

THOMAS JEFFERSON SCHOOL OF LAW
TORTS II
COURSE SYLLABUS
Professor Bisom-Rapp
Spring 2015

I. General Information

Class meetings: Monday and Wednesday, 10:00 – 11:15 am; 1:00 – 2:15 pm

Professor's Office: Room 740

Email: susanb@tjssl.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): Mike Christopher. Mike will hold weekly office hours and group meetings, and will prepare weekly study questions for both sections. Mike can be reached at: christmj@gapps.tjssl.edu

Course website – TWEN: Please sign up by Monday, January 12th. 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. Mike Christopher maintains a folder on the TWEN site with the weekly study questions.

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, misuse of legal procedure, and interference with business relationships. 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 engage in and demonstrate knowledge of:

1. Case analysis. 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. Legal argumentation. 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 LA Mike Christopher throughout the semester.
3. 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 LA Mike Christopher's weekly study questions, and tested on the practice midterm, the midterm examination, and the final examination.
4. Legal problem-solving and client counseling. 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. 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 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. 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, 12th Edition, Foundation Press (2010) **(CB)**

Glannon, THE LAW OF TORTS: EXAMPLES AND EXPLANATIONS, Fourth Edition, Aspen (2010) **(GL)**

Diamond, Levine, and Madden, UNDERSTANDING TORTS, Fourth Edition, LexisNexis (2010) **(UT)**

Schedule of assignments:

Note: Each week consists of two class sessions. Class will not be held on March 16th and 18th.

<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>	713-719 719-726 729-737 737-739 739-741 741-744	321-341	247-263
2	Vicarious Liability <i>Murrell v. Goertz</i> <i>Bussard v. Minimmed</i> <i>O'Shea v. Welch</i> <i>Maloney v. Rath</i>	688-689 695-697 689-691 691-695 697-701	509-531	203-204
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>	1060-1062 1062-1064 1064-1067 1067-1071 1071-1074 1083-1089 1097-1101		332-337 169-176
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	1103-1105 1107-1110 1110-1112		
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>	745-746 746-748; 422 748-754 754-760 760-766 766-768 768-771	343-344 344-345 345-346 346-348 348-355	266-267 267-268 297-301 301-306 268-279
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	771-778 778-786 786-794 799-804 804-807 <i>skim</i> 815-817 828-830		278-287 296-297

MIDTERM EXAM: Tuesday, March 3, 2014, 9:00 – 10:00 a.m.

<u>WEEK</u>	<u>TOPIC</u>	<u>CB</u>	<u>GL</u>	<u>UT</u>
7	Nuisance <i>Phil Electric v. Hercules</i> <i>Morgan v. High Penn Oil</i> <i>Carpenter v. Double R Cattle</i> <i>Winget v. Winn-Dixie</i> <i>Boomer v. Atlantic Cement</i> <i>Spur Industries v. Del Webb</i>	833-834 834-839 840-842 843-847 847-850 850-857 857-861		308-324
8	Defamation <i>Belli v. Orlando Newspapers</i> <i>Grant v. Reader's Digest</i> <i>Neiman Marcus v. Lait</i> <i>Killian v. Doubleday</i> <i>Economopoulos v. Pollard</i> <i>Carafano v. Metrosplash.com</i>	864-865 865-869 869-872 876-881 872-876 893-896 896-902		356-360
9	Libel and Slander Slander per se <i>Shor v. Billingsley</i> <i>Terwilliger v. Wands</i> <i>New York Times v. Sullivan</i> <i>St. Amant v. Thompson</i>	886-887 891-893 887-889 889-891 907-916 916-918		361-362 365-371
10	<i>Gertz v. Robert Welch, Inc.</i> <i>Dun & Bradstreet v. Greenmoss</i> Defenses and Privileges <i>Sindorf v. Jacron Sales</i>	929-938 938-943 959-962 962-969		 362-365
11	Catch up Privacy <i>Joe Dickerson v. Dittmar</i> <i>Sanders v. ABC</i> <i>Hall v. Post</i>	976-977 977-988 988-996 997-1008		 373-376 378-380
12	Misuse of Legal Procedure <i>Texas Skaggs v. Graves</i> <i>Friedman v. Dozor</i> <i>Granger v. Hill</i>	 1041-1048 1048-1055 1055-1059		347-353
13	Interference with Business Relationships <i>Lumley v. Gye</i> <i>Bacon v. St. Paul Stockyards</i> <i>Della Penna v. Toyota</i> <i>Adler Barish v. Epstein</i> <i>Brimelow v. Casson</i>	1128-1130 1131 1131-1143 1145-1153 1154-1157		338-343

Note: An extra two-hour make up class is scheduled for Saturday April 25th from 10 am – 12 noon. That session will be held in room 325. The session will be recorded.

14 Catch up and Review