

**TORTS - REQ7150 02**  
**Fall 2024**  
**Professor Stephanie A. Clark**

**SYLLABUS**

**CONTACT INFORMATION**

- Professor Clark [sclark@vermontlaw.edu](mailto:sclark@vermontlaw.edu)
  - Email: preferred, and the official means of communication
  - Office: Waterman 206 (2<sup>nd</sup> Floor)
  - Office phone: 831-1315
- Teaching Assistants:
  - Gabriela Peterson: [gabrielapeterson@vermontlaw.edu](mailto:gabrielapeterson@vermontlaw.edu)
  - Nakyschia Fralin: [nakyschiafralin@vermontlaw.edu](mailto:nakyschiafralin@vermontlaw.edu)

**CLASS INFORMATION**

- **Days:** MWF
- **Time:** 2:10 – 3:25
- **Class Location:** Oakes 007

**OFFICE HOURS**

- Professor Clark – **Wednesdays from 8:30 – 9:30 a.m.** Office Hours are on a drop-in basis, and often includes a small group of students. I highly encourage attending Office Hours even if you don't have specific questions. Much learning happens in Office Hours because individual questions get more focused discussion, and because students learn from each other's questions. Individual meetings are also available by appointment for times outside of Office Hours. Please email to set up a time.
- TA Office Hours are TBD once class starts, and will be announced.

**COURSE OVERVIEW**

Torts is a required JD course that focuses on civil remedies (that do not arise under contract) for, among other harms, personal injury, wrongful death, and/or property damage. Topics that we will study include: (1) intentional torts, including battery, assault, false imprisonment, and intentional infliction of emotional distress; (2) negligence, which involves liability for the failure to use reasonable care in the light of foreseeable risks; (3) strict liability, where liability is imposed even if the defendant may have acted reasonably; (4) products liability; and (5) defenses. We will also study types and apportionment of damages.

Torts is a common law subject, meaning that it relies on judicial decisions. Statutes have become increasingly important in tort law, but the course will emphasize case analysis. Torts is tested on the Bar Exam. It is, therefore, important that you develop a strong foundation in tort law.

This Syllabus, and other important documents and information, are posted on our [Canvas](#) web page. Enrolled students must check Canvas on a regular basis and sign up for Canvas updates to be sent via email.

## **CASEBOOK**

The required text for this course is:

**Goldberg, et. al., Tort Law: Responsibilities and Redress. Fifth Edition (Aspen Pub. 2021) ISBN 978-1-5438-0680-9.**

A list of Assignments and supplemental materials are posted in our Canvas site under “Files.”

## **LEARNING OBJECTIVES**

Upon successful completion of this course, students will be able to:

1. Demonstrate knowledge of the elements of the intentional torts, negligence, strict liability, and products liability, as well as the defenses to these causes of action.
2. Read, analyze, and brief cases.
3. Articulate theories of liability and explain the rationale for courts’ decisions.
4. Identify relevant legal issues, determine the relevant rules, and apply those rules to particular hypotheticals to justify a particular conclusion.
5. Demonstrate a basic knowledge of some of the major the steps in the civil litigation process.
6. Produce a competent written analysis of a basic torts hypothetical.
7. Demonstrate professionalism in meeting course responsibilities.

## **GRADING**

The grade in this course will be based on the following components:

Problem Sets or Exercises: 20%  
Closed Book Midterm: 20%  
Closed Book Final: 60%

Instructions and additional information on assessments will be posted at a later date. The final course grade may be adjusted up for outstanding class preparation and participation that demonstrates a level of engagement above and beyond that which is expected at the professional graduate school level. Class participation is measured primarily by its meaningfulness and utility to the discussion. While frequency matters, it is the substance of your contribution that matters more.

The final course grade may also be adjusted down for lack of professionalism, multiple unexcused class absences, and otherwise in the discretion of the professor if a deduction is merited due to disruptive, disrespectful, or offensive conduct in class. Professionalism includes

attendance, punctuality, class preparation and participation, responsibility, respect, and civility. Each is explained below.

## **COURSE EXPECTATIONS**

### Attendance and Punctuality

**Class attendance is required.** The attendance policy is explained in more detail in the Vermont Law and Graduate School Student Handbook [Sec. II\(A\)](#). Failure to attend class will have a detrimental effect on your understanding of the material and your grade, and it can result in an automatic withdrawal and a grade of F.Wd (failure withdrawal). Read the attendance policy posted in the Handbook before the beginning of the term. TAKE NOTE: Being late to class four times will equal one full absence. Be in class and be on time. (I consider 2:11 as late).

### Class Preparation and Participation

You are expected to be prepared for class and to participate regularly. This class, as with most first-year law classes, will use the Socratic method. Students should expect to be called upon to answer questions about the reading materials, or questions based on the reading materials.

### Email and Canvas

Canvas is a learning management system (LMS), and this course utilizes a Canvas course web page for assignments, videos, slides, documents, quizzes, and other items such as discussion forums. You will be automatically enrolled in the course Canvas site, but it is your responsibility to verify that the email address registered with Canvas is one that you can access and check frequently for course updates. You can access your Canvas settings by clicking “Account” on the top left side of the Dashboard screen, beneath the VLGS logo.

You should check Canvas periodically for updates, and your VLGS email for [Announcements](#) sent through Canvas. This Syllabus and related materials are posted there as well, under correspondingly named tabs on the left side of the screen. Other resources are also posted there. You are responsible for the materials posted under the tabs [Announcements](#), [Syllabus](#), [Modules](#) (this is where all assignments are posted!), and any other Required Course Materials in [Files](#). The Reading and Assignments will indicate when there is assigned reading outside of the Casebook.

I use the Announcements function on Canvas to communicate with the class, and these Announcements will be sent directly to your VLGS email and will also be posted in Canvas (in case you need to go back to look at old Announcement for any reason). You must check your VLGS email regularly, meaning at least once a day and probably more often on class days, to ensure that you do not miss any important Announcements. The VLGS email system is an official method of communication at VLGS and for this course, and it is the primary way that I communicate with you outside class. Please also allow 24 hours for me to respond by email, especially for messages sent after 5:00 p.m. EST on non-class days, and on weekends.

## Responsibility, Respect, Patience, and Kindness

Please show respect, exercise patience, and use kind words when engaging with everyone throughout this class. Torts is a difficult subject in many ways, and everyone will benefit from knowing up front that we will each at some point say something awkward, uncomfortable, and/or wrong in terms of what is being analyzed. Our classroom is a place where all sides of complex human problems need to be discussed and understood – meaning that you and your classmates will be representing positions that are at odds with other positions that are necessarily also being presented for our full exploration of a topic, and may also be at odds with your own feelings and beliefs. This happens in practice as an attorney every day. While you need to live in alignment with your beliefs and values, you will need to keep those safe and at bay to best absorb the material to understand the complexities that exist in tort law. Please recognize your patience and kindness with each other, particularly when a classmate is struggling to work through a difficult concept, will support everyone's learning. Our classroom is a lab, if you will, and we will be working through many problems and experiments together, using new language and new ways of thinking.

In terms of class itself, please arrive before the time for class to start and be ready to dive in. **Other than scanning the QR code for attendance or accessing your digital text or material I've directed you to in class, you are not allowed to use your cell phone or computer.** The following are not allowed: texting, checking email, playing games, updating Instagram, Facebook, shopping, and other computer or smartphone activities.

Also in class, students must raise their hand and wait to be called on before speaking. If you are not speaking, please listen to the contributions of your classmates. Please do not interrupt when someone is speaking, and know that I will limit how far the conversation goes with questions and hypotheticals – and sometimes I may not answer your question (though I will always tell you why)! I will also not be able to call on you every time you raise your hand, and this translates to being more so for students who frequently contribute to our class discussions. There are many reasons why I may not call on someone who has their hand raised including the class flow or pace in terms of material that needs to be covered in a class, or to give other students who are less inclined to raise their hand, more opportunities to engage. It is never because I am disinterested in a student's contributions.

## **COPYRIGHT**

All materials (written and recorded) in this course, including those on the course web site, are copyrighted. This includes slides and any recording of the class by the professor, any student, or any other person. These materials are only for the use of the individual student enrolled in this course and may not be reproduced or distributed without the express written consent of the professor.

## READING ASSIGNMENTS

The initial schedule of reading assignments is below, and is posted in [Modules](#). Updates to assignments or the schedule may happen periodically. I will announce any updates in class and send an announcement, and they will be reflected in an updated [Syllabus](#) as well.

## READING AND ASSIGNMENT SCHEDULE

CLASS	ASSIGNMENT	AGENDA
<b>WEEK 1</b>		<b>INTENTIONAL TORTS</b>
Class 1: 8/26	Content: Overview and Intro to Battery Read: Text 667 - 679 Canvas: Anatomy of a Lawsuit; Case Brief Template	Intro: Being a Lawyer v. Thinking Like a Lawyer; Lawsuit Lifecycle; Briefing; and Battery & Assault: Elements
Class 2: 8/28	Content: Battery cont. Read: Text 679 – 705	
Class 3: 8/30	Content: Assault and Transfer of Intent Read: Text 705 - 721	
<b>WEEK 2</b>		
Monday, 9/2:	<b>LABOR DAY - NO CLASS</b>	
Classes 4: 9/4	Content: Review and Affirmative Defenses Read: Text 721 - 744	Battery & Assault: Defenses; False Imprisonment
Class 5: Friday, 9/6:	Content: Review Affirmative Defenses and False Imprisonment Read: Text 744 – 772	
<b>WEEK 3</b>		
Class 6: 9/9	Content: Review Intl. Torts In class: Timed IRAC Writing Exercise with Review	Timed Writing Exercise; Intentional Infliction of Emotional Distress (IIED)
Class 7: 9/11	Content: IIED Read: Text 775 – 810	
		<b>NEGLIGENCE</b>

Class 8: 9/13	Content: Negligence overview, injury, and begin “duty” – early general duty of care Read: Text 49 – 61	Negligence Overview, Injury, and begin General Duty
<b>WEEK 4</b>		
Class 9: 9/16	Content: Duty (cont.) – General Duty of Care (modern) Read: Text 62-76	General Duty of Reasonable Care; Affirmative Duties: Special Relationships
Class 10: 9/18	Content: Affirmative duties (cont.) Read: Text 76-93	
Class 11: 9/20	Content: Affirmative duties (cont.), Tarasoff and in-class problem Read: Text 94-110	
<b>WEEK 5</b>		
Class 12: 9/23	Content: Premises Liability Read: Text 110-128	Premises Liability; Pure Economic Loss; Begin Breach Element
Class 13: 9/25	Content: Pure Economic Loss Read: Text 129-145	
Class 14: 9/27	Content: Breach Read: Text 149-171	
<b>WEEK 6</b>		
Class 15: 9/30	Content: The Reasonable Person Read: Text 171-195	Breach (cont.): The Person of Ordinary Prudence (aka The Reasonable Person); Custom; Cost-Benefit Analysis; <i>Res Ipsa Loquitur</i>
Class 16: 10/2	Content: Industry & Professional Custom Read: Text 195-217	
Class 17: 10/4	Content: Cost-benefit; <i>Res Ipsa Loquitur</i> ; in-class problems Read: Text 217-242	
<b>WEEK 7</b>		
Class 18: 10/7	Content: Negligence Per Se Read: Text 423 - 439	Breach (cont.): Negligence Per Se; Review & Midterm
Class 19: 10/9	Review Session	

Class 20: 10/11	<b>MIDTERM EXAM</b>	
WEEK 8		
Monday, 10/14	<b>FALL BREAK - NO CLASS</b>	Midterm Review Begin Causation Element: But-For & Loss of Chance
Class 21 & 22: 10/16 <b>*DOUBLE CLASS*</b> 8:30-9:45 & 2:10-3:25	Content: Review & Actual Cause Read: Text 245-292	
10/18: <b>NO CLASS</b>	<b>NO CLASS</b>	
WEEK 9		
Class 23: 10/21	Content: Multiple Causes Read: Text 292-314	Causation (cont.): Multiple Causes; Tortfeasor Identification; Proximate Cause
Class 24: 10/23	Content: Identifying the tortfeasor when "but-for" test fails Read: Text 314-331	
Class 25: 10/25	Content: Proximate Cause Read: Text 335-357	
WEEK 10		
Class 26: 10/28	Content: Superseding causes Read: Text 357-382	Proximate Cause (cont.): Superseding Causes; <i>Palsgraf</i> & <i>Kinsman</i>
Class 27: 10/30 <b>SPECIAL CLASS</b> <b>TIME: 8:30-9:45</b>	Content: <i>Palsgraf</i> Read: Text 382-396; 405-406	
<b>NO CLASS: 11/1</b> <a href="#">[Constitution Day]</a>		
WEEK 11		
Class 28: 11/4 <b>ASYNCHRONOUS</b>	Read: Text 407 – 420 Watch: Video Review on Foreseeability in Duty, Breach, and Proximate Cause & Content: Sovereign Immunity Read: 542-543; 547-554 Watch: Video lecture on Immunities and Damages	Review of Foreseeability in Duty, Breach, & Proximate Cause  Damages Element: Immunities; Compensatory Damages; Punitive Damages

Class 29: 11/6	Content: Compensatory Damages Read: Text 575-599 In-class damages problem: juries	—————  <b>DEFENSES</b>
Class 30: 11/8	Content: Traditional contributory negligence; comparative negligence (pure and modified) Read: Text 493-510	Contributory Negligence and Comparative Negligence
<b>WEEK 12</b>		
Class 31: 11/11	Content: Implied A/R - Primary and Secondary; Express A/R Read: Text 510-534	Defenses (cont.): Assumption of Risk (A/R)  —————
Class 32: 11/13	Content: Vicarious liability, <i>respondeat superior</i> Read: Text 619-631	Apportionment: Vicarious Liability; Joint & Several Liability, Contribution & Indemnification
Class 33: 11/15	Content: Joint & Several Liability, contribution and indemnification Read: Text 631-638	
<b>WEEK 13</b>		
Class 34: 11/18	Content: Intro. to Property Torts; Trespass Read: Text 869-871; 887-899	—————  <b>Property Torts:</b>
Class 35: 11/20	Content: Necessity; Conversion & Trespass to Chattel; Consent as defense Read: Text 899-921	Trespass; Necessity; Conversion & Trespass to Chattel; Consent; Nuisance
Class 36: 11/22	Content: Private & Public Nuisance Read: Text 921-925 (through Note 6); 930-936; 940-943; 952-956	
<b>WEEK 14</b>		
Class 37: 11/25	Content: Abnormally Dangerous Activities (animals and other) Read: Text 956-957; 959-975	Property Torts (cont.): Abnormally Dangerous Activities  —————
Class 38: 11/27	Content: Intro. to PL; Manufacturing Defects	



<p><b>[Possibly on TU 11/26, 11:00 – 12:00]</b></p> <p>Friday, 11/29</p>	<p>Read: Text 979-981; 999-1014</p> <p><b>THANKSGIVING BREAK – NO CLASS</b></p>	<p><b>Products Liability (PL):</b> Introduction and Basics; and Products Liability: Manufacturing Defects</p>
<p>WEEK 15</p>		
<p>Class 39: 12/2</p> <p>Class 40: 12/4</p> <p>Class 41: 12/6</p>	<p>Content: Design Defects, Risk-Utility &amp; Consumer Expectations Tests Read: Text 1015-1035</p> <p>Content: Warning Defects; Defenses (note: no reading on defenses) Read: Text 1070 – 1082</p> <p><b>Review</b></p>	<p>Products Liability (cont.): Design and Warning Defects; Defenses</p> <p><b>COURSE REVIEW</b></p>
<p>FINAL EXAM: TBD BY REGISTRAR</p>		

*I look forward to seeing you in class!*