classroom a few minutes ahead of the time we are scheduled to begin.
3. You must be prepared and attentive. Listen to your professor and your fellow classmates, and be prepared to participate when called upon.
4. You must be respectful. The classroom environment is an effective laboratory for learning when everyone feels he or she can participate without ridicule. Talking out of turn in class is not acceptable. We can learn a lot from one another if we listen carefully. I will be listening carefully too.
5. You must use your laptop appropriately. Laptops are for taking notes, and for reviewing case briefs and other class materials. The use of laptops or other electronic devices for non-classroom related activity such as text-messaging, reviewing email, playing electronic games, shopping, or viewing non-course related material is prohibited.

VI. Required Texts & Schedule of Assignments

Required texts:

Schwartz, Kelly and Partlett, PROSSER, WADE AND SCHWARTZ'S TORTS, 13th Edition, Foundation Press (2015) **(CB)**

Glannon, THE LAW OF TORTS: EXAMPLES AND EXPLANATIONS, Fifth Edition, Aspen (2015) **(GL)**

Diamond, Levine, and Madden, UNDERSTANDING TORTS, Fifth Edition, LexisNexis (2013) **(UT)**

Schedule of assignments: Each week consists of two class sessions.

NOTE: Class will not be held on Monday, March 20 or Wednesday, March 22, 2017 as I will be out of the country for a conference. A make-up session will be held Saturday, April 22 from 10:00 a.m. – 12:00 p.m. in room 225. That session will be videotaped.

<u>WEEK</u>	<u>TOPIC</u>	<u>CB</u>	<u>GL</u>	<u>UT</u>
1	Strict Liability Animals <i>Rylands v Fletcher</i> <i>Indiana Harbor</i> <i>Foster v Preston Mill</i> <i>Golden v Amory</i> <i>Sandy v Bushey</i>	733-740 740-746 750-758 758-760 760-761 761-765	323-343	249-265
2	Vicarious Liability <i>Murrell v. Goertz</i> <i>Bussard v. Minimned</i> <i>O'Shea v. Welch</i> <i>Maloney v. Rath</i>	705-706 713-715 706-708 708-713 715-720	513-535	205-206
3	Misrepresentation <i>Swinton v. Whitinsville Savings</i> <i>Griffith v. Byers Constr. Co.</i> <i>Derry v. Peek</i> <i>International Products v. Erie</i> <i>Credit Alliance v. Arthur Anderson</i> <i>Williams v. Rank & Son Buick</i>	1095-1096 1097-1099 1099-1102 1103-1106 1107-1109 1118-1124 1133-1136		334-339 171-178
4	<i>Vulcan Metals v. Simmons Mfg.</i> <i>McElrath v. Electric Investment</i> <i>Burgdorfer v. Thielemann</i> Catch up or start on Products Liability	1139-1141 1144-1146 1146-1148		
5	Products Liability <i>MacPherson v. Buick</i> <i>Baxter v. Ford</i> <i>Henningsen v. Bloomfield Motors</i> <i>Greenman v. Yuba Power Products</i> Product Defects <i>Rix v. General Motors</i>	767-768 768-770 428-431 771-776 776-781 781-787 787-788 788-791	345-346 346-347 347-348 348-350 350-358	268-269 269-270 299-303 303-308 270-279
6	<i>Prentis v. Yale Mfg.</i> <i>O'Brien v. Muskin Corp.</i> <i>Anderson v. Owens-Corning</i> <i>Daly v. General Motors</i> <i>Ford v. Matthews</i> Preemption Damages	792-799 799-807 807-815 822-826 827-829 <i>skim</i> 829-831 846-847		280-289 298-299

<u>WEEK</u>	<u>TOPIC</u>	<u>CB</u>	<u>GL</u>	<u>UT</u>
7	Nuisance	851-852		310-326
	<i>Phil Electric v. Hercules</i>	852-858		
	<i>Morgan v. High Penn Oil</i>	858-861		
	<i>Carpenter v. Double R Cattle</i>	861-866		
	<i>Boomer v. Atlantic Cement</i>	867-873		
	<i>Spur Industries v. Del Webb</i>	873-877		

MIDTERM EXAM: Monday, February 27, 2017, 1:00 p.m. – 2:00 p.m.

8	Defamation	879-880		358-362
	<i>Belli v. Orlando Newspapers</i>	881-889		
	<i>Grant v. Reader's Digest</i>	885-888		
	<i>Neiman Marcus v. Lait</i>	892-897		
	<i>Killian v. Doubleday</i>	888-892		
	<i>Economopoulos v. Pollard</i>	910-912		
9	<i>Carafano v. Metrosplash.com</i>	913-918		
	Libel and Slander	902-903		363-364
	Slander per se	907-909		
	<i>Shor v. Billingsley</i>	903-904		
	<i>Terwilliger v. Wands</i>	905-906		
10	<i>New York Times v. Sullivan</i>	922-931		367-373
	<i>St. Amant v. Thompson</i>	931-934		
	Public Figures & Officials	963-966		
	<i>Gertz v. Robert Welch, Inc.</i>	944-953		
11	<i>Dun & Bradstreet v. Greenmoss</i>	953-958		
	<i>Philadelphia Newspapers v. Hepps</i>	958-963		
	<i>Milkovich v. Lorain Journal</i>	966-974		
	Defenses and Privileges	974-978		364-367
	<i>Sindorf v. Jacron Sales</i>	978-984		
12	Catch up – Midterm review			
	Privacy	1001-1002		
	<i>Cantrell v. Forest City Publishing</i>	1034-1040		
	<i>Joe Dickerson v. Dittmar</i>	1002-1014		375-378
	<i>Sanders v. ABC</i>	1014-1022		380-382
13	<i>Hall v. Post</i>	1022-1033		
	Misuse of Legal Procedure			349-355
	<i>Texas Skaggs v. Graves</i>	1075-1082		
	<i>Friedman v. Dozor</i>	1082-1089		
	<i>Granger v. Hill</i>	1089-1093		
14	Catch up and Review			

**FINAL EXAMINATION: Wednesday, May, 10, 2017 – 9:00 am – 12:00 pm; 2:00 pm – 5:00 pm;
Thursday, May 11, 2017 – 2:00 pm – 5:00 pm**