

TORTS COURSE OUTLINE AND SYLLABUS
v1 (August 7, 2023)
Prof. Barbara Evans - Fall 2023

This Syllabus applies to: Torts § 1.A (Evans)
Law 5700 – 29093 Torts TWTh 9:00 – 10:15 Room HH 270

Professor Barbara J. Evans

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This Syllabus (pages 1 – 12 of this document) focuses on substantive course content and readings. The **Resources and Course Policies** document, starting on page 13, offers additional information about the conduct of the class, testing, resources for students, and the rules and norms of civility expected in class.

It is important for you to give a close reading to the Course Policies, including the general Levin College of Law Policies at <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>. Part of legal professionalism is learning to use available resources, such as the Course Policies document, to research answers for yourself before asking the managing partner (i.e., me).

Note: Topics to be covered are as shown in this syllabus and will be covered exactly in the order shown. The pace at which we move through topics may be adjusted as the course progresses, because I sometimes adjust the pace to ensure your mastery of the material. Any adjustments or revisions will be announced in class or electronically on Canvas.

Required Materials: **F&R** = Franklin, Rabin, Green, Geistfeld & Engstrom Tort Law & Alternatives, 11th ed. (2021). **Supplements** and **Problem Sets** which will be distributed electronically on Canvas. The Supplements and Problem Sets are numbered sequentially in Canvas and the syllabus references them as “Item #1,” “Item #2,” etc. to make it easier to find them.

Objectives: The objectives of this course are:

1. To introduce the law of torts and how it interacts with other aspects of the legal system including criminal law, contract law, and regulations.
2. To give you a solid grounding in major branches of tort law that students are likely to encounter in law practice and on the bar exam even if they do not envision making a career as a tort lawyer. In addition to intentional and negligence-related torts, which are covered in detail, this course also introduces emotional harms, privacy torts and defamation, business torts (e.g., negligent misrepresentation, fraud/deceit, and tortious interference with business relations), traditional theories of strict liability, and products liability (negligent and strict), with attention to available defenses to tort actions.

3. To acquaint you with the basic procedural aspects of tort lawsuits.
4. To explore alternatives to tort law, including insurance and regulatory solutions and contractual terms that can alter the default tort liability rules.
5. To develop your skills at analyzing tort problems, breaking them down into workable elements, and writing effective responses.

OVERVIEW/OUTLINE

(Specific readings follow, starting on page 3)

- I. **INTRODUCTORY ISSUES (Week 1)**
 - A. Class Policies
 - B. Context: Overview of Types of Torts
 - C. When Should Unintended Injury Result in Liability?
 - D. The Concept of Elements of a Tort: What should the plaintiff have to prove?
 - E. The Tort Litigation Process
 - F. Brief Preview of the Concept of Duty in Tort
 - G. The Parties to Tort Suits: Vicarious Liability

- II. **THE NEGLIGENCE PRINCIPLE**
 - A. Breach: Historical Development of Fault-based Liability
 - B. Breach: The Standard of Care/Calculus of Risk
 - C. Breach: The Reasonable Person
 - D. Breach: Custom & Statutes
 - E. Breach: Proof Issues and Res Ipsa Loquitor
 - F. Breach: Medical Malpractice – Special Issues Re: Standard of Care & Proof
 - G. Breach: Medical Malpractice – Informed Consent

- III. **THE DUTY REQUIREMENT – PHYSICAL INJURIES**
 - A. Duty: Obligation to Others and Nonfeasance
 - B. Duty: Obligation to Protect 3rd Party
 - C. Duty: 3rd Parties and Premises/Landowner Liability
 - D. Duty: Governmental Immunities
 - E. Duty: Federal Torts Claims Act

- IV. **THE DUTY REQUIREMENT – NONPHYSICAL HARM**
 - A. Duty: Emotional Harm – Direct
 - B. Duty: Emotional Harm – Bystanders
 - C. Duty: Loss of Consortium, Interference With Procreation and End-of-Life Decisions

- V. **CAUSATION**
 - A. Causation: Cause-In-Fact, Proof, Partial Recovery
 - B. Causation: Joint and Several Liability; Multiple Defendants

- C. Causation: Toxic Harms
 - D. Causation: Proximate Cause – Unexpected Extent & Unexpected Type of Harm
 - E. Causation: Proximate Cause – Unexpected Manner of Harm & Unexpected Victim
- VI. DEFENSES**
- A. Plaintiff's Fault – Contributory & Comparative Negligence
 - B. Avoidable Consequences
 - C. Express Assumption of Risk
 - D. Implied Assumption of Risk
 - E. Preemption
- VII. STRICT LIABILITY**
- A. Historical Origins
 - B. Abnormally Dangerous Activities
 - C. Theoretical Perspectives
- VIII. PRODUCTS LIABILITY**
- A. Historical Origins
 - B. Approaches in Restatements of Torts
 - C. Manufacturing Defects
 - D. Design Defects
 - E. Failure to Warn
 - F. Defenses to Products Liability
 - G. Work-Related Injuries
 - H. Beyond Products
- IX. INTENTIONAL TORTS**
- A. Intent
 - B. Assault, Battery, False Imprisonment, Infliction of Emotional Distress
 - C. Defenses to Intentional Torts
- X. DEFAMATION & PRIVACY-RELATED TORTS**
- A. Basic concepts, causes of action, elements, and defenses
 - B. Tension with First Amendment Protections
- XI. INTENTIONAL ECONOMIC HARM**
- A. Basic concepts, causes of action, elements, and defenses

READING LIST

There are 35 reading units, which we will cover exactly in the order shown below. There is not a one-to-one correspondence between the reading units listed below and class meetings. Sometimes we will whisk through more than one reading unit in a single class. Other times, we will tarry over a single reading unit for more than one class. I will announce in class which

readings to focus on for the next class and the next week (in case you like to read over the weekend for the following week). I may adjust our pace if I detect that more time is needed to ensure your mastery of the material. **I also distribute course announcements electronically using the Canvas Announcement system, which notifies your email. I'll try to remember to put "Torts" in the title of such messages, in case you want to search for Torts announcements in your emails.** If you find you have spare time on your hands (which I acknowledge is a rare event in law school) and wish to read ahead, the reading list below is a dependable guide to the order in which we will be progressing through the materials. We will cover these things, in this order, without deviations.

Introduction: Reading Unit #1 is the assignment for Day 1.

1. Franklin, Rabin, Green, Geistfeld, and Engstrom Tort Law & Alternatives, 11th ed. (2021) ("F&R")

F&R 1-20 (stop at start of Section D)

Case: Hammontree v. Jenner

Also read: **F&R** read pages 129 - 140

Cases: Harper v. Herman

Farwell v. Keeton

Problem Sets. Download an electronic copy or print out Items #1 and #2 on Canvas. We will use Item #1 during the first week of class. We will work the problems in Item #2 gradually over the next several weeks. *You don't need to read or think about these problems before class.* Just always have them accessible when you come to class. We will work through them and discuss problem-solving strategies during class.

Subsequent to Day 1, we will progress through the following Reading Units in order.

Vicarious Liability:

2. **F&R 21-33**

Cases: Christenson v. Swenson

Roessler v. Novak

Supplement on Vicarious Liability (Item #3 on Canvas. You don't have to read it ahead of class but bring it with you (electronically or printed, as you prefer).

Breach: Historical development of fault-based liability; the standard of care/calculus of risk; the reasonable person; the role of customs and statutes.

3. **F&R 37 – 49** (to the end of Note 2)

Cases: Brown v. Kendall

Adams v. Bullock

4. **F&R 50 – 64** (stop at Section C)

Cases: US v. Carroll Towing (Reading Unit 4 cont'd on next page)

Bethel v. NYC Transit Authority

The notes after Bethel are especially useful, summarizing important rules to know.

5. **F&R 70** (starting at Andrews case) – 89 (to start of Section D)

Cases: Andrews v. United Airlines

Trimarco v. Klein

Martin v. Herzog

Tedla v. Ellman

The notes after Tedla v. Ellman discuss some important cases.

Breach: Proof issues and res ipsa loquitur; medical malpractice—special issues re. standard of care and proof; medical malpractice—informed consent.

6. **F&R 89—109** (from Section D to to start of Section E)

Cases: Negri v. Stop and Shop

Gordon v. American Museum

Byrne v. Boadle

McDougal v. Perry

Ybarra v. Spangard

Res Ipsa Supplement (Item #4 on Canvas – have available to refer to in class)

7. **F&R 109-128**

Cases: Sheely v. Memorial Hospital

Matthies v. Mastromonico

Supplement: Informed Consent (Item #5 on Canvas – skim before class)

Duty: Obligations to others and nonfeasance; obligations to protect third parties

8. **F&R 129-157** (review the Harper and Farwell cases from Reading Unit #1 and read these two new cases:

Randi W v. Muroc Joint Unified School District

Tarasoff v. Regents of U. California

Supplement: Duty Discussion Problems (Item #6 on Canvas – have available for discussion in class in coming days; no need to read them ahead of time)

9. **F&R 158** (start at the notes after Tarasoff) – 169 (to start of Section C)

Cases: Important cases are mentioned in the notes after Tarasoff

Uhr v. East Greenbush Central School District

Duty: Policy rationales for deciding there is no duty; the “gatekeeping” function of the duty element

10. **F&R 169 - 184**

Cases: Strauss v. Belle Realty

The Moch case, summarized on p. 177, is an important case to know about

Reynolds v. Hicks

11. **F&R** 184 – 189 (to start of Section D)
Cases: Vince v. Wilson
Important cases are discussed in the notes after Vince v. Wilson

Duty: Premises and Landowner Liability

12. **F&R** 190 -204 (Stop before Section 3: Landlord/Tenant; Landlord/Tenant law is better covered in your property law course rather than in this brief summary)

Cases: Carter v. Kinney

Heins v. Webster County

Important cases are discussed in the notes after Heins

Supplement: Premises Liability Problems (Item #7 on Canvas – have available for use in class in coming days)

13. **F&R** 205 – 212 (stop before Section E)
Cases: Posecai v. Wal-Mart
Think about: How do these cases in Reading Units 12 and 13 relate to the Negri and Gordon cases in Reading Unit 6?

Duty: Spousal suits and parent/child suits—brief summary

14. **F&R** 218 - 219 (read introduction to Section F only, not the Broadbent case; this is just a quick summary of some points one needs to know)

Duty: Governmental Immunities and the Federal Tort Claims Act (FTCA)

15. **F&R:** 227 (start of Section G) – 235 n.4;
F&R: 237 – 243 (Lauer case, through to end of Note 6)
F&R: 248 (Start at Sec. 2 Federal Tort Claims Act) – 259 n. 10

Cases: Riss v. City of New York

Important cases are discussed after Riss

Lauer v. City of New York

Cope v. Scott

Read the statutory material before Cope v. Scott very carefully

Supplements: The FTCA (Items #8 and #9 on Canvas – have available for discussion in class)

Duty: Nonphysical harm

16. **F&R** 261 – 281 (stop at the end of Note 5 after Gammon)
Cases: Falzone v. Busch
Metro-North Commuter RR v. Buckley
Gammon v. Osteopathic Hospital
17. **F&R** 282 - 298 (stop at Section B) (cont'd on next page)

Cases: Johnson v. Jamaica Hospital
Portee v. Jaffee
Diaz v. Eli Lilly & Co.

Duty: Economic harm

18. **F&R** 298 – 319

Supplemental case to read before class: Item #9a on Canvas (532 Madison Ave. Gourmet Foods v. Finlandia Center)

Cases: Nycal v. KPMG (pay attention to problems at Note 4.d on p. 305)

See summary of attorney malpractice on pages 306 – 310

LAN/STB v. Martin K. Eby Construction

Duty: Procreation (Wrongful Birth and Wrongful Life)

19. **F&R** 329 (start at Section C) – 340

Cases: Emerson v. Magendantz

Supplement: Review of Duty and Standard of Care – Item # 10 – bring to class

Supplement: Tort Problem Set C – Mini-essay Question – Item # 11 on Canvas. This is a “mini-essay” problem, designed to be a shorter, simplified version of the types of tort essay questions you might encounter during an examination. This exercise, which is not graded, is intended to let you practice writing an essay response. After you have had a chance to work on your response, we will have a session to discuss the mini-essay problem.

Causation: Cause in Fact

20. **F&R** 341 – 373 (Stop at end of Matsuyama case)

Cases: Stubbs v. City of Rochester

Zuchowicz v. United States

Matsuyama v. Birnbaum

Supplement: Overview and Introduction to Causation (Item #12 on Canvas – no need to read before class)

Supplement: Item # 13 on Canvas – a supplement on types of evidence used in medical liability suits. This *really* is a supplement. We’ll discuss in class but you are *not* expected to know this for the final. I’m just giving you this supplement to tuck away in case you ever do end up representing pharma companies as clients and do need to be conversant with these terms.

Causation: Joint and several liability; multiple defendants, toxic harms

21. **F&R** 376 – 392 (to end of Note 7) + Toxic Harms on 393 - 396

Cases: Summers v. Tice

Hymowitz v. Eli Lilly & Co.

Read just the Rabin excerpt on Environmental Liability, not the notes after it.

Causation: Proximate cause

22. **F&R** 405 – 425 (but skip the Torres case entirely and read Doe v. Mannheimer supplement on Canvas instead) + 429 – 438 (scan Palsgraf case, not notes after)

Cases: Benn v. Thomas

In re an Arbitration between Polemis & Another

Overseas Tankship v. Morts Dock (The Wagon Mound)

SKIP Torres v. El Paso Electric Co.

READ Supplement: Item # 13a on Canvas: Doe v. Mannheimer case

Palsgraf v. Long Island Railroad

Defenses: Contributory and comparative negligence; avoidable consequences

23. **F&R** 443 (read just the two into paragraphs before Butterfield case)
F&R 446-448 (Notes 3 and 4.a – 4.d).
F&R 449 (Starting at Sec. 2 Comparative Negligence) – 458 (end of Note 7)
Read the Uniform Comparative Fault Act and Iowa Code on pages 452 -457 carefully.
F&R 461-470 (to end of Fritts case)

Case: Fritts v. McKinne

Before class, try to write out solutions to the Contributory and Comparative Negligence Hypotheticals in a – e at the top of page 452. Also work questions and problems in Note 6 on page 457 (set-offs), Note 4 on page 464 (insolvency), and Note 6 on page 465 – 466. You don't have to turn it in, and we will discuss in class, but you will get more out of the discussion if you try to solve them yourself. (You need to be able to work basic damages problems like this for the final and for life in general).

Supplements:

Item # 14 is an outline/solution to Problem Set C. Please don't peek at it till after we discuss the problem in class.

Item # 15 is a solution to the Contributory and Comparative Negligence Hypotheticals in the book. Again, try to work them first. You'll learn better if you solve the problems yourself, before we go over them in class. And, yes, it's unpleasant but you do need to know how to work these sorts of problems for the final.

Defenses: Avoidable consequences; assumption of risk

24. **F&R** 474 – 491 (to start of Davenport case) + 497 – 498 (Notes 6 & 7)
Cases: Hanks v. Powder Ridge.
Murphy v. Steeplechase

Defenses: Federal Preemption of State Tort Lawsuits

25. **Supplement:** Item # 15 on Canvas. Note: This supplement contains two things. At the beginning of it, there are **Excerpts from Torline & Teeter**, *Federal Preemption in Products Liability Cases*, Journal of the Kansas Bar Association (July/August 2007) Westlaw Citation: 76-AUG JKSB 32 (read these first, but stop before the Wyeth v. Levine case)

F&R 498 -516

Case: Riegel v. Medtronic

Supplement: Item # 17 **Geier v. American Honda Motor Company, Inc.** (This is a short case summary. Give it a quick reading before class; we'll discuss)

Supplement: **Wyeth v. Levine** (this is the rest of Item # 16. I'm giving you an almost-unedited case to read for the first time. Don't obsess over it. I want you to have the exercise of trying to scan through an unedited case and figure out what the key points of it are. That's something you'll need to know how to do in your summer jobs. Just spend a few minutes going through it and we'll discuss in class.)

Supplement: **Avoiding confusion between FTCA and Preemption concepts** (This was already distributed as Item # 8 on Canvas. Now, we are ready to look at the right-hand column that we skipped earlier. Some of the concepts in preemption sound sort of similar to concepts in the FTCA. The point of this chart is to help you understand how the two things differ, so that you'll never get them mixed up for the rest of your life. Once you have it clear in your mind, it stays clear for life)

Supplement: **ERISA Preemption** (Items # 18-19 on Canvas. I'll show the slides in class just because it's a great example of an unusually complex preemption framework, but you don't need to study this before class and I do not plan to test you on ERISA Preemption. I just want you to see an example of the worst level of complexity preemption clauses ever have. Once you have seen ERISA preemption, no other preemption clause can ever scare you again. This is as bad as it gets.)

And this, at last, is the end of our study of negligence torts. Yay!! Now, we move on ...

Strict liability, generally; Products liability

25. **F&R 519 – 531** (but see “Cases” below—You can skip some of the notes after the cases)
F&R 551 – 557 (King article—scan this to understand the policy goals of strict liability);
F&R 569 – 580 (McPherson and Escola)
Cases: The Rylands v. Fletcher cases (skip notes between them)
Sullivan v. Dunham (skipping the notes after it)
McPherson v. Buick Motor Corp. (read notes afterward)
Escola v. Coca Cola Bottling Co. of Fresno (do not read notes afterward)

27. **F&R 580** (read notes after Escola) – 614 (through note 4)
 Cases: Several important cases are mentioned in the notes after Escola
 Soule v. GM (important cases are discussed in notes after Soule).
 Comacho v. Honda
Supplement: Item # 20 on Canvas **Problem Set D - Product Liability Discussion Problems** (no need to look at them before class; we'll discuss in class)
28. **F&R 618** (Section D) – 638 (to end of Vasallo case)
Supplement: Item # 21 on Canvas **The Learned Intermediary Doctrine in Drug-Injury Lawsuits**
 Cases: Hood v. Ryobi (skip notes after it, except read Note 5 on heeding presumption)
 Centocor v. Hamilton (only read Notes 1 and 2 after it)
 Vasallo v. Baxter Healthcare Corp.
29. **F&R 642-661** (Section E and Jones v. Ryobi and Liriano cases through note 6 after Liriano)
 Cases: GM v. Sanchez (only read Note 4 after it, but read into to Sec. 2 Other affirmative defenses on page 650)
 Jones v. Ryobi (skip notes after)
 Liriano v. Hobart (skip notes after)
 In class—discuss Royer on p. 671 (no need to read ahead of class)

Intentional torts

30. **Supplement:** Item # 22 on Canvas **Intentional Tort Supplement - Harm to Persons**
Read through the Supplement before you read the cases.
F&R 901 - 905 (Intro and Garratt case); 909 – 915 (Picard and Wishnatsky cases, skip notes); 917 - 920 (Lopez case, skip notes); 923 – 924 (Special problems of shoplifting); 926 - 928 (Womack case, skip notes).

Supplement: Item # 23 on Canvas Full-length essay exercise. Just bring this to class. It's a full-length essay problem that I'm going to ask you to work parts of on your own or in teams, as an exercise in the coming days. We'll talk about it before you work it. First, we will have a discussion about how to spot issues to discuss when working an essay problem. Then, the various sub-problems will be divided up among class members with each person or team taking one essay question. Then, we will schedule a session, possibly on Zoom, to discuss possible responses to each essay question. This exercise is not graded; it is to provide practice in how to think about a long, complex tort examination essay problem. It's longer and harder than what I'll expect you to do within the time constraints of a final exam, so it is intentionally complex with the aim of being *worse* than an actual exam problem.

Supplement: Item # 24 on Canvas **Problem Set F (Intentional Tort and Privacy Problems)** – have accessible in class; these are short problems we'll work in class.

31. Intentional Tort Defenses **F&R** 957 -972 (Intro and Hart, Courvoisier, Katco, Vincent cases, skipping all notes between them)
Supplement: Item # 25 on Canvas **Defenses to Intentional Torts** – go ahead and take a look at this before class, but we’ll go over it in class, too.

Defamation & Privacy-related torts

32. **Supplement:** Item # 26 on Canvas – **Defamation and Privacy Torts Supplement**
Read the Defamation part and then stop for now. You should read the supplement on defamation before you read the following cases.
F&R 1003 – 1007 (to end of Romaine v. Kallinger); Read Davis v. Boenheim on pages 1015 – 1021 but skip the notes afterward. On page 1022 - 1024, in Sec. 2 (Of and concerning) read ONLY the section on Group Libel. Read Liberman case on 1027 -1029. Read from the start of the privileges discussion at bottom of page 1035 to the end of the Liberman case on page 1040. Read note 3 on page 1040.
33. **Not assigned.** You will probably encounter NY Times and Gertz in your Constitutional Law class. If you wish to read these cases now, they are at **F&R** 1065 and 1088. However, these cases are not assigned. For purposes of our discussion of privacy torts, the key aspects of these cases are summarized in your Defamation and Privacy Torts Supplement.
34. **Supplement:** Item # 26 on Canvas - **Privacy Torts. Now read on through the Privacy part of this supplement. Read it before reading the following cases:**

F&R 1155 – 1163 (including Haynes v. Knopf); notes 4 & 5 on 1164 -1166.

On false light, read 1183 – 1188 (the Cantrell case); Notes 3, 4 on 1188 – 1189.

On intrusion on seclusion, read Nader v. GM on 1192 – 1198 (but focus on first two pages, just to understand the fact pattern of the alleged intrusive behaviors). On p. 1218 – 1216, read the fact patterns of the Schulman case and focus on the expectation of privacy discussion.

Supplements:

Item # 24 again. **Problem Set F** - There are some Privacy and Defamation Discussion Problems in this problem set. We’ll go over them in class.

There are some additional **Privacy discussion problems** in Item # 28. Bring them.

Item # 27 on Canvas is a **Damages Supplement**. It doesn’t really fit into the flow but it contains essential information you should read before the final and before taking the bar exam. You need to know these things, so I made this supplement. It’s pretty short.

Intentional Economic Harm

35. **Supplement:** Item # 29 on Canvas **Harm to Economic Interests.**

Read the supplement first.

F&R: On deceit and negligent misrepresentation, read 1257 – 1264 (Ollerman v. O’Roarke), and notes 4, 5, 6, 9 after Ollerman (skip other notes); on tortious interference with contract, read 1268 – 1270 (Imperial Ice v. Rossier) and **notes** 1, 3, 4, 5, 6 after Imperial Ice.

Supplements # 30 and # 31 are example student answers to the big essay exercise (Item # 23). They are not perfect answers, so don’t consult them as a source of ultimate legal truth. But they are good, solid answers that past students produced when working that problem under time constraints. I wanted you to see the range of approaches people can use and still deliver a good performance. Different people take different approaches and you should try out various expository styles and find out which comes most naturally to you. When writing an essay response, you don’t have to be perfect. You just have to manage your time and get as much information onto the page as you can in the available time. If a question seems hard to you, it will also seem hard to everybody else, and you can take comfort in that fact. It’s OK not to know it all when you are in a situation where nobody knows it all.

Continue to Course Policies, starting on page 13

Resources and Course Policies
Prof. Evans – Torts

Important information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link:

<https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>

All students should open this link now and familiarize themselves with these policies. Do not put it off.

Additional information and procedures specific to this course:

Health and wellness: Law school can be a little daunting at times, and I am always happy to act as a sounding board on strategies to make it feel less stressful. If you or a friend is in distress, there are also other resources available on our campus:

- *U Matter, We Care:* If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit the website at <https://umatter.ufl.edu/> for more information.
- *Counseling and Wellness Center:* Visit the Counseling and Wellness Center website at <https://counseling.ufl.edu/> or call 352-392-1575 for information on crisis services as well as noncrisis services.
- *Student Health Care Center:* Call 352-392-1161 for 24/7 information to help you find the care you need, or visit the website at <https://shcc.ufl.edu/>.
- *University Police Department:* visit the website at <https://police.ufl.edu/> or call 352-392-1111 (or 9-1-1 for emergencies).
- *UF Health Shands Emergency Room / Trauma Center:* For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; website at <https://ufhealth.org/locations/uf-health-shands-emergency-room-trauma-center>.
- Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs. If you are comfortable doing so, you may also notify me so that I assist you in locating further resources on campus.

Other helpful resources: E-learning center technical support, 352-392-4357 (select option 2).

Conduct of classes

Naming and pronominal preferences: I go by “Professor Evans” or “Barbara” and I use the “she” pronoun, although it won’t upset me if you use something else. I care about making sure I use your preferred name and pronouns. Please feel free to reach out to me in person, by phone, via text message, or by e-mail to make sure I know your preferences. Thereafter, if I ever fail to get it right, please kindly attribute it to defects of memory, and never feel awkward about correcting me gently in front of other people if I make a mistake.

You may also change your “Display Name” in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records.

Practice examinations: I do not give out old exams as practice exams. But we will work many class exercises and practice essay problems in class, so you will be well-prepared for the final by the time we complete the course.

Final examination: Other than any adjustments for class preparation and participation (see above), the course grade will be based on a three-hour final examination, which will be administered remotely in accordance with law school and university policies. The examination will consist primarily of essay questions (accounting for 50-60% of total points on the exam) but also will include some short-answer and multiple choice problems (accounting for the remaining 40-50% of the exam). The short answer questions could include T/F, multiple choice, or “mini-essay” questions that ask you to provide a very brief answer (e.g., 5 to 10 sentences) addressing a single point of law. The exam will be based on the assigned (required) readings and materials and topics discussed in class. More on the examination format will be discussed in class, or in general policies announced to the law school community, as the semester progresses.

A student’s grade in Torts can be adjusted by one “notch” (e.g., from an A minus to a B plus) for issues with class participation, preparation, attendance, or habitual lateness.

What good class participation means: One of the goals of this class is to teach you lawyerly communication skills. It is surprising but true that the most important communication skill for lawyers is not talking and saying clever things, but listening and getting a sense of what other people think. If that other person is the opposing counsel, listening is the way you analyze the weakness in his or her arguments and thought processes. If that person is your client, listening is how you learn what the client’s problem is and how the client feels about various approaches for solving it. If that person is a regulator or judge, you had better listen.

If you have previously asked to be recognized twice in a single class, I am very unlikely to call

on you again until all other persons in the class have had the opportunity to share their views. In that situation, do not continue to hold your hand up for a long time; it will just get tired. This is mainly done for your own learning. Whenever one is waiting to speak, one becomes completely absorbed with planning one's own remarks and loses the opportunity to hear what other people have to say. Beware of being absorbed in your own thoughts, when you could be listening to what other people have to say.

Also, it is not the case that talking a lot leads to a higher class participation credit or makes you look wiser. Sometimes, a few well-chosen, well-prepared words are the most impressive. I particularly like it when students listen to one another's remarks and respond to them, either to amplify or debate them in a tactful, well-reasoned manner.

Be aware of any implicit biases or positions of privilege that you may enjoy and regulate your participation in a way that ensures everybody has an opportunity to express their views and have them heard with respect.

Recommendations for supplemental reading: Students often ask me to recommend supplemental readings. I do not have any specific recommendations. Whether to use supplemental books is largely a matter of individual preference and study habits. Some people prefer to concentrate their studies strictly on the Franklin & Rabin Casebook and other required readings (such as the Supplements). Those, along with matters discussed in class, are the basis for your examination. Everything you need to know is in the Syllabus and in our class discussions.

Still, some students do find it helpful to refer to other books, to get other authors' perspectives on a topic. A diverse array of supplemental materials is available to assist in the study of Torts. You should feel free to select supplemental materials that work best for you. I have no specific recommendations. I encourage you to visit bookstores, which have many supplemental books available for Torts. Browse through a few and see whether one of them explains things in a way that is particularly clear for you. If so, that may be a useful supplement. Again, however, you do not necessarily need to purchase any supplemental books. There is quite enough to read if you just cover the Syllabus for this course. If something is not clear, your best use of time may be to re-read the assigned course materials rather than to read other books.

Contacting me with questions: Never feel hesitant about e-mailing me, phoning me, texting me, or visiting office hours with a question if you have made a good-faith effort to understand something and it still is not clear. I'm "on-call" for my Torts students basically any time; if you catch me at a bad time (like if I'm in another meeting), we'll reschedule a time to talk. Please make sure to identify yourself if you text. It's good to struggle a bit with new ideas and try to master them oneself, because the ability to read carefully and reason things out is a key skill one needs as a lawyer. However, if something just is not clear after a reasonable effort, you need to get it cleared up as soon as possible. Your knowledge of Torts builds cumulatively. Things that are not clear early on can make the later phases of the course harder. It's better to get things cleared up promptly if something just isn't making sense. Don't wait till the end of the semester to seek help.

Preparation: It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in-class assignments for every 1 hour in class.

Class participation and attendance: Attendance will be taken at each class meeting. It is your responsibility to locate and initial the sign-in sheet for each class session. I will “call the roll” for the first couple of classes, while I learn your name. Thereafter, you are responsible for signing in. It will be considered a violation of the course rules and the Honor Code to falsely indicate that you were present in class, or to assist a classmate in such misrepresentation.

Students are allowed two absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement can be dropped from the course. The law school's policy on attendance can be found at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies#:~:text=UF%20Law%20policy%20permits%20dismissal,of%2012%20credits%20per%20semester>. Attendance in class is required by both the ABA and the Law School. If you miss more than six classes, your grade for the semester may be adversely affected. If you have a legitimate reason for missing class, you should contact me before or soon after class ends to alert me to extenuating circumstances.

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.

The best thing to do, if you know you are going to miss a class, is to ask a fellow student for notes. Student notes often are the best record of the give and take of questions and answers that actually took place during class. However, I also will be glad to discuss questions with you if you have been ill and need to go over any concepts that are still not clear. I can also authorize access to the class recordings.

Lateness: Notwithstanding the prior rules, I understand that lateness sometimes happens despite students' best efforts. Never feel embarrassed to join my class because you are slightly late. You've paid for the class, and I want you to get the benefit of any portion of it you are able to attend. However, you must be considerate of your fellow students, and follow any social distancing requirements that may be in effect to protect their health, if you are arriving late. When arriving late, sit in a free seat closest to the door to avoid disturbing other students, but maintain social distancing if required. Also, please don't slam the door when you come in and make sure the door is closed behind you. 90% of being a good lawyer lies in learning how to enter a room without letting the door slam behind you. Just kidding, but that's almost true.

What to do if circumstances require you to exit a class while it is in session: From time to time in life, we all have a sudden illness or other emergency that requires us to enter or leave a class while it is in session. If this should happen to you, simply enter or leave as quietly and unobtrusively as you can, observing all social distancing requirements to protect others.

Obviously, it is understood that you will do this only when there is a pressing need to do so.

Reading assignments/ Supplements: The Syllabus lists the casebook readings and other materials we will be covering. We will be proceeding straight through the Syllabus in the exact order it shows the readings. The pace at which we move through the materials may vary if I detect a need to slow down or speed up to ensure student mastery of the materials. Therefore, I will announce specific assignments for the coming class periods at the start or end of each class or electronically. If you are unable to attend class for any reason, you are responsible for finding out what your assignments are.

Problem sets: Throughout the course we will be working problem sets. These start with simple, single-issue questions and build up to complex essay questions by the end of the semester. These are strictly learning exercises; they are not graded. The purpose of the problem sets is to help develop your analytical skills and learn how to apply the sometimes-theoretical Tort principles to specific fact situations. Also, the problem sets are intended to give you a taste of the types of questions you might see on the Torts final, so that you can get some practice and develop the skills you will need to frame and argue a response.

Cell phones, pagers, computers: Please make every effort to remember to disable the ringer on your cell phone and to silence any other device you have that makes noise. I understand why carrying these devices in class is necessary. Computers in class are to be used exclusively for taking notes or viewing documents directly relevant to what is then going on in the classroom, and not for otherwise distracting you or your classmates. Sanctions for violating these rules are at my complete discretion.

Informal feedback for me: My goal is to help you learn Torts as thoroughly and enjoyably as possible. I welcome any comment or suggestion you may have regarding teaching style, topic coverage, class presentation, ways to make the class sessions more useful for you, or any other issue. I may not always implement every suggestion that is offered, but I will certainly give it careful consideration, and I would never be offended by any good-faith suggestion on how to make this class more engaging and productive for you. If something isn't working for you, then let me know. Please feel free to provide me with any comments during the semester that you think will improve the overall learning experience.