**UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW**

**TORTS SECTION 6**

**FALL 2020**

Professor Jason P. Nance

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Office hours: Wednesdays from 3 to 5pm or by appointment

**MEETING TIME AND LOCATION**

Monday (10:30 to 11:45am); Tuesday (10:30 to 11:45am); Wednesday (9 to 10:15am)

**REQUIRED TEXTS**

Goldberg, Sebok & Zipursky, Tort Law: Responsibilities and Redress (4th ed. 2016). Please make sure that you purchase the correct edition of the book.

**OPTIONAL SUPPLEMENTAL REFERENCE TEXT**

Glannon, The Law of Torts: Examples and Explanations (any edition)

**COURSE OBJECTIVES**

The objective of this course is for you to develop a greater understanding of civil liability for harm caused by wrongful acts that violate non-contractual duties imposed by law. We will cover intentional torts, negligence, intentional and negligent infliction of emotional distress, defenses, damages, strict liability, trespass, wrongful death, and products liability, among other topics.

**LEARNING OUTCOMES**

After completing this course, students should be able to:

* correctly identify and analyze many legal issues relating to tort law;
* analyze various statues and cases involving tort law; and
* understand various policy issues related to tort law and how to use policy to strengthen legal arguments.

**CANVAS**

Please make sure that you can access the Canvas site for this course, where I will post various class materials and announcements.

**CLASS PARTICIPATION**

You will maximize the benefit of this course by coming prepared to discuss the assigned readings for that day. I intend to randomly call on a number of students each class. Please be prepared to discuss the assigned material each day. I may lower your final grade based on your class participation. Students who are frequently absent or are unprepared when called upon may have their final grade reduced. To be “prepared,” you must have read the assignment and have made a good faith effort to think through the materials. You do not have to have perfect answers to my questions, but you must be willing to discuss the assigned reading and work through the questions with the class.

**COMMON COURTESY**

Please do not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Please turn off your cell phone during class. I reserve the right to deduct points from your final grade if you engage in behavior that disrupts the learning environment for your classmates.

**CLASS ATTENDANCE POLICY**

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 medical reason for missing class, you should contact me before or soon after class for your absence to be excused. Students who miss class for religious holidays must contact me beforehand by email to be excused from class.

**CLASS CANCELLATIONS**

At this time, I do not anticipate cancelling any classes this semester, but if that changes, I will attempt to give you as much notice as possible and we will schedule a make-up class.

**EVAULATION**

Your grade will be primarily based on a final examination administered on Friday, December 4. I will distribute several practice exam problems in November that we will go over together to help you prepare for the final exam. We will also engage in practice problems throughout the semester.

**POLICY RELATED TO MAKE-UP EXAMS**

The law school policy on delay in taking exams can be found at: <http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form>

**INFORMATION ON UF LAW GRADING POLICIES**

Grade Points Grade Points Grade Points

A (Excellent) 4.0 C+ 2.33 D- 0.67

A- 3.67 C (Satisfactory) 2.00 E (Failure) 0.0

B+ 3.33 C- 1.67

B (Good) 3.00 D+ 1.33

B- 2.67 D (Poor) 1.00

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

**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>.

**STATEMENT RELATED TO ACCOMODATIONS FOR STUDENTS WITH DISABILITIES**

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.

**ONLINE COURSE EVALUATION PROCESS**

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://gatorevals.aa.ufl.edu/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

**CLASSROOM SAFETY**

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

* You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
* This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
* Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* Be mindful of how to properly enter and exit the classroom.  Practice physical distancing to the extent possible when entering and exiting the classroom.
* If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus.  <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.
* Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work.<https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>.

**RECORDING OF CLASS DISCUSSIONS**

Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online.  Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

**COURSE WORKLOAD AND CLASS PREPARATION**

Students should expect to spend at least two hours outside of class reading and preparing for every hour of class.

**COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS (TENATIVE)**

All assignments are in Goldberg, Sebok & Zipursky, Tort Law: Responsibilities and Redress (4th ed. 2016).

The sections below generally represent what I will attempt to cover during a class period, but they are only estimates. We may move faster or slower depending on how the classes progress.

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| TOPIC | READING |
| Introduction to Torts  | pp. 3-42 |
| Battery: Elements, Intent | pp. 601-622 |
| Battery: Intent (continued); and Knowledge;Assault | pp. 623-648 |
| Transferred Intent; Defenses to Battery and Assault: Consent, Self Defense; Defense and Recapture of Property | pp. 648-676 |
| False Imprisonment; go over exercise on intentional torts (posted on Canvas) | pp. 676-692 |
| Intentional Infliction of Emotional Distress | pp. 695-727 |
| *Hamaker v. Ivy*, 51 F.3d 108 (8th Cir. 1995); Introduction to Negligence | Read *Hamaker* online; pp. 47–68 |
| Introduction to Negligence (cont.); Affirmative Duties to Rescue and Protect | pp. 68-89 |
| Premises Liability; Pure Economic Loss | pp. 90-115 |
| *Rowland*, *Tarasoff*, and the Meaning of Duty | pp. 115-140 |
| Introduction to Breach of Duty | pp. 143-165 |
| Defining the Person of Ordinary Prudence | pp. 165-178 |
| Industry and Professional Custom | pp. 178-201 |
| Reasonableness, Balancing, and Cost-Benefit Analysis; Proving Breach: *Res Ipsa Loquitur* | pp. 201-225 |
| Negligence Per Se | pp. 384-399 |
| Actual Causation | pp. 229-243 |
| Actual Causation | pp. 243-260 |
| Multiple Necessary and Multiple Sufficient Causes | pp. 260-288 |
| Causation and Tortfeasor Identification | pp. 288-305 |
| Proximate Cause | pp. 309-330 |
| The Relational Aspect of Breach of Duty: *Palsgraf* | pp. 330-355 |
| Superseding Cause and Affirmative Duties; *Pollard v. Oklahoma City Ry. Co.*, 128 P. 300 (Okla. 1912); *Clark v. E.I. DuPont de Nemours Powder Co.*, 146 P. 320 (Kan. 1915) | pp. 355-370;read *Pollard* and *Clark* online |
| Superseding Cause and Affirmative Duties  | pp. 370-381 |
| Contributory Negligence and Comparative Responsibility; Express Assumption of Risk | pp. 435-457 |
| Express Assumption of Risk (cont.); Implied Assumption of Risk | pp. 458-474 |
| Immunities and Exceptions from Liability | pp. 482-511 |
| Compensatory Damages  | pp. 513-536 |
| Punitive Damages | pp. 536-555 |
| Vicarious Liability; Joint Liability and Contribution | pp. 555-574 |
| Joint Liability and Contribution (cont.); Indemnification and Liability Insurance; Enforcing Judgments | pp. 574-595 |
| Wrongful Death Acts; Negligent Infliction of Emotional Distress | pp. 400-416; 747-752 |
| Negligent Infliction of Emotional Distress (cont.) | pp. 753-778 |
| Negligent Infliction of Emotional Distress (cont.) | pp. 778-800 |
| Introduction to Liability Without Fault; Trespass to Land | pp. 805-813; 818-820; 822-831 |
| Necessity; Conversion and Trespass to Chattel; Introduction to Products Liability | pp. 831-838; 845-846 (nn. 2&3); 893-904 |
| Products Liability (cont.) | pp. 905-928 |
| Design Defect | pp. 928-948 |
| Design Defect (cont.); Standards of Defectiveness for Prescription Drugs | pp. 949-984 |
| Failure to Warn  | pp. 984-1008  |
| Go Over Practice Exam (posted on Canvas) |  |