

# Syllabus for Torts

Law 110 (R04)

Fall 2024

4 Credits

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## I. COURSE MATERIALS

Frank J. Vandall, Ellen Wertheimer, and Mark C. Rahdert, *Torts: Cases and Problems* (Carolina 4th ed. 2018).

Supplemental cases and articles have been uploaded onto Blackboard.

## II. LEARNING OUTCOMES

By the end of the course, students should have an understanding of the principles of tort law and the structure of the American legal system. Students should also have an understanding of the moral and economic policy considerations underlying tort law. Additionally, students should learn general skills on how to read and analyze cases and other legal materials, to identify and respond to legal problems, to make legal arguments, and to apply legal rules to facts.

## III. OFFICE HOURS

Office hours are Thursday from 4-6 p.m. You do not need to make an appointment to see me at those times, though you are welcome to send an email ahead of time to let me know to expect you. I realize that many students work during the day and I am happy to meet at other times if you email me for an appointment. Generally, email is a more reliable way to reach me than phone.

## IV. GRADES

Your grade will be based on an open book final exam, which is graded blindly. The exam will be on campus. I will provide additional details regarding the exam later in the semester.

## V. REMOTE TEACHING

This is a hybrid class that will be conducted partly on Zoom. You will need a computer with a good internet connection, a camera, and a microphone. To facilitate interaction, please keep your camera on at all times while class is in session, even if you are not speaking, though you may use a virtual background if you wish to keep your surroundings private. You should mute your microphone unless you are speaking.

For in-person classes, I generally do not permit participation by Zoom, except when someone is ill. By the same principle, if you are experiencing symptoms of Covid-19 or any other respiratory illness, please do *not* come to in-person class until

you fully recover. Logging in via Zoom can be arranged for anyone who has a medical reason to be absent, if you provide me reasonable notice (at least two hours, preferably more).

## **VI. COLD-CALLING**

Classes (both in person and remote) will mostly be conducted in a question-and-answer format. I expect everyone to be prepared for class, and everyone is “on call” every class. If you are not prepared and get called upon, you will simply have to make your best attempt to answer the question. This policy is strict but is not intended to be malicious—it is to motivate everyone to always be prepared.

## **VII. READING ASSIGNMENTS**

Generally, we will cover one segment per class. These assignments are subject to change depending on our progress in class. If we fall behind the schedule (which is likely, and a class is left open for this), we will carry the material over to the next class. I expect you to remember material read for the prior class.

The assigned pages include both the excerpted cases and the casebook authors’ notes about them. I recommend reading the notes, but we will focus mainly on the cases in class. Where the notes are particularly important, I have noted this fact.

Please ensure that you read the supplemental materials on Blackboard for class. These are as important as the casebook materials.

### **1. Nature of Tort**

Blackboard

*The Case of the Thorns*, YB 6 Edw. IV, 7a pl 18 (1466)

Casebook 3-8

*Brown v. Kendall*, 60 Mass. 292 (1850)

*Please read note 3 on page 4.*

### **2. Assault and Battery I**

Casebook 17-21, 25-28, 32-33

*Garratt v. Dailey*, 279 P.2d 1091 (Wash. 1955)

*Vosburg v. Putney*, 50 N.W. 403 (Wis. 1891)

*Fisher v. Carrousel Motor Hotel, Inc.*, 424 S.W.2d 627 (Tex. 1967)

### **3. Assault and Battery II; Trespass**

Casebook 34-39

*Lambertson v. United States*, 528 F.2d 441 (2d Cir. 1976)

*Conley v. Doe*, 14 Mass L. Rptr. No. 3, 29 (2001)

*Bouton v. Allstate Ins. Co.*, 491 So. 2d 56 (La. App. 1986)

Blackboard

*Tex.-N.M. Pipeline Co. v. Allstate Const., Inc.*, 369 P.2d 401 (N.M. 1962)

#### **4. Defenses I: Consent; Self-Defense**

Casebook 83-86, 90-94, 101-102

*Mohr v. Williams*, 104 N.W. 12 (Minn. 1905)

*Marchetti v. Kalish*, 559 N.E.2d 699 (Ohio 1990)

*Teolis v. Moscatelli*, 119 A. 161 (R.I. 1923)

Blackboard

*Haworth v. Elliott*, 153 P.2d 804 (Cal. App. 1944)

*Townsend v. Briggs*, 34 P. 116 (Cal. 1893)

#### **5. Defenses II: Necessity**

Casebook 121-128

*Vincent v. Lake Erie Transp. Co.*, 124 N.W. 221 (Minn. 1910)

*Wegner v. Milwaukee Mutual Ins. Co.*, 479 N.W.2d (Minn. 1991)

Blackboard

*Surocco v. Geary*, 3 Cal. 69 (1853)

*London Borough of Southwark v. Williams*, [1971] Ch 734

#### **6. Negligence: The Duty of Care**

Blackboard

*Donoghue v. Stevenson* [1932] AC 562 (U.K.)

Casebook 146-148

*H.R. Moch Co. v. Rensselaer Water Co.*, 159 N.E. 896 (N.Y. 1928)

#### **7. Exceptions to Duty: Duty to Rescue and Duty to Control Others**

Blackboard

*Hurley v. Eddingfield*, 59 N.E. 1058 (Ind. 1901)

Casebook 145-146, 152-159

*Yania v. Bigan*, 155 A.2d 343 (Penn. 1959)

*Tarasoff v. Regents of the University of California*, 551 P.2d 334 (Cal. 1976)

*Vince v. Wilson*, 561 A.2d 103 (Vt. 1989)

## **8. Negligence: Defining the Reasonable Person**

Casebook 202-213, 217-221

*Vaughan v. Menlove*, 132 Eng. Rep. 490 (Common Pleas 1837)

*Berberian v. Lynn*, 845 A.2d 122 (N.J. 2004)

*Roberts v. La.*, 396 So. 2d 566 (La. App. 1981)

*Robinson v. Lindsay*, 598 P.2d 392 (Wash. 1979)

*Heath v. Swift Wings, Inc.*, 252 S.E.2d 526 (N.C. App. 1979)

Blackboard

*Fredericks v. Castora*, 360 A.2d 696 (Penn. 1976)

## **9. Negligence: Assessing the Reasonableness of Conduct**

Casebook 233-241, 247-251

*The T.J. Hooper*, 53 F.2d 107 (S.D.N.Y. 1931), *aff'd* 60 F.2d 737 (2d Cir. 1932)

*Baltimore & Ohio R.R. Co. v. Goodman*, 275 U.S. 66 (1927)

*Pokora v. Wabash R.R. Co.*, 292 U.S. 98 (1934)

*Tedla v. Ellman*, 19 N.E.2d 987 (N.Y. 1939)

*Please read the notes on pages 248-251, especially notes 1 and 6.*

## **10. The Hand Formula**

Casebook 194-196

*United States v. Carroll Towing Co.*, 159 F.2d 169 (2d Cir. 1947)

Blackboard

*McCarty v. Pheasant Run, Inc.*, 826 F.2d 1554 (7th Cir. 1987)

*Grimshaw v. Ford Motor Co.*, 174 Cal. Rptr. 348 (Cal. App. 4th Dist. 1981)

## **11. Causation I: Cause-in-Fact**

Casebook 281-285, 290-307

*Calhoun v. Honda Motor Co.*, 738 F.2d 126 (6th Cir. 1984)

*Anderson v. Minneapolis, St. Paul & Saulte Ste Marie R'y Co.*, 179 N.W. 45 (Minn. 1920)

*Summers v. Tice*, 199 P.2d 1 (1948)

*Hymowitz v. Eli Lilly & Co.*, 539 N.E.2d 1069 (N.Y. 1989)

*Falcon v. Memorial Hospital*, 462 N.W.2d 44 (Mich. 1990)

## **12. Causation II: Proximate Cause**

Casebook 317-325, 328-336

*In re Arbitration Between Polemis & Furness, Withy & Co.*, 3 K.B. 560 (1921)

*The Wagon Mound No. 1*, [1961] A.C. 388 (U.K.)

*Palsgraf v. Long Island R.R. Co.*, 162 N.E. 99 (N.Y. 1928)

*Petitions of the Kinsman Transit Co.*, 338 F.2d 708 (2d Cir. 1964)

Please read note 8 on pp. 324 regarding *The Wagon Mound No 2*, [1967] 1 AC 617.

Blackboard

*Smith v Leech Brain & Co.*, [1962] 2 QB 405.

*Petitions of the Kinsman Transit Co.*, 388 F.2d 821 (2d Cir. 1968)

## **13. Causation III Proximate Cause (cont.)**

Casebook 339-345, 349-354

*Weirum v. RKO Gen., Inc.*, 539 P.2d 36 (Cal. 1975)

*Watson v. Kentucky & Indiana Bridge & R.R. Co.*, 126 S.W. 146 (1910)

*Kelly v. Gwinnell*, 476 A.2d 1219 (N.J. 1984)

## **14. Contributory Negligence**

Casebook 653-664

*Li v. Yellow Cab Co.*, 532 P.2d 1226 (Cal. 1975)

*Davies v. Mann*, 152 Eng. Rep. 588 (Ex. 1842)

Blackboard

*Davis v. Consolidated Rail Corp.*, 788 F.2d 1260 (7th Cir. 1986)

R.H. Coase, *The Problem of Social Cost*, 3 J.L. & Econ. 1 (1960)

## **15. Assumption of Risk**

Casebook 665-675, 703-706, 718-721

*Goepfert v. Filler*, 563 N.W.2d 140 (S.D. 1997)

*Ray v. Downes*, 576 N.W.2d 896 (S.D. 1998)

*Blackburn v. Dorta*, 348 So. 2d 287 (Fla. 1977)

*Vinikoor v. Pedal Pennsylvania, Inc.*, 974 A.2d. 1233 (Penn. App. 2009)

## **16. Occupier's Liability**

Casebook 421-437, 444-450

*Rowland v. Christian*, 443 P.2d 561 (Cal. 1968)

*Gerchberg v. Loney*, 576 P.2d 593 (Kan. 1978)

*Wrinkle v. Norman*, 301 P.3d 312 (Kan. 2010)

*Crawford v. Pac. W. Mobile Estates, Inc.*, 548 S.W.2d 216 (Mo. App. 1977)

## **17. Strict Liability for Dangerous Activities**

Casebook 525-537, 721-726

*Fletcher v. Rylands*, 4 H. & C. 263 (Ex. 1866), *aff'd*, [1868] UKHL 1

*Turner v. Big Lake Oil Co.*, 96 S.W.2d 221 (Tex. 1936)

*Yukon Equip., Inc. v. Fireman's Fund Ins. Co.*, 585 P.2d 1206 (Alaska 1978)

*Marshall v. Ranne*, 511 S.W.2d 255 (Tex. 1974)

Blackboard

*Filburn v. People's Palace and Aquarium Co.*, (1890) L.R. 25 Q.B.D. 258

## **18. Res Ipsa Loquitur; Strict Products Liability**

Casebook 266-275, 262-264, 564-580

*Ybarra v. Spangard*, 154 P.2d 687 (Cal. 1944)

*Anderson v. Somberg*, 338 A.2d 1 (N.J. 1975)

*Escola v. Coca-Cola Bottling Co.*, 150 P.2d 436 (Cal. 1944)

*Greenman v. Yuba Power Prods., Inc.*, 377 P.2d 897 (Cal. 1963)

*Phillips v. Kimwood Mach. Co.*, 525 P.2d 1033 (Or. 1974)

## **19. Strict Products Liability (cont.); Defenses to Strict Liability**

Casebook 581-592, 632-640, 726-730, 735-746

*Barker v. Lull Eng'g Co.*, 573 P.2d 443 (Cal. 1978)

*Powers v. Taser Int'l, Inc.*, 174 P.3d 777 (Ariz. App. 2007)

*McCown v. Int'l Harvester Co.*, 342 A.2d 381 (Penn. 1975)

*Daly v. Gen. Motors Corp.*, 575 P.2d 1162 (Cal. 1978)

## **20. Vicarious Liability; Joint Liability**

Blackboard

*Estes v. Comstock Homebuilding Cos., Inc.*, 673 S.E.2d 399 (N.C. App. 2009)

*Schlotfeldt v. Charter Hospital of Las Vegas*, 910 P.2d 271 (Nev. 1996)

Casebook 396-402

*Walt Disney World v. Wood*, 515 So. 2d 198 (Fla. 1987)

*Please read note 1 on page 398.*

## **21. Economic Loss Rule; Damages**

Blackboard

*Louisiana ex rel. Guste v. M/V Testbank*, 752 F.2d 1019 (5th Cir. 1985)

Casebook 366-371, 483-492, 506-524

*People Express Airlines v. Consol. Rail Corp.*, 495 A.2d 107 (N.J. 1985)

*BMW of N. Am., Inc. v. Gore*, 116 S. Ct. 1589 (1996)

*Seffert v. Los Angeles Transit Lines*, 364 P.2d 337 (Cal. 1961)

## **22. Defamation**

Casebook 767-772, 780-783, 794-803, 787-790

*Romaine v. Kellinger*, 537 A.2d 284 (N.J. 1988)

*Pring v. Penthouse Int'l*, 695 F.2d 438 (10th Cir. 1983)

*N.Y. Times v. Sullivan*, 376 U.S. 254 (1964)

*Lieberman v. Gelstein*, 605 N.E.2d 344 (N.Y. 1992)

## **23. Infliction of Emotional Distress**

Casebook 47-57, 159-167, 171-175

*Harris v. Jones*, 380 A.2d 611 (Md. 1977)

*Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988)

*Quill v. Trans World Airlines*, 361 N.W.2d 438 (Minn. 1985)

*Potter v. Firestone Tire & Rubber Co.*, 863 P.2d 795 (Cal. 1993)

*Boyles v. Kerr*, 855 S.W.2d 593 (Tex. 1993)

*Please read note 6 on pages 171-172.*

## **24. Invasion of Privacy; Misrepresentation**

Casebook 881-890, 896-902, 910-913,

*Shulman v. Group W Productions, Inc.*, 955 P.2d 469 (Cal. 1998)

*Haynes v. Alfred A. Knopf, Inc.*, 8 F.3d 1222 (7th Cir. 1993)

*Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231 (Minn. 1998)

Blackboard

*Bortz v. Noon*, 729 A.2d 555 (Penn. 1999)

## **25. Tortious Interference with Contract**

Blackboard

*Tarleton v. McGawley*, 173 Eng. Rep. 153 (K.B. 1794)

*Pennzoil Co. v. Texaco, Inc.*, 729 S.W.2d 768 (Tex. App. 1987)

*Della Penna v. Toyota Motor Sales, U.S.A., Inc.*, 902 P.2d 740 (Cal. 1995)

## **26. Catch-up and Revision**

No new reading