

Torts (Section 2)  
Professor Ann Bartow  
Fall 2018

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**Office:**

**Email:**

**Phone:**

**Required Text:** Dobbs, Hayden, Bublick, **Torts and Compensation: Personal Accountability and Social Responsibility for Injury** (8<sup>th</sup> Ed. West Publishing) ISBN # 978-1-63460-818-2

**Class Schedule:** Torts (Section 2) meets on Tuesdays, Wednesdays and Thursdays from 9:00 a.m. until 10:10 a.m. in Room 2858. Please note that classes will be cancelled on September 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup>. **Make-up classes will be held: Friday 9/14, Friday 9/21 and Friday 9/28, from 12:00 pm to 1:10 pm in Room 285C.**

**Student Evaluation:** There will be an in-class midterm during the semester that will be graded on a pass/fail basis. There will be an “open casebook, open outline prepared by you” final exam during the regularly scheduled exam period. The grade you receive on this exam will be your final grade (unless your grade is lowered due to poor participation or too many class absences). Professor Bartow reserves the right to lower your grade by one half step based upon inadequate class participation.

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

**Accommodations:** Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to Dean Rachel Inman when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

**Attendance:** Class attendance is mandatory. Attendance is measured solely by the sign-in sheet. It is each student's responsibility to sign the sheet at the beginning of class. Students deemed absent for more than 20% of scheduled classes may not sit for the final examination and cannot pass the course. I provide the Registrar with an attendance sheet for each class, and that is the exclusive measure of your attendance. If for any reason your attendance is not recorded there, you are considered absent. There are no "excused" absences – if for any reason you anticipate missing more than 20% of the classes, you are advised to withdraw before it is too late to do so. Please review the Student Handbook for further information regarding the attendance policy. Also be aware that it is a serious violation of the Academic Integrity policy to sign in other people or to have others sign you in. Punctuality shows respect for your colleagues and professors and is part of the professionalism expected of you as future lawyers. Please arrive at school early enough to allow yourself enough time to be in your seat ready to begin. Any student not in class within the first fifteen minutes of class (or leaving more than fifteen minutes early) is not permitted to sign the attendance sheet.

**Office Hours:** I will usually be available immediately after class meetings to answer questions. My official office hours are Mondays, Wednesdays and Thursdays from 3:00 p.m. until 5:00 p.m. Appointments can also be scheduled at other times as necessary.

**Course Evaluation:** Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

**Workload/class preparation (ABA Standard 310):** Students should expect to spend, on average, approximately two hours preparing for every hour of class in compliance with ABA Standard 310, which requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction.

**Academic Honesty:** Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>. It is much better to fail with honor than to cheat; not just philosophically but as a practical matter as well. Most people rebound nicely from failure and go on to succeed at other things. Cheating will follow you forever.

**Course Learning Outcomes:** This course introduces students to the basic doctrines and theories of American tort law, primarily as it applies to personal injury. By the end of the course, students should:

- Be able to identify causes of action and affirmative defenses as follows:
  - Intentional torts including battery, assault, false imprisonment, and trespass to land
  - Defenses to intentional torts including consent, self-defense, defense of others, private necessity, and public necessity
  - Negligence, including negligence per se, res ipsa loquitur, and joint and several liability
  - Defense to negligence, including contributory negligence, comparative negligence, and assumption of risk
  - Strict liability for abnormally dangerous activities and strict products liability, including manufacturing defect, design defect, and failure to warn causes of action
  - Defenses to strict liability including misuse, assumption of risk, contributory negligence, and comparative negligence
- Be able to analyze and explain solutions to problems of actual and proximate causation.
- Be able to analyze fact patterns involving personal injury to determine which causes of action and affirmative defenses apply, as well as explain the reasons behind the determinations.
- Be able to articulate major justifications for tort liability (including fault, prevention of accidents, and loss spreading) and apply them to explain existing law, variations in the law, and assess the desirability of possible changes to the law.

**Course Readings:**

- I. Introduction: Dobbs et al., pp. 3-10. Background: 17-31
- II. Intentional Torts
  - A. Battery: Dobbs et al., pp. 35-47, 53-55
  - B. Assault: Dobbs et al., pp. 55-60
  - C. False Imprisonment: Dobbs & Hayden, pp. 61-64
  - D. Torts Against Property: Dobbs et al., pp. 64-72
- III. Defenses to Intentional Torts
  - A. Self Defense: Dobbs et al., pp. 77-82
  - B. Defense and Repossession of Property: Dobbs et al. pp. 82-85
  - C. Arrest and Detention: Dobbs et al. pp. 85-91
  - D. Discipline: Dobbs et al. p. 91

- E. Consent: Dobbs et al., pp. 92-99
- F. Public and Private Necessity: Dobbs et al., pp. 99-107

#### IV. Negligence

- A. Introduction: Dobbs et al., pp. 111-113
- B. Duty of Care: Dobbs et al., pp. 114-131
- C. Negligence Per Se: Dobbs et al., pp. 131-145
- D. Breach of Duty: Dobbs et al., pp. 147-171
- E. Res Ipsa Loquitur: Dobbs et al., pp. 197-204, 207-213
- F. Causation
  - 1. Causation in fact: Dobbs et al., pp. 213-247
  - 2. Legal or proximate cause: Dobbs et al., pp. 249-292

#### V. Defenses to Negligence

- A. Contributory and Comparative Negligence: Dobbs et al., pp. 293-328, *Wassell v. Adams* (case to be handed out separately)
- B. Assumption of Risk: Dobbs et al., pp. 329-351

#### VI. Strict liability

- A. Vicarious Liability: Dobbs et al., pp. 683-716
- B. Common Law Strict Liability: Dobbs et al., pp. 734-742
- C. Products Liability: Dobbs et al., pp. 743-750, 755-795
- D. Defenses: Dobbs et al., pp. 801-815