

SYLLABUS
TORTS¹
LAW 5700-57JB(25010)
 Spring 2020
PROFESSOR JENNIFER S. BARD
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JANUARY 6, 2020

Classroom HH – 285C

Class time: Mondays and Wednesdays from 1:30-2:55 PM

Office: Room 356 HOL

Office Phone: 352.273-0666 (not reliable way to reach me—please email!)

Office hours: Monday and Wednesday 2-3 and by appointment²

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¹ Posted before class, please always check that you are consulting an updated version as dates or assignments may change (although class policies will not).

² We will discuss your schedules the first day and establish office hours that do not conflict with your other classes.

“Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at https://gatorevals.aa.ufl.edu/students/ . Students will be notified when the evaluation period opens and can complete evaluations through the email, they receive from GatorEvals in their Canvas course menu under GatorEvals or via https://ufl.bluera.com/ufl/ . Summaries of course evaluation results are available to students at https://gatorevals.aa.ufl.edu/public-results/ .”	8
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Remedies
Spring 2020

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Class time: Mondays and Wednesdays from 1.30-255 PM
Office: Room 356 Holland
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Course Description:

Welcome to Torts.

Torts is an umbrella term for a variety of civil harms that don't involve crimes, land, or contracts. It is one of the most common areas of practice for lawyers and as a result is heavily tested on the bar exam. The most common Tort is the Tort of Negligence which includes personal injury. The lawyers you see on busses and TV are probably personal injury attorneys. But equally, the lawyers you see fighting for people who have been harmed from toxic environmental exposure or improperly tested prescription medicine are also Torts lawyers. Torts actions are also important for lawyers in large law firms who handle cases involving fraud.

What Are the Required Texts and Reading Assignments and How Will I Know What to Read?

We have three assigned books as well as assigned readings posted on Canvas in the module section of each class. I chose each of them after careful consideration of many options with the goal of finding the most clear and accurate presentation of the material we will be covering in class.

- 1) *Studies in American Tort Law (6th) edition* by Vincent Johnson is one of the few, if only, Torts books that comes with its own study guide. Its only minus is cost—I know that this book will be hard to find used since it is relatively recent—but encourage you to check the internet and have ordered copies for the library.
 - 2) *Mastering Torts* by Vincent Johnson. This book was created by the author of our casebook to further explain the concepts and cases. It tracks our book exactly and many students find it helpful to read the relevant sections of *Mastering Torts* before they do the reading assignment. Because *Mastering Torts* uses the same terminology and covers the same topics as our casebook, there is no need to supplement this course with any other commercial study aid.
 - 3) In order to support our study of Negligence, the largest and most heavily tested area of Torts, we will also be reading *Careful* by Steve Casner who is a safety expert. This should be easy to find used (and is also an audio book). If things are slow over break, you might want to get started on that. We will be referring to it when we discuss how lawyers are able to prove (or disprove) that an action that caused harm was a reasonable (or unreasonable) thing to do. It is about safety standards and how they work in everyday life—including how many people ignore them.
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- 4) Assigned Readings. In addition to the reading in our assigned texts, you will also be assigned articles and cases on Canvas.

One of the first things you will learn is that Torts actions are primarily litigated under state law—so we will be reading materials and cases that focus on Florida law along with those in our casebook that illustrate national standards.

The Role of Canvas

Canvas is the name of the course management system of the University of Florida. We will be using its features frequently. There is a “Module” in Canvas for each week of class. I will be posting assignments for the first week as well as the syllabus on Canvas-so please **make sure you have notifications turned on.** I will also be communicating with you as a group through the Canvas “announcement” feature and we will be scheduling meetings using Canvas as well.

What will I learn? Student Learning Objectives:

By the end of this course, students will be able to:

1. Recognize Torts issues in a variety of fact patterns.
2. Identify key facts required to evaluate the strengths and weaknesses of a client’s legal position.
3. Evaluate the strengths and weaknesses of a client’s legal position.
4. Pass the bar exam in any state you choose—the first time.
5. Represent your clients to the highest standard of law and ethics.
6. Use Tort Law to promote the public’s health by reducing avoidable harms.

How Will My Work be Evaluated?

This is a graded course. All assignments are mandatory. I will grade your exams and issue your final grade without knowing your identity.

What are the Components of my Final Grade?

Class grades are determined according to the following weights:

A. Class preparation and Participation including completion of ungraded assignments (30%)

Learning Torts is a progressive process—each concept builds on the next. It is not possible to “skip a week” either in attendance, preparation, or attendance because you will not have the foundation you need to tackle the next concept.

You are therefore each expected to contribute in an active and positive way to class discussion. We will be engaging in a number of active learning activities every day so this means that you will be talking to each-other in small groups as well as to the entire class. Of course, this requires your completing the required reading prior to the corresponding class session.

B. Question Drafting (15 points)

Each student will be drafting three exam questions on an area of Tort law.

Each student will be responsible for presenting and explaining their exam questions to the class. You will receive five points for posting your questions on Canvas and presenting and explain them to the class.

C. Assessments During the Semester (15 points)

You will have three interim, in-class assessments. While these will not be graded, they will require good faith completion. Each of the three assessments is mandatory. If you miss class on these days for any reason other than a documented illness or a religious holiday, you will not receive credit for completion.

D. Final Exam (55 points)

Each student will take a three-hour objective—multiple choice, true false, and short answers—final exam (as scheduled by the Registrar's Office).

*****Note—so that exam grading can be completely blind it is important that I, as the professor, not have any discussion with or information about you that could reveal your identity before I hand in final grades to the registrar. For blind grading to be fair to you and everyone else in the class, I reserve the right to reduce a grade or even refuse to grade an exam if anonymity is compromised.

Can you give me a summary of your Attendance Policy?

Class attendance is mandatory.

You will be excluded from class and not able to take the final exam if you miss more than six of the 55-minute class periods. I do not make any distinction between "excused" and "unexcused absences" so you do not need permission to miss class.

Please do not consider this an invitation to miss six classes—that would be a terrible idea.

Each of the three assessments is mandatory. If you miss class on these days for any reason other than a documented illness or a religious holiday, you will not receive credit for completion.

Further Explanation of Attendance Requirements

In my experience, missing class impairs your learning and your performance on the final exam. The United States Department of Education agrees, and as a result The Council on Legal Education which sets the Standards for Accreditation of Law Schools requires that we certify your attendance in class.

I do this by passing around a sign-in sheet at the start of each class. I will give this sheet to my assistant every week and she will maintain an attendance log.

It is your responsibility to sign-in within the first fifteen minutes of class. I urge you to keep your own records for two reasons. First, because the material we are learning is cumulative it is important for you

to be aware of what you have missed. Second, neither I nor my assistant will be providing regular attendance updates. You can ask to review your attendance at a mutually convenient time, but the sign-in sheet is the official record.

Because taking attendance would be meaningless without a standard for sufficient attendance, I have adopted the usual practice of setting a minimum attendance standard based on the credit hours of our class. For our Torts, that means if you miss six or more scheduled classes, you will be academically dismissed from the class and cannot take the final exam.

Please do not consider that missing 20% of the classes is acceptable or advisable. Any missed class is a gap in your learning. But if you miss more than 20% of the scheduled classes, you will not be able to take the final exam and cannot pass the class.

Are There Any Excused Absences/Do I Need to Tell you When I will be Missing Class?

I hope and expect that you will be in every class meeting during the semester, in your seats and ready to start. But I appreciate that you all have busy lives and things come up. You do not need my permission to miss class, nor is there any system of approved absences.

However, if you miss two classes in a row, I will be worried about you. So, if you know you are going to miss two classes in a row, I'd appreciate your telling me in advance.

And if you find yourself missing two classes in a row without a prior plan, please check in to let me know that you are OK.

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. It's not worth it, don't do it, and please don't ask anyone to do it for you.

Finally, if you find you are unprepared, please come anyway. I promise not to embarrass you, but it is far easier to catch up with reading if you have been to class.

What is Your Policy on Being in Class on Time?

One of the many distinctive features of the practice of law in the United States is the emphasis on being "on time." Also, in a classroom setting when one person is late it distracts everyone.

Therefore, I am going to ask you to make every effort to be in your seats, ready to work when class begins. If you come in after class starts on a regular basis (more than three times) then you run the risk of having your lateness impact your grade or even result in your being excluded from class.

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.

How Will I be Graded?

PLEASE READ THOROUGHLY ALL OF THE STANDARDS FOR GRADING SINCE THIS SYLLABUS IS THE FINAL AUTHORITY FOR ALL REQUIREMENTS.

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>.

Student Course Evaluations

I will be asking for feedback throughout the course, but please do not hesitate to check in with questions, comments, suggestions, or observations as we go along-while there is still time to fix something that may not be working.

“Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email, they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.”

Communication Overview:

Office Hours

I very much want to get to know you as individuals and have set aside a block of time after class on Mondays and Wednesdays from 3.15-4.15. I am also always happy to schedule a meeting with you at any mutually convenient time. Please send me an email at bard@law.ufl.edu and we can set up an appointment. Please put the word “Torts” in the subject line of any email you send me so that I can identify it quickly.

Forms of Address

My goal is for each student in class to feel that they are treated with respect and equality. My understanding is that the convention here at the law school is for students to use first names in class. Along those lines, I will be asking you each to let me know what name you prefer to be called and what pronouns you prefer.

It is also my understanding that the convention here at the law school is to call professors by their last names, so please call me “Professor Bard” and my pronouns are she/her/hers. I usually default to “they” when referring to someone whose preferences I don’t know. Feel free to let me know anytime if your preferred name or pronouns change.

How Will We Be Communicating Outside of Class?

Other than person to person meetings, our primary method of communication out of class will be email. I will either email you directly or Canvas will email you to alert you to the posting of new materials or information. Please set up your Canvas account so that you receive the alert on whatever account you check most regularly.

I check email frequently and unless I have an out-of-office message will always reply within one business day, usually much sooner. If you ever do not get a response from me by then, PLEASE try again—it is very likely caught up in some kind of filter.

What will be Expected of me in this class?

1.	<p>Prepare for Class, Participate in Class Discussions, and Complete Ungraded Assignments</p> <p>All reading assignments are due for the first class of the week. We will be making our way through selected chapters of the Johnson Casebook, STUDIES IN AMERICAN TORT LAW (SALT) as well as its accompanying guide, Understanding Torts. We will also be reading chapters of Careful as we study Negligence.</p> <p>I will be supplementing the assigned texts with primary source material (cases, statutes, regulations, policies) when appropriate.</p> <p>Overview:</p>
2.	<p>SPOT THE NEGLIGENCE EXERCISE</p> <p>We will be engaging in a class-wide contest to find and photograph examples of negligent conditions.</p>

3.	<p>DRAFTING QUESTIONS</p> <p>Each of you will be drafting three questions based on material we are studying. You will be sharing these questions with your classmates and explaining the answers to them.</p>
4.	<p>SATISFACTORILY COMPLETION OF IN-CLASS ASSESSMENTS</p> <p>You will have five in-class assessments throughout the semester.</p>
5.	<p>FINAL EXAM</p> <p>I have a “No Surprises” exam policy. When you take the final exam, you will not be surprised by the content of the questions or the format because they will reflect what we have been doing in class. I have posted two examples of past Torts exams, but fair warning, since there is no way to cover every relevant topic every year, there may be material we have not covered. That exam was not a surprise to the students who took it.</p> <p>There will be a three and a half hour, in-class final exam as scheduled by the law school.</p>

Classroom Matters

How Will We Spend our Class Time?

I have organized the class into units of one week. As it is sometimes difficult to tell how much reading we will get through on any given day, I have given you the reading assignment for the entire week. The entire chapter is due for the first class of the week it is assigned. That will serve as the basis of that week’s discussion. Assigned readings will be aimed at building the knowledge of law, theory, analytical frameworks, and processes related to Torts Law. Other assignments will emphasize the application of this knowledge.

This will not be a lecture course. The majority of class time will consist of class discussions, activities, and exercises that build on the material in the reading. The video clips assigned for out of class viewing will allow us to use our class time for active and engaged learning about public health law.

You should expect to be participating every day. While I will introduce specific points or topics and help to facilitate discussion, each student should be prepared to discuss assigned readings and class activities. Because preparation for class and participation in class is such an important component of your grade, it is important to understand what you will need to do to adequately prepare for and participate in class.

How Much Time Should I Expect to Spend Preparing for Class? (ABA Standard 310)

Students should expect to spend, on average, approximately two hours preparing for every hour of class. Assignments are posted on the “Modules” link on the Canvas site (located on the left side of the Canvas site).

HOW SHOULD I PREPARE FOR CLASS?

The weekly assignments will be a mix of reading assignments from *Gostin & Wiley* and from supplemental reading assignments, including edited cases, on Canvas. There will also often be multi-media assignments to review before class. Each week’s assignments will include discussion questions to guide your preparation and give you a head-start on what we will be discussing.

I have organized the class into units of one week. The assignment for Monday will usually be a full chapter in *Gostin & Wiley* as that will provide the framework for the week. As it is sometimes difficult to tell how much reading we will get through on any given day, I have given you the reading assignment for the entire week and indication of which day I think we will cover the assigned material.

What Should I Expect to Find in the Assigned Materials?

Each week I will post on Canvas edited cases targeted to the public health issues we are studying. I will also post links to primary source material such as regulations and statutes as well as secondary sources such as government reports and articles.

If you have any difficulty perceiving/hearing/seeing/understanding in the material in the format it appears, please let me know as soon as possible so we can, again, find another approach.

Uncomfortable Material

In the section on classroom matters, I discuss the reality that many of the topics and issues we discuss in Torts Law are inherently upsetting—and some may be particularly so depending on your own personal experience. Remember, most of the cases we read are based on real life incidents in which people were seriously harmed or killed. Each of you brings to this class your own experiences of living in the world. You may find one or more of these cases similar to something that has happened to you or someone you know.

Another possible area of discomfort is the age of the cases we read—you will soon realize that the attitudes and language used to describe disabling conditions or even individuals have changed significantly. We cannot ignore the cases that reflect out-of-date attitudes or vocabulary, but we can acknowledge them.

Also, the reality that any assignment that requires a link to the “outside world” of twitter feeds, video clips or current articles opens the door for unexpected or unwelcome encounters with ugliness and hatred. It is likely that we will also see things from the past that have negative connotations today. Some I can warn you about. Others may appear without warning. I would ask that you let me know if you encounter something uncomfortable or offensive or jarring

When Will You Distribute the Slides You Use in Class?

Any slides I use in class will be posted on Canvas shortly after the class session. So that I can use material that may otherwise be copyright protected, you must consider these slides proprietary to this class and only for your use as students in this class. I will mark them “do not distribute” to remind you not to pass them along to students who may take this course in a future semester (or anyone else).

What if I can't open a Multi-Media Assignment (i.e., “dead links”)

Some of the reading will take the form of audio or video clips. If you have any trouble accessing these clips, use your best effort to try a different access approach such as searching in Google using a different browser. Please don't panic, though, if you can't access it. Just let me know before class and we can try another approach.

If you have any difficulty perceiving/hearing/seeing/understanding in the material in the format it appears, please let me know as soon as possible so we can, again, find another approach.

HOW WILL YOU PROVIDE DISABILITY 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 the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Classroom Matters

Can I Record Class if I Do Not Have an Accommodation?

No. What goes on in class is intended for the benefit of your education and those of your classmates. Please do not make your own recordings and if somehow you acquire a recording, please do not share it further by any means. Since you're reading this—if you have any concerns about anything you hear in class please do not hesitate to let me know.

WILL WE HAVE ANY MAKE-UP CLASSES?

Yes.

We will have at least two make-up classes BUT in-person or live attendance will not be mandatory. Instead, I will be recording the classes for your use and will be distributing some on-line public health learning material

What is Your Policy on Social Media?

Social Media is a moving target—and standards of appropriate use change all the time! As of August 2019, Twitter is an important source of information about public health developments. Therefore, I will

be asking you to follow some of the most active and reliable participants. However, please remember that the reason you are following these individuals is because they have access to important information and share it quickly. You do not have to agree with opinions they express about public health, law, or anything else!

Moreover, I respect your privacy and it is my policy not to seek or accept social media requests from students currently enrolled at the law school. Of course, I would love to hear from you on LinkedIn (or similar professional social networks) after our class is over.

What is Your Policy on Academic Misconduct and the Honor Code?

This Course follows all the rules and procedures set out in the Levin College of Law Handbook. In particular, please refer to the Honor Code for issues of academic misconduct. Unless you have specific instructions to work together, I expect all work you submit for a grade to be your own.

All students who enter the Levin College of Law are governed by its Honor Code, found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

They must also comply with the University of Florida's Student Conduct and Honor Codes, found here: <https://sccr.dso.ufl.edu/students/student-conduct-code/>.

What is your Policy on Assigned Seats?

You may choose any open seat you like. After the first class, this will be your assigned seat for the rest of the semester. I reserve the right to re-seat any student at any time. If for any reason you are uncomfortable about where you're sitting, please let me know.

What are your Policies and Preferences for the use of Electronic Devices in Class?

Please use the time we have for class to be present and available to learn and engage with me and with your classmates. In specific, it means that I am asking you to use electronic devices in class with the same sense of dignity and decorum you expect when you enter practice.

What if I have personal responsibilities that require me to be available to others while I am in class?

I appreciate that some of you will have occasions where you feel you must be available to others even if you are in class. If you feel you must answer or reply to a message or a call, please get up quietly, leave the class quietly, and conduct your conversation outside of the room.

What if I want to look up something that's relevant to the class material?

The advantage to learning in a group, as opposed to alone, is lost when everyone gets online and goes in different directions. We will be stopping regularly to discuss the material, raise questions, and go online.

But unless we are doing a group activity, it is distracting and unnecessary to engage in searches during class.

What is Your Policy Regarding Respect for Others?

We will, of course, comply with all university and law school anti-discrimination policies and all applicable laws [summarized here](#) on the Law School's website. You will also find the full text on our Class Canvas Page. In addition to that, I require that students treat each other with the respect and courtesy appropriate for colleagues. Since discussion will be an important part of this class, it is inevitable that you will have different points of view.

If you wish to say something, raise your hand and I will call on you. For these purposes, please consider yourself as in a court room. Unless we have broken into small groups for discussion, it is not appropriate to directly respond to another student without raising your hand. It is also not acceptable for more than one person to be speaking at once. Regardless of what you may see on TV, the key to being a successful lawyer is to be able to disagree without being disagreeable or (worse) disrespectful.

What if Something We Are Covering Makes Me Uncomfortable?

Tort Law raises issues of illness, injury, disability, and death. Everyone, including experienced health professionals, research scientists, law professors, and practicing attorneys, have issues to which they are more sensitive because of their life experience. We all share the challenge of discussing these issues with openness and rigor without causing inadvertent pain to others. It is also likely that some of the health conditions that come up as we discuss legal issues are ones with which many of you are unfamiliar. Although the story of medical students and hypochondria is probably a [myth](#), everyone can find it distressing to hear about threats to their health before they develop a sense of relative risk. We will be talking in class about what are (and are not) reliable sources of information about the topics we discuss.

The best approach to potentially uncomfortable or even distressing issues is to remain aware of your feelings and respectful of other people's feelings. Sometimes it is helpful if you prepare yourself to be uncomfortable about something, we will be covering without sharing that with anyone else. Equally, if there is anything you would like me to know in advance about your previous experiences that may affect your perception of our class, please let me know either in the information sheet I distribute or anytime you think its relevant. If you find a discussion too painful to sit through, you are welcome to leave the class for a few minutes and discuss the issue with me afterwards. If you are concerned with anything involving the class—in the reading, during class, or otherwise, let me know.

THIS DOCUMENT IS TO INFORM YOU OF MY POLICIES. BY REGISTERING FOR THIS CLASS, YOU ARE AGREEING TO ITS TERMS. IT IS NOT A CONTRACT. PLEASE DETACH, SIGN AND TURN IN THE LAST PAGE.

Date_____

Signature_____