

Torts

FSU College of Law

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Welcome to law school and to Torts!

This syllabus contains all the administrative details you'd ever want about the course, mostly to satisfy university rules, but it also contains some general information you'll probably want to read.

Casebook:

The casebook is my own: *Modern Tort Law: Context, Cases, and Materials* from West. It's designed to be more direct and helpful than the older generation of casebooks—no meandering lists of dozens of questions after each case, for example. Also, each reading assignment is simply a single chapter from the book. I'm a little angsty about making you pay for my own book; I arranged in advance for it to be less expensive than the typical casebook, and while that panned out, it's not *much* cheaper, and like all textbooks it's still too expensive. The electronic version is fine to buy if you want, and there's a 15% discount if you get it (or the printed book) directly from the publisher (westacademic.com) by using the discount code WAFSU. Some bookstores also sometimes have discounts on the printed book.

Course Objectives:

The course covers the law of torts, or civil wrongs outside contract law. For example, lawsuits by people injured in car accidents are tort suits. Like many modern torts courses, the course focuses on unintentional harms (accidents).

A more general purpose of the course is to ground you in common-law reasoning, equipping you to make sound legal arguments. Learning the common law involves learning what kinds of issues the law cares about, what motivates legal decision-making, and what counts as a good legal argument. The principles and techniques you will learn in this course underlie many other legal subjects that you will encounter later.

Common law is flexible and responsive. It is not just a list of “rules” but a way to approach the resolution of complex disputes in a world where things like social norms and technology constantly change.

As is typical for first-year law courses at FSU (and almost everywhere else), there is no particular focus on Florida law.

Course Policies:

Reading for the course is relatively light in terms of page counts, because we consider the material carefully. Accordingly, I expect you to be prepared for every class. I will call on students routinely. I do my best not to make that stressful or scary, and I'll explain more about why and how I do it in class.

You may use laptops during class. (You can use desktops too, if you'd like. Mainframes, even. I'm actually one of the few people I know who still uses desktop computers.) However, my experience—and numerous studies—have shown that for most students, they do more harm than good. So I strongly recommend that you just come with (say) a pen and paper and simply pay close attention to class. But you can do what you want. It turns out that, according to studies, using laptops to browse the web aimlessly actually hurts the performance of *other* students in the class too, so if you think you might be affected by that you might want to sit up front—or at least in a place where other people's laptop screens aren't in view.

Attendance at every class session is expected. According to ABA and College policies, the law school's administration may disenroll you if you miss more than 20% of the classes without an excuse. Classes are recorded and available through the course website, and you shouldn't come to class if you're sick; just let me know and I will treat the absence as excused.

Grades and Exam:

Grading will be based primarily on a final exam. The exam will be held at the law school during the regularly scheduled exam period.

Excellent class participation may be rewarded in your final grade.

Code of Conduct:

The College of Law's Student Conduct Code governs the academic conduct of students at the Florida State University College of Law. Students are bound by the College of Law's Student Conduct Code in all their academic work. The Code outlines the College of Law's expectations for the integrity of students' academic work, the procedures for resolving alleged violations of those expectations, and the rights and responsibilities of students and faculty members.

Accommodations:

During the first week of class, students with disabilities that require academic accommodation should (1) register with and provide documentation to FSU's Office of Accessibility Services (their phone number is 850-644-9566) and then (2) bring a letter to Chris Busch, Assistant Dean of Student Affairs at the College of Law (his phone number is 850-645-0241), indicating the need for accommodation and the type of accommodation needed. Note that, unlike for FSU undergrads (and unlike what some FSU campus websites say), you should *not* notify me of any accommodations that affect the final exam; that restriction is meant to preserve exam anonymity. (The law school's rules require that final exams be fully anonymous.) Please contact me or Dean Busch if you need a copy of this syllabus in an alternative format.

Outline of Course

The details of which material we'll cover on each day are subject to change; my goal for now is just to give you a general overview of the course so that you'll know what to expect—and also to show you any planned class cancellations and makeup classes so that you're aware of them.

Class #	Day & Date	Topic and Pages to Read
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Part I: Introduction

Key questions: What's going on? What is the law of torts? How do legal cases work, and how do we read them? How should we begin to think about whether a defendant should be legally liable? Can some people be liable for other people's conduct?

1:	Mon. August 24	Chapter 1: Introduction Also, please listen to the audio excerpt on the course website titled "No One Drowned."
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Part II: Principles of Negligence Liability

Key questions: Should liability depend on being "at fault"? What does it mean for someone to be at fault? Who decides? Does it vary by industry or custom?

2:	Tue. August 25	Chapter 2: Breach: Reasonable care
3:	Thu. August 27	Chapter 3: Breach: Other standards
4:	Mon. August 31	Chapter 4: Breach: Negligence per se
5:	Tue. September 1	Chapter 5: Breach: Proving negligence
6:	Thu. September 3	Chapter 6: Breach: Doctors

Mon. September 7

NO CLASSES — LABOR DAY

Part III: Duty

Key questions: Are there special cases where, even if someone is at fault and directly causes harm, they aren't liable? Why would this be?

7:	Tue. September 8	Chapter 7: Duty basics; Duty as policy
8:	Thu. September 10	Chapter 8: Duty: "Too many plaintiffs"
9:	Mon. September 14	Chapter 9: Duty: Rescue
10:	Tue. September 15	Chapter 10: Duty: Premises liability
11:	Thu. September 17	Chapter 11: Duty: Other categories

Part IV: Factual Causation

Key questions: When liability depends on causing harm, what does it mean to cause harm?

12:	Mon. September 21	Chapter 12: Causation: Intro
13:	Tue. September 22	Chapter 13: Causation: Caselaw
14:	Thu. September 24	Chapter 14: Causation: Exceptions and puzzles
15:	Mon. September 28	Chapter 15: Causation: Lost chance

Part V: Scope of Liability (“Proximate Causation”)

Key questions: What if a defendant causes harm but in an unusual and unexpected way? What if (as is always true) more than one thing causes an injury?

16:	Tue. September 29	Chapter 16: Scope of Liability: Intro
17:	Wed. September 30 [MAKE-UP]	Chapter 17: Scope of Liability: Intervening People
18:	Thu. October 1	Chapter 18: Scope of Liability: Exceptions

Part VI: Measuring Damages

Key questions: How do we turn legal harms into money? What roles do legal damages play, and what principles govern them?

19:	Mon. October 5	Chapter 19: Damages: Compensatory: Basic
20:	Tue. October 6	Chapter 20: Damages: Compensatory: Emotional
21:	Thu. October 8	Chapter 21: Damages: Punitive

Part VII: Nonphysical Harms

Key questions: Does what we’ve learned so far cover all kinds of injuries, even nonphysical ones? Why (and how) might we want to treat those cases differently?

22:	Mon. October 12	Chapter 22: “Pure” emotional harm
23:	Tue. October 13	Chapter 23: “Pure” economic harm

Part VIII: Strict Liability

Key questions: What are the areas where no fault is required for liability? How is liability established in these areas? How is responsibility apportioned among multiple parties (including plaintiffs)?

24:	Thu. October 15	Chapter 24: Strict liability: Intro
25:	Mon. October 19	Chapter 25: Respondeat superior: Basics
26:	Tue. October 20	Chapter 26: Respondeat superior: caselaw

	Thu. October 22	NO TORTS CLASS
27:	Mon. October 26	Chapter 27: Strict liability: Unexpected activities
28:	Tue. October 27	Chapter <u>29</u> : Products liability: Manufacturing
29:	Thu. October 29	Chapter 30: Products liability: Design
30:	Mon. November 2	Chapter 31: Products liability: Warnings
31:	Tue. November 3	Chapter 32: Products liability: Misuse
32:	Wed. November 4 [MAKE-UP]	Chapter 33: Private necessity
	Thu. November 5	NO TORTS CLASS

Part IX: Defenses

Key question: What if the plaintiff is at fault, in addition to one or more defendants? What if the plaintiff agrees not to sue before being injured? Are there other ways a plaintiff might “accept” danger and therefore have no legitimate claim?

33:	Mon. November 9	Chapter 34: Comparative negligence
34:	Tue. November 10	Chapter 35: Tort contracts
35:	Thu. November 12	Chapter 36: Assumption of risk

Part X: Intentional Torts

Key questions: How do intentional harms differ from accidental ones?

36:	Mon. November 16	Chapter <u>38</u> : Battery, assault
37:	Tue. November 17	Chapter 39: False imprisonment, IIED
38:	Thu. November 19	TBD
39:	Mon. November 23	Review session