

# TORTS

## COURSE INFORMATION AND SYLLABUS

Fall 2015

Professor: Alan L. Durham  
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Office Hours: Tuesday & Thursday 3:15-4:15 p.m.  
or by appointment

Course Materials (available in the bookstore):

Franklin & Rabin: Cases and Materials on Tort Law and Alternatives  
(9<sup>th</sup> ed. 2011).

Class Requirements:

Please be in your seat a few minutes *before* class is scheduled to begin. Late arrivals disrupt the class. Keep up with the reading and come to class each day prepared to participate in the discussion. I encourage you to volunteer when you have something to contribute.

Class participation may be a factor in your grade (potentially raising or lowering your grade by one-third grade point – i.e., from a B to a B+ or from a B to a B-). Such adjustments are uncommon. Any raised grades will be based on extraordinary contributions to classroom discussions, accounting for both quantity and quality. Any lowered grades will be based on repeated failure to prepare for class or offer meaningful contributions.

Except as previously noted, your grade for the course will be based on the final examination.

You may use portable computers for note-taking (but not for other uses) during class. Cell phones should be turned off. Recording devices are generally prohibited. Please observe posted rules regarding food and drink in the classroom.

The Law School provides accommodations to students with physical, learning and other disabilities. Students with disabilities should contact Claude Reeves Arrington, Associate Dean for Academic Services, at (205) 348-2728 or carrington@law.ua.edu, so that your needs can be evaluated.

Attendance:

You should plan on missing few if any classes. Keep track of your absences. If you miss 1-5 classes during the course of the semester, generally no prior notice or subsequent explanation is required. If you miss more than 5 classes during the course of the semester, please speak to me about it. I want to make sure that you are keeping up with the class and that any problems you may be experiencing are dealt with before they become serious problems. If you miss more than 9 classes, you must speak to Dean Arrington. Students who exceed 9 absences usually have to re-take the course.

Course Objectives:

The objectives of the course are (1) to learn the basic principles of the common law of torts, including a few peculiarities of Alabama law; (2) to consider and debate the policies underlying those principles; and (3) by discussing the assigned cases, to develop skills in critical reasoning and advocacy.

## **SYLLABUS**

This syllabus is subject to change, depending on the pace at which we proceed. I will provide the reading assignment for each class at the conclusion of the previous class. If I forget to do that, please remind me! You should expect to read, on average, about 3 new cases for each class session.

Page numbers below refer to the Franklin & Rabin textbook. Topics headings are to give you an overview of the subject matter to be covered in class. They do not necessarily correspond to individual class sessions.

You do not need to read pages that are not listed here, unless I tell you otherwise in class.

### **Introduction to Tort Liability**

Pages 1-17 (*Hammontree*)

### **Vicarious Liability**

Pages 17-29 (*Christensen, Roessler*)

### **Negligence and the Reasonable Person**

Pages 39-60 (*Adams v. Bullock, Carroll Towing, Bethel*)

### **The Roles of Judge and Jury**

Pages 60-68 (*B&O RR, Pokora, Andrews*)

### **The Roles of Custom and Statutes**

Pages 68-85 (*Trimarco, Martin v. Herzog, Tedla*)

### **Proof of Negligence**

Pages 85-99 (*Negri, Gordon, Byrne, McDougald*)

### **Duty Toward Potential Victims**

Pages 129-142 (*Harper, Farwell*), 151-161 (*Tarasoff*), 168-188 (*Strauss, Reynolds, Vince*)

## **Duties of Land Owners and Occupiers**

Pages 188-211 (*Carter, Posecai*) [Read *Heins* for background]

## **Duty to Avoid Causing Emotional Harm**

Pages 260-268, 280-298 (*Falzone, Portee, Johnson*)

## **Duty to Avoid Causing Economic Harm**

Pages 310-319 (*532 Madison*)

## **Cause in Fact**

Pages 333-355 (*Stubbs, Zuchowicz*), 364-384 (*Summers v. Tice, Hymowitz*)

## **Proximate Cause**

Pages 393-432 (*Benn, Polemis, Overseas Tankship (aka The Wagon Mound), Doe, Palsgraf*)

## **Plaintiff's Fault**

Pages 433-458 (*Fritts*) [read 440-452 for background]

## **Assumption of the Risk**

Pages 458-483 (*Hanks, Murphy, Davenport*)

## **Strict Liability**

Pages 507-530 (*Fletcher v. Rylands* (both cases), *Sullivan, Indiana Harbor Belt*)

## **Products Liability**

Pages 551-651 (*MacPherson, Escola, Soule, Camacho, Hood, Karl, Vassalo* [read for background], *GM v. Sanchez, Jones, Liriano*)

## **Intentional Torts**

Pages 897-924 (*Garratt, Picard, Wishnatsky, Lopez, Womack*), 945-957 (*Hart* [read for background], *Courvoisier, Katko*),

## **Compensatory Damages**

Pages 710-750 (*Seffert, McDougald, Arambula*)

## **Punitive Damages**

Pages 750-776 (*Taylor, State Farm*)

If we complete these materials and there is additional time, I may assign other readings, probably in the area of governmental liability or intra-family immunities. Usually we have little enough time to cover the materials listed above.