

Torts

LAW 5700, Spring 2023

This document provides essential information about the course, including classroom expectations, learning outcomes, and a reading map.

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Class Hours: Mon., Tues, Wed. 1:45-3 pm

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Course Description:

The central question in Torts is how society should respond to the problem of high dollar harm, which may be physical, emotional, or to property, that results from intentional or accidental action. Our course will focus on the different ways in which Tort law addresses these issues. Theories covered will include intentional torts, negligence, strict liability, products liability, as well as all their affirmative defenses. As there are seldom clear answers to legal questions that implicate so many perspectives and raise complex factual inquiries, Torts trains students to tackle problems by evaluating various possible answers, thereby developing legal reasoning, policy, and general argumentation skills applicable to various legal areas.

Course Materials:

The required textbook is John Fabian Witt and Karen M. Tani, *Torts: Cases, Principles, and Institutions*, Sixth Edition (2022). You are required to buy the print-version, which is very affordable compared to other textbooks. There is also a digital version available for free [here](#), if you'd like to also have a digital version handy. Please note because of the classroom device policy, you can only use the print version in class. I will also occasionally assign supplementary readings, which I will post on Canvas. You are responsible for registering for and checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

You do not need to use outside study aids to do well in this course. If, at some point, you find that an overview would be useful, I recommend Kenneth S. Abraham, *The Forms and Functions of Tort Law*.

Course Units/Reading Assignments:

A reading map/list of topics is included at the end of this syllabus. I will post reading assignments on Canvas, generally 5-7 days in advance. This procedure allows me to adjust the pace of the class, depending on how much ground we've covered each week. If our classroom pace requires changes to assignments after posting, I will let you know. Consistent with ABA

Standard 310, you should expect to spend 7.5 hours per week preparing for this 3 hour and 45 minute course.

Learning Outcomes

The ABA requires that all law schools adopt “learning outcomes.” For this course, you will develop the following competencies:

- Knowledge and understanding of the basic rules and doctrines of tort law;
- Knowledge and understanding of the values and policies underlying tort law;
- Legal analysis and reasoning;
- Written and oral communication in the legal context; and
- Application of tort law to real-world problems.

Class Preparation and Participation:

I expect each of you to attend every class prepared to participate in the discussion. You do not need to have perfect answers to my questions, but you must be willing to work through those questions with me and your classmates. There is no passing or declining to answer questions in this class. If you do so, your overall class grade will be reduced, at my discretion. Preparation for this class includes completing the assigned reading, reviewing notes and/or reading material from prior classes, and reflecting on issues and questions those materials raise.

To ensure meaningful participation from all class members and help you build lawyering skills, I use the Socratic-method in the classroom. This means I call on students, without advance notice. I may call on one student to dialogue with me on one case or jump around from student to student.

In addition to this, I may occasionally take volunteers, especially as our discussion broadens to consider the implications of doctrine. Sometimes you will work together in groups to brainstorm responses to hypotheticals I pose in class.

Attendance:

To the best of their abilities, each student that enrolls in this course should be committed to attending every class, on time. Regular and punctual class attendance is also required by both the ABA and the [law school](#). To allow for exigencies in life, **students are permitted five unexcused absences during the semester** without impacting their final grade. This allowance is designed to accommodate illness that is not documented by a doctor’s note, job interviews, family emergencies, and other aspects of life, and do not require advanced notification to me. Please budget accordingly so that you are not left at the end of the semester with a needed, unexcused absence but depleted allotment.

These absences are separate from excused absences. **Excused absences, which include illness confirmed by a doctor’s note and observance of religious holidays, are consistent with University policies.** If you have a religious holiday or illness that causes you to miss class, you

must contact me before class or, depending on the circumstances, immediately after class for your absence to be excused. Students shall be permitted a reasonable amount of time to make up the material or activities covered during their excused absence.

Attendance will be taken at each class meeting. Students are responsible for ensuring that they are not recorded as absent if they come in late. **For each unexcused absence beyond five, a student's final exam grade will be reduced by one-third of a grade (e.g., A- to B+). If students have nine unexcused absences or more, the professor has the discretion to render the student ineligible to receive credit for the course. If students are late more than three times in a semester, their grade will be reduced by one-fourth for every three instances of lateness thereafter, in addition to any reduction for unexcused absences exceeding nine.**

Electronic Devices:

Laptop usage is not allowed in this class. Smartphone use is also prohibited during class for all students. I take this position for two reasons. First, some students inevitably use these devices in ways that distract other students. Second, in my experience, students with laptops often try to transcribe every word said in class, rather than actively listening and participating.

If you need to use a laptop for an accommodation-based reason, please let me know. See below for further information on the school's disability-related accommodation policy.

Recordings of Class

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

Exam & Grading:

Your course grade will be based primarily on a blindly graded final examination. I will give you detailed information about the exam later in the semester, as well as preparation advice and a practice opportunity in the form of an ungraded, take-home mid-term. In cases where an exam score places a student on the border between two grades, I use class participation to decide whether to bump the student up or down. In evaluating participation, I think about the *quality* of the student's engagement with the material, as opposed to the number of times the student has spoken.

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 (Average)	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

Office Hours and Email Policy:

My office hours are Mondays from 3 to 5 p.m., starting Monday January 23, in my office. If I ever need to reschedule office hours, I will let you know in advance. You do not need to have a torts-related question to meet with me. Please feel free to stop by and just say hello. If you would like to meet by appointment outside of office hours, please email me to arrange a time.

You may also ask questions over email. If the question requires a particularly substantive response, I may ask to discuss in-person. If the question relates to a class policy or in-class procedure noted in this syllabus, then I will refer you to that document for the answer, whether or not the question is asked over email.

Exam Delays and Accommodations:

The law school policy on exam delays and accommodations can be found [here](#).

Disability Related-Accommodations:

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page, available [here](#).

Student Course Evaluations:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may 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 [here](#).

Academic Honesty:

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments.

Reading Map/General Topics Covered

I. Introduction: What is Tort Law?

II. Liability for Intentionally Inflicted Harms

- A. Intentional Torts
- B. Defenses to Intentional Torts

III. Liability for Unintentionally Inflicted Harms: Strict Liability Versus Negligence

IV. Modern Negligence

- A. The Negligence Standard
- B. Plaintiff's Conduct
- C. Cause
- D. Duty

V. Modern Strict Liability

- A. Animals
- B. Ultrahazardous Activities
- C. Vicarious Liability

VI. Damages

- A. Compensatory Damages
- B. Punitive Damages

VII. Products Liability

- A. Background
- B. Manufacturing Defects
- C. Design Defects
- D. Warning Defects
- E. Plaintiff's Conduct

VIII. Apportionment of Liability Among Multiple Tortfeasors [time permitting]

- A. Apportionment of Harm to Causes
- B. Joint and Several Liability