

THOMAS JEFFERSON SCHOOL OF LAW
TORTS II
COURSE SYLLABUS
Professor Bisom-Rapp
Spring 2019

I. General Information

Class meetings: Monday and Wednesday, 6:00 pm – 7:15 pm

Professor's Office: 13th floor

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): Zafir Huq is your Learning Assistant. He will hold weekly office hours and group meetings, and will prepare weekly study questions or other materials for your section. His email address is: huqza@gapps.tjsl.edu

Course website – TWEN: Please sign up by Monday, January 7th. 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: the privacy torts. 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 multiple choice questions and one 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. For example, Week 1's assignment covers material that will be discussed during class on Monday, January 7 and Wednesday, January 9.

<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>	1095-1096 1097-1099 1099-1102 1103-1106 1107-1109		334-339
4	<i>Credit Alliance v. Arthur Anderson</i> <i>Williams v. Rank & Son Buick</i> <i>Vulcan Metals v. Simmons Mfg.</i> <i>McElrath v. Electric Investment</i> <i>Burgdorfer v. Thielemann</i>	1118-1124 1133-1136 1139-1141 1144-1146 1146-1148		171-178
5	Products Liability <i>MacPherson v. Buick</i> <i>Baxter v. Ford</i> <i>Henningsen v. Bloomfield Motors</i>	767-768 768-770 428-431 771-776 776-781	345-346 346-347 347-348	268-269 269-270 299-303 303-308
6	<i>Greenman v. Yuba Power Products</i> Product Defects <i>Rix v. General Motors</i> <i>Prentis v. Yale Mfg.</i> <i>O'Brien v. Muskin Corp.</i>	781-787 787-788 788-791 792-799 799-807	348-350 350-358	270-279
7	<i>Anderson v. Owens-Corning</i> <i>Daly v. General Motors</i> <i>Ford v. Matthews</i> Preemption Damages	807-815 822-826 827-829 <i>skim</i> 829-831 846-847		280-289 298-299

MIDTERM EXAM: Will be either February 24, 25, or 26, 2019. Details to follow.

<u>WEEK</u>	<u>TOPIC</u>	<u>CB</u>	<u>GL</u>	<u>UT</u>
8	Nuisance <i>Phil Electric v. Hercules</i> <i>Morgan v. High Penn Oil</i> <i>Carpenter v. Double R Cattle</i> <i>Boomer v. Atlantic Cement</i> <i>Spur Industries v. Del Webb</i>	851-852 852-858 858-861 861-866 867-873 873-877		310-326
9	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>	879-880 881-889 885-888 892-897 888-892 910-912		358-362
10	<i>Carafano v. Metrosplash.com</i> Libel and Slander Slander per se <i>Shor v. Billingsley</i> <i>Terwilliger v. Wands</i>	913-918 902-903 907-909 903-904 905-906		363-364
11	<i>New York Times v. Sullivan</i> <i>St. Amant v. Thompson</i> Public Figures & Officials <i>Gertz v. Robert Welch, Inc.</i>	922-931 931-934 963-966 944-953		367-373
12	<i>Dun & Bradstreet v. Greenmoss</i> <i>Philadelphia Newspapers v. Hepps</i> <i>Milkovich v. Lorain Journal</i> Defenses and Privileges <i>Sindorf v. Jacron Sales</i>	953-958 958-963 966-974 974-978 978-984		364-367
13	Midterm review Privacy <i>Cantrell v. Forest City Publishing</i> <i>Joe Dickerson v. Dittmar</i> <i>Sanders v. ABC</i>	1001-1002 1034-1040 1002-1014 1014-1022		375-378 380-382
14	<i>Hall v. Post</i> Catch up and Review	1022-1033		

FINAL EXAMINATION: Will be on two consecutive days during the May Final Exam Period. Details to follow.

Class will not be held on March 18 or 20 as I will be out of town. I will provide information on how the class time will be made up.