

TORTS (LAW 5700-27238)

Syllabus

§1A FALL 2025

University of Florida Levin College of Law

Professor Lyrisa Lidsky (lidsky@law.ufl.edu)

Class Times and Location: MoTWTTh 1:15-2:10 Holand Hall 270

Office Hours and Locations: Holland 313. Mondays: 2:10-3:10. Tuesdays: 2:10-3:10 In addition to regular office hours, I'll conduct "walking office hours" on Tuesdays at 5 pm-6 pm if it's not raining. We can meet in the courtyard. I'll wait there until 5:10 and then start my roughly 3-mile walking route down to Lake Alice and then around the ag school and back to the law school. Bring water if you want to walk with me, and wear workout clothes! It will be hot!

You can schedule an individual appointment with me via email. You can text me if something is important or urgent: 352-514-4044 (my cell).

What this Course is About: Torts are civil causes of action brought to recover monetary compensation for harm done by wrongful acts. Most of what is referred to as "personal injury law" is tort law. At the beginning, we will study intentional torts—battery, trespass to land, trespass to chattels, assault, false imprisonment, and intentional infliction of emotional distress. We will then study the defenses to intentional torts. Studying the intentional torts gives you a good grounding in understanding the differences between civil and criminal law, the "elements" of torts, the concept of a prima facie case, intent, defenses, and other foundational matters. Most of the course, however, will be spent studying the tort of negligence, which imposes liability on an actor whose conduct falls below standards imposed by law for the protection of others against unreasonable risks of harm. Like the intentional torts, negligence imposes liability based on "fault," but negligence covers an immense range of conduct and is the most important tort we will study in the course. Toward the end of the course, we will examine instances when tort liability is imposed upon an actor who is not "at fault," a concept known as strict liability. We will then look at special rules applicable to harms caused by defective products.

Student Learning Objectives: By the end of the course, every student should be able to do the following:

- Read like a lawyer:
 - Read assigned cases and identify the key facts, the legal issues presented, the procedural posture of the case, the case's holding, and the rationale.
 - Begin to learn how to read statutory language.
 - Identify and critique the reasoning underpinning a case's holding.
- Know the law of Torts:

- Demonstrate knowledge of the basic substantive law of Torts, including the elements of tort causes of action, the rules governing those elements, and the policy arguments commonly used in Torts cases.
- Apply the law of Torts to given facts through the process of legal reasoning:
 - Read a hypothetical set of facts, identify possible Torts that may arise from those facts and the law applicable to them, apply the law to the facts, and reach sound legal conclusions.
 - Identify common patterns of arguments in legal cases and make sound, well-reasoned arguments on behalf of both sides of legal disputes.
 - Understand and apply the legal concepts and vocabulary necessary to “argue like a lawyer.”
- Understand the Torts litigation process and how legal reasoning is used within it
 - Be able to read a hypothetical legal document and understand and articulate its role in the process of resolving Torts claims

Required Reading Materials: The assignments are in the casebook by John Fabian Witt and Karen Tani, titled Torts: Cases, Principles, and Institutions (6th ed.) unless otherwise noted. The book is available at cali.org. I’ve chosen this book to keep your costs low, and I also like its coverage. It is a very traditional Torts *casebook*, though it provides historical and theoretical materials to ground your understanding of the cases. Additional handouts will be posted on CANVAS. Check CANVAS regularly for more course information.

Class Preparation/Expectations: I expect you to come to every class having read the assignments at least twice. I will call on students at random every day. If you are unprepared, I will call on you the next day. If you are unprepared twice in a row, I will ask you to come to my office to discuss the situation. If you have an extreme fear of speaking in public, you should let me know. I will try to help make it possible for you to be called on without causing undue anxiety. Try to remember that your classmates are almost certainly just as anxious as you are.

To prepare yourself for being called on, keep in mind that the following questions are representative of the types I will ask: What are the facts of the case? What level of court decided the case--state or federal, trial or appellate, intermediate appellate or supreme court? What is the procedural posture of the case? (What error was allegedly made in the trial court?) What is the holding of the case? What is the rationale of the case? What policy arguments support the result in the case? What are the counterarguments? Was the case decided correctly? Don’t be surprised if you find that you are not focusing on the right aspects of the cases at first. Learning to read cases is a skill that takes time to learn. Students will commonly say, “I thought I understood the case until I went to class.” The reason that this experience is so common is that lawyers read cases through a prism of procedure, and you will only learn to think like a lawyer once you start reading cases through that prism, too. Be sensitive to the fact that the class is large. I make every effort to encourage participation by every member of the class, within the constraints posed by the size of the class.

Common Courtesy: Please turn off your cell phone during class. Please do not engage in distracting behaviors during class. Please do not be late to class or leave class early absent extenuating circumstances. As a courtesy, I would appreciate it if you let me know if you need to leave early or arrive late. I will ask you to consult with me in my office if you engage in behavior that disrupts the learning environment for your classmates. You are required to use your laptops and phones only for course purposes.

EXAM AND PASS/FAIL ASSESSMENTS

“Quizzes” (15 points total): I will assign three “quizzes” in this course. All three will be take-home assignments. The quizzes may consist of multiple-choice questions, short-answer questions, or they may involve a group exercise with assigned partners. The group exercise may be done on zoom or a similar communications platform. Each quiz is worth 5 points each, and you will get the points if you take the quiz and turn it in a timely fashion. In other words, the quizzes are pass/fail. The pedagogical reason I give these low-stakes assessments is detailed in the book Make It Stick, which I highly recommend to anyone who wants to do well as a student in any kind of course.

Final Exam (175 points): The exam will be closed book and administered in class. Exams are graded anonymously. This exam will be graded on a curve. The exam will be designed according to principles of “universal design.” You will have eight hours to complete the exam, but it should take the average student no longer than three to complete. Thus, there should be no need to request accommodations allowing extra time. The exam will not be time-pressured, but it will be space-limited.

Although class participation will not count in your final grade, you should keep in mind that you may want to ask me for recommendation letters in the future, and it is very hard for me to write a strong letter for you if you never said a word in class.

EXAM DELAYS AND ACCOMMODATIONS:

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

INFORMATION ON UF LAW GRADING POLICIES:

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 4.0
A- 3.67
B+ 3.33
B 3.0
B- 2.67
C+ 2.33
C 2.0
C- 1.67
D+ 1.33
D 1.0

D- 0.67

E (Failure) 0.0 12.

CLASS ATTENDANCE POLICY: Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed 5 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 will be dropped from the course. The law school's policy on attendance can be found [here](#).

OTHER POLICIES

Discussion Board: Please take advantage of the Discussion Board on Canvas to ask me questions that arise as you are studying. That way, my answers can benefit everyone. I do not grade comments posted on the discussion board.

Cali Lessons: You may want to register for an account with the website called Computer Assisted Legal Instruction, cali.org. On CALI, you will find many resources to assist you in your first semester, including podcasts, explanations, practice questions and the like. This is for your own benefit. I also recommend a study guide for Torts called Examples and Explanations, by Joseph Glannon. You can probably find a cheap used copy.

Make-up Classes: If I must miss a class to travel to speak at a conference, to observe a religious holiday, or for another valid reason, we will make it up either in person or via recorded lectures.

OBSERVANCE OF RELIGIOUS HOLIDAYS: UF Law respects students' observance of religious holidays.

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

Online Course Evaluation Process:

Students are expected to provide feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. 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.bluer.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

Recordings of Class Discussions.

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor. A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or guest lecturer during a class session. Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor and Student Conduct Code.

ABA OUT-OF-CLASS HOURS REQUIREMENTS: ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. According to ABA Standard 310, given that we will have FOUR “classroom hours” per week, at least EIGHT hours of preparation are required outside of class.

Statement on Academic Honesty:

UF Law’s Honor Code is located [here](#). As future members of the legal profession, I expect you to conduct yourself with the highest degree of integrity, truthfulness, professionalism, and respect for the rules and the dignity of others. Any dishonesty or attempt to gain unfair advantage while in law school will be scrutinized by the Bar in determining whether you will gain admission. Act accordingly.

Health and Wellness Resources:

- U Matter, We Care: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit U Matter, We Care website to refer or report a concern and a team member will reach out to the student in distress.
- Counseling and Wellness Center: Visit the Counseling and Wellness Center website 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 Student Health Care Center website.

- University Police Department: Visit UF Police Department website or call 352- 392-1111 (or 9-1-1 for emergencies).

Basic Needs Assistance:

Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs. We care about you, and we can help.

Special Note Regarding the Bar Exam: To become a lawyer, you will need to take a bar examination after you receive your J.D. Most of you will be taking the bar examination in a new format called the NextGen Bar Exam. This exam has three components: multiple-choice questions (40%); integrated question sets (approx.. 25%); and “longer writing tasks” (approx.. 25-30%). The longer writing tasks on the Bar Exam “will require examinees to demonstrate their ability to use fundamental lawyering skills in realistic situations, completing tasks that a beginning lawyer should be able to accomplish.” An integrated question set is a series of questions (multiple-choice and short answer) based on a common fact scenario. The examinee must play the part of a lawyer for one side in a dispute and answer questions at various stages of the dispute. In your assignments and in your final exam, I will try to give you opportunities to answer these types of questions. I will also focus on questioning you in class in ways that develop the relevant skill sets to do well on the bar exam.

You should be aware that reasoning to a conclusion by applying a given set of facts to a particular rule of law is a key legal skill that you will learn in law school. The new bar exam also tests your ability to apply legal reasoning to figure out what is missing in a legal argument/piece of analysis.

The thought process lawyers often use involves a syllogism with a major premise, a minor premise, and a conclusion, such as:

Major Premise: Cruel and unusual punishment by a state violates the Eighth Amendment.

Minor Premise: Executing a minor is cruel and unusual punishment.

Conclusion: Executing a minor is forbidden by the Eighth Amendment.

The typical exam provides a hypothetical (set of facts) and then asks you to identify the legal issues it presents and the legal rules necessary to resolve those issues. These make up the Major Premise. Next, you must apply these rules to the facts given (The Minor Premise) and reason your way to the conclusion or conclusions.

The new law school exam may “flip” this pattern by, for example, providing you with a conclusion and ask you what facts would be necessary to lead to that conclusion. In order to do this, the examinee must understand the litigation process and how facts are marshaled within that process. As one professor who has studied the new exam format wrote, “Some questions [on the new bar exam] will invert the usual order of things by supplying the conclusion and demanding that the examinee provide the missing minor premise that will best lead to that conclusion.” See Scott Caron, *The NextGen Bar Exam Meets the Next Generation Law Student: A Revised Approach to Legal Analysis*, 50 U. Dayton L. Rev. 43 (2024). You will be able to answer this type of question if you understand the legal reasoning process inside and out and how it operates “in the real world.”

ASSIGNMENTS

Week	Topic	Pages
1	Introduction to American Tort Law: Intentional Torts A. Principles & Institutions B. The Tort of Battery	1-35; 48-50 Article: The Anatomy of a Torts Class (on Canvas)
2	Intentional Torts: A. Assault B. False Imprisonment C. Intentional Infliction Defenses A. Self-Defense	51-69
3	Defenses A. Self-Defense B. Consent C. Necessity Quiz #1 (due date announced in class)	81-97
4	Negligence/Breach: A. The Reasonable Person's Characteristics: Physical, Age, Mental, "Unreasonable Faiths," Sex/Gender?	137-169

5	Negligence/Breach: A. Basics and B>PL B. Critique of Cost-Benefit C. Custom D. Custom & Med Mal	170-189; 200-220
6	Negligence/Breach: E. Violation of Statutory Standard F. Proof Basics G. Res Ipsa H. Negligence Puzzles Quiz #2 (due date announced in class)	220-247; 254-257 Pillars v. R.J. Reynolds Tobacco Co, 78 So. 365 (1918)
7	Causation: A. Basics--But-For as the Default B. Loss of Chance C. Multiple Tortfeasors & the Substantial Factor Test D. Alternative Liability E. Market-Share	298-335
8	Proximate Causation:	339-383

	<p>A. Basics: Directness, Foreseeability, Harm Within the Scope of the Risk</p> <p>B. Unexpected types of harm</p> <p>C. Unexpected extent of harm</p> <p>D. Unexpected manner of harm</p> <p>E. Unexpected plaintiffs</p> <p>F. Intervening Causes</p> <p>G. Rescuers</p> <p>H. Subsequent Medical Malpractice</p>	<p>United Novelty Co. v. Daniels, 42 So.2d 395 (1949)</p>
9	<p>Duty:</p> <p>A. General Principles</p> <p>B. “No duty to rescue” and exceptions</p> <p>C. Landowner/Occupier duties</p> <p>D. No duty not to negligently inflict emotional distress and exceptions</p> <p>E. No duty to protect P from criminal acts of third parties and exceptions</p>	<p>384-452</p>

	F. No duty to control the actions of third parties and exceptions	
10	Damages: A. Wrongful Death versus Survival Actions B. Compensatory Damages: Pecuniary & Non-pecuniary Defenses: A. Contributory vs. Comparative Negligence	626-659; 662-664, 258-273 FL Statute 768.81
11	Defenses: A. Types of Comparative Negligence: Pure, Modified 51 % Bar; Modified 50 % Bar B. Assumption of the Risk C. Seat Belt Defense D. Complications Arising from the Shift to Comparative Negligence Quiz #3 (due date announced in class)	273-297 Murphy v. Steeplechase, 250 N.Y. 479 (1929)
12	Liability without Fault: A. Vicariously Liability	493-513; 547-559

	B. Wild and Abnormally Dangerous Animals C. Abnormally Dangerous Activities D. Intro to Products Liability	Foster v. Preston Mill Co., 268 P.2d 645 (1954)
13	Products Liability: A. History/Rationales B. Types of Defects C. Tests for Defects	559-594
14	Products Liability: D. Defenses based on Plaintiff's Conduct E. Preemption Review Session	594-612

