

TORTS REQ7150
FALL 2024
Prof. Pollvogt (“POLE-VOTE”)
SYLLABUS

Welcome to Torts! This is a fascinating area of law that affects many people in their everyday lives, and also an area of law in which I practiced for many years. I look forward to our semester together.

Contact Information	spollvogt@vermontlaw.edu
Casebook	Goldberg, et. al., Tort Law: Responsibilities and Redress, Fifth Edition (Aspen Pub. 2021) ISBN 978-1-5438-0680-9
Class Information	Tuesdays, 6:00 p.m. – 9:00 p.m. ET via Teams <u>NOTE</u> : No class Tuesday, September 17 (Take-home writing exercise) No class Tuesday, October 15 (Fall Break)
Office Hours	Mondays, 4:30 p.m. – 5:30 p.m. ET via Teams OR BY APPOINTMENT I <u>strongly</u> encourage you to reach out to me for individual appointments; I want to support your learning and I will make myself as available as possible. In addition, there will be at least one mandatory individual conference during the course of the semester.
Philosophy of the Course	<u>Bar Exam Competencies</u> . We will track the subject matter and competencies of the UBE and NextGen Bar Exams, which many of you might end taking. While not all of you will be sitting for the bar exam in UBE or NextGen jurisdictions, NextGen in particular provides a heavily researched approach to the practical study of tort law. I will not be “teaching to the test,” but I will make sure that you have exposure to key topics and skills so that you can feel confident in your grounding in Torts. <u>Active Learning</u> . As you probably are aware, active learning is the most effective form of learning. Active learning includes thinking, investigating, discussing, and creating. While reading your casebook and listening to small amounts of lecture provide a necessary informational foundation, they are both passive forms of learning and are insufficient on their own to support true mastery of the material. Thus, this course is built on an active learning model.

	<p><u>Formative Assessment.</u> A closely related concept is formative assessment. This means that rather than focusing your performance solely on a single final exam, you will be completing small legal analysis exercises throughout the semester in addition to two unit exams. This provides both of us with important information about whether you are learning what you need to learn so that you can course correct if necessary.</p> <p><u>Incorporating Skills.</u> At the end of the day, you are studying to become lawyers, not law students. Accordingly, in addition to learning the substantive law, we will focus on practicing a small set of realistic lawyerly skills, including drafting portions of an objective memo and a persuasive brief.</p> <p><u>Client Focus.</u> In connection with this, I want to encourage you to always think about tort law from the perspective of representing a client, whether plaintiff or defendant. Too often we study law in the abstract and forget about the impact it has on real human beings.</p> <p><u>Reflection and Professional Identity Formation.</u> It is our obligation to help you understand and form an idea of yourself as an attorney, with all of the privileges and responsibilities that carries in our society. We will keep this mission front of mind by engaging in frequent reflection about what we are learning and what it means for our development as competent, client-centered professionals.</p> <p><u>Recognition of Bias in the Legal System.</u> As we work our way through the course materials, we want to always be cognizant of the ways in which bias affects both individuals and institutions to influence the outcome in a given case.</p> <p><u>Coaching Model.</u> Finally, I subscribe to a coaching model of teaching. I am here to cheer you on and support you in achieving your goals, but also to push you to be your best. You are ultimately responsible for your performance.</p>
Cameras, Cold Calling, Class Notes, and Case Briefing	<p>Your cameras need to be turned on in class for purposes of accountability and engagement. If you have an emergency situation and can't have your camera on, you need to email me before class.</p> <p>The term "cold calling" evokes an unnecessarily cruel hazing process; this is not my intention in deploying this technique in class. My intention is to incentivize thorough preparation for class and to guide you toward feeling comfortable thinking on your feet. My class is a place where it is OK to not know the answer, to make mistakes, or to fumble with your words. This is part of the learning process.</p>

	<p>Everyone will be on-call for the first class and then we will proceed with panels of ten students. However, to incentivize preparation, everyone will submit their notes to me at the end of every class. I will skim these to look for any major problems. If I see major problems, I will reach out to you.</p> <p>At this point in your law school career, you should not need to create full case briefs for your reading (although you are welcome to). However, you should be taking constructive notes that will put you in a good position to answer the questions I pose in class.</p> <p>As you read, think about:</p> <ul style="list-style-type: none">- What court are we in, who are the parties, and what are the claims?- What is the primary function of the paragraph you are reading? Is it setting forth underlying facts, procedural facts, a legal issue, a rule of law, an application of law to facts, or a conclusion to the analysis? Is it engaging in rule development or a policy analysis? (Note: often a single paragraph will perform more than one function.)- Are you comfortable with the factual scenario that led us to court?- Are you comfortable with the parties and their primary contentions (arguments)?- Are you comfortable with the procedural posture of the case?- Are you confident that you understand the steps in the court's reasoning?
Learning Outcomes	<p>If we, as a group, do our job right, by the end of this course, you should:</p> <ol style="list-style-type: none">(1) Understand the basic contours of and differences between intentional torts, negligence, and strict liability.(2) Understand the interplay between claims and defenses, including the difference between attacks on the prima facie case and affirmative defenses.(3) Be able to deploy structured, IRAC logic to answer bar-exam-style multiple-choice questions on any of the claims and defenses that we study.

	<p>(4) Be able to complete an objective, IRAC analysis of any of the claims and defenses that we study when provided with a novel factual scenario, much as you would in an interoffice memo.</p> <p>(5) Be able to complete a persuasive, CRAC analysis of any of the claims and defenses that we study when provided with a novel factual scenario, much as you would in a brief that you would file in court.</p> <p>(6) Be able to advise a client on the strengths and weaknesses of an argument, including advising when a desired outcome is not possible.</p>
Grading	<p>20% - Formative assessments (class notes, in-class exercises, journal entries, etc.)</p> <p>20% - Exam on Intentional Torts</p> <p>20% - Exam on Negligence</p> <p>40% - Exam on Intentional Torts and Negligence</p>
Attendance	<p>Class attendance is required and will be recorded via participation in chat, polls, and multiple-choice questions throughout class. The attendance policy is explained in detail in the Vermont Law and Graduate School Student Handbook Section II(A).</p>
Accommodations	<p>If you require accommodations, please review the information at https://www.vermontlaw.edu/accommodations and contact the appropriate personnel.</p>

Reading Assignments

Assignment #	Reading
1	NCBE Content Scope Outline AN INTRODUCTION TO TORTS pp. 3-29 [exclude item 10] PP. 1197-1231
2	INTENTIONAL TORTS: BATTERY pp. 667-705
3	INTENTIONAL TORTS: ASSAULT; DEFENSES TO ASSAULT & BATTERY pp. 705-744
4	INTENTIONAL TORTS: FALSE IMPRISONMENT & IIED pp. 744-759; 775-804
5	INTENTIONAL TORTS: TRESPASS TO LAND, TRESPASS TO CHATTELS, CONVERSION pp. 869-917
In-class exam and review	
6	NEGLIGENCE: DUTY pp. 49-76 pp. 76-129
7	NEGLIGENCE: BREACH pp. 149-171
8	NEGLIGENCE: BREACH pp. 195-231
9	NEGLIGENCE: CAUSATION pp. 245-292
10	NEGLIGENCE: CAUSATION pp. 335-382
11	NEGLIGENCE: CAUSATION pp. 382-420
In-Class Exam and Review	
Lecture on Negligence Per Se, Strict Liability, and Products Liability	
Final Exam	