

TORTS – OHJD REQ7150 J1
Fall 2025
Professor Stephanie A. Clark

SYLLABUS

CONTACT INFORMATION

- Dean Clark sclark@vermontlaw.edu
 - Email: preferred, and the official means of communication
 - Office: Debevoise (2nd Floor)
 - Office phone: 802-831-1315
- Teaching Assistants:
 - Emily Pritchard, EmilyPritchard@vermontlaw.edu
 - Kathleen “Kate” Chandley, KathleenChandley@vermontlaw.edu

CLASS INFORMATION

- **Days:** Wednesday
- **Time:** 6:00 – 9:20 p.m. ET
- **Class Location:** Microsoft Teams, and the link is on our class Canvas homepage.

OFFICE HOURS

- Dean Clark – **Tuesdays from 5:00 – 6:00 ET in Teams, and the link is on our Canvas homepage.** 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 questions. Deeper learning often happens in Office Hours because individual questions get more focused discussion and because students learn from each other's questions. Individual meetings are limited and 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 types of harms including personal injury, wrongful death, and/or property damage among others. Topics covered will include: (1) intentional torts, including battery, assault, false imprisonment, intentional infliction of emotional distress, and trespassory intentional torts; (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.

Assignments are listed below, and can also be found with supplemental materials on our Canvas page under Modules.

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 steps in the civil litigation process.
6. Produce a competent written analysis of a basic tort hypothetical.
7. Demonstrate professionalism in meeting course responsibilities.

These outcomes will be achieved through careful reading, discussion, responding to objective questions without study aids, and the completion of problems that require you to spot and analyze tort issues in a fact pattern.

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, which does appear on a student's transcript). Read the attendance policy posted in the Handbook before the beginning of the term.

The Academic Regulations permit individual professors to set a higher requirement (but not a lower requirement) and for this class you will receive a grade of F-Wd if you are absent from more than two regularly scheduled classes. You are required to monitor your own compliance with this policy. Two tardies equals one absence under this policy and I consider 6:01 p.m. as a tardy.

If additional absences are due to a health issue or other extraordinary circumstance beyond your control, please reach out to me as Vice Dean for Students, as a withdrawal or medical leave may be appropriate. You may also contact Vice President Siu Tip Lam for any accommodation request for additional absences. You can review our accommodations policy, and all policies and procedures, in the Student Handbook.

In order to be counted as present, you must have your video on. If you need to excuse yourself during class, please send me a private message so I can count you as present. Please make every effort to attend class in a distraction free space with minimal interruptions and consistent and reliable internet.

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. If you are not prepared on a particular day, you may "pass." If you pass, however, you must select whom I will call on instead of you and your participation grade may suffer. Please do not use the

chat function on Teams to communicate during class unless I ask you to. Instead, please use the “raise hand” function if you would like to say something or ask a question.

Email and Canvas

Canvas is a learning management system (LMS), and this course utilizes a Canvas course web page for assignments, videos, slides, documents, possible 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 if 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.**

I encourage you to take notes by hand, even if you typically use a laptop. Handwriting slows down your thought process and forces you to develop your critical listening skills. The use of the internet or email during class is forbidden, unless I indicate otherwise. Texting during class is also prohibited.

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 occurs 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. 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.

VLGS POLICIES, INCLUDING DISABILITY POLICY AND PROCEDURES

You should familiarize yourself with all applicable policies at Vermont Law and Graduate School, which can be found on the VLGS website at: [VLGS Policies](#). For students needing academic accommodations, you can find the VLGS Disability Policy and Procedures on this same page.

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 our Canvas [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, which will replace the previous version.

OUR “ROADMAP” FOR TORTS

- I. Overview of Torts: Intentional Torts, Negligence, Strict Liability**
 - a. Causes of action
 - b. Defenses, privileges, and immunities
- II. Intentional Torts**
 - A. Battery

- a. Elements
- B. Assault
 - a. Elements
- C. Transfer of Intent in Intentional Torts
- D. Introducing Affirmative Defenses
 - a. Consent
 - b. Self Defense, Defense of Others and/or Property
 - i. Proportionality Rule
- E. False Imprisonment
 - a. Shopkeepers Privilege
- F. Intentional Infliction of Emotional Distress (IIED)
- G. Intentional Property Torts:
 - a. Trespass
 - i. Necessity Privilege
 - b. Conversion
 - c. Trespass to Chattels
 - d. Consent Defense

III. Negligence

- A. Introduction and Overview of Elements: Duty, Breach, Causation, and Damages
- B. Duty
 - a. General Duty of Reasonable Care
 - b. Affirmative Duties
 - i. Special Relationships
 - ii. Premises Liability (Property Torts based in Negligence)
 - c. Pure Economic Loss
- C. Breach
 - a. The Reasonable Person Standard
 - b. Industry Custom
 - c. Cost-Benefit Analysis
 - d. *Res Ipsa Loquitur*
 - e. Negligence per se (violation of a statute)
- D. Causation
 - a. Cause in Fact
 - i. “But-for” test
 - ii. Loss of Chance
 - iii. Multiple Causes
 - iv. Tortfeasor Identification
 - b. Proximate Cause
 - i. Tests: Direct, Foreseeability, Scope of Risk, and Substantial Factor
 - ii. Superseding Causes
- E. Side Note: the Role of Foreseeability in Duty, Breach, and Causation
- F. Side Note: Sovereign Immunity
- G. Damages - Types
 - a. Compensatory
 - b. Punitive (ALMOST NEVER AWARDED FOR NEGLIGENCE)

- H. Damages – Apportionment
 - a. Vicarious Liability
 - b. Joint & Several Liability
 - c. Contribution & Indemnification

- I. Negligence Defenses
 - a. Contributory Negligence
 - b. Comparative Negligence
 - i. Pure
 - ii. Modified (49% and 50%)
 - c. Assumption of Risk (A/R)
 - i. Implied Primary and Secondary
 - ii. Express

- IV. Strict Liability**
 - A. Nuisance
 - a. Public
 - b. Private
 - B. Abnormally Dangerous Activities
 - a. Property
 - b. Animals

 - C. Products Liability (PL)
 - a. Manufacturing Defects
 - b. Design Defects
 - i. Consumer Expectations
 - ii. Risk Utility
 - c. Warning Defects
 - d. PL Defenses

READING AND ASSIGNMENT SCHEDULE

Text = Required Goldberg Casebook

Class Time: 6:00 – 9:00 p.m. ET

CLASS	ASSIGNMENT	AGENDA
WEEK 1		INTENTIONAL TORTS
Class 1: 8/27	Content: Overview of Torts; Battery; Assault; and Transfer of Intent (notes 5 & 6 involve negligence – give these less emphasis) Read: Text 667 – 721 Integrated Problem Set #1 DUE: Synthesized Rule Outline	Introduction to Torts; Battery & Assault; and Transfer of Intent
WEEK 2		

Class 2: 9/3	<p>Content: Review; Affirmative Defenses (Defense of Others and Defense of Property); and False Imprisonment Read: Text 721 - 758</p> <p>DUE: Integrated Problem Set #1 (in class review of sample answer)</p>	<p>Problem Set #1 Battery & Assault: Defenses; False Imprisonment</p>
WEEK 3		
Class 3: 9/10	<p>Content: IIED; and Intro. to Property Torts: Trespass; Necessity Privilege; Conversion & Trespass to Chattel; and Consent as defense</p> <p>Read: Text 775 – 801 (optional reading: 801 – 810); 887-921</p>	<p>Intentional Infliction of Emotional Distress (IIED)</p> <p>————</p> <p>Property Intentional Torts: Trespass; Necessity; Conversion & Trespass to Chattel; Consent</p>
WEEK 4		
Class 4: 9/17	<p>Content: Review Intl. Torts In class: Timed IRAC Writing Exercise and Review</p> <p>Negligence overview, injury, and begin “duty” – early general duty of care & modern general duty of care Read: Text 49 – 76</p>	<p>Review Intl. Torts – In class Problems Timed Writing IRAC Exercise</p> <p>————</p> <p>NEGLIGENCE Negligence Overview, Injury, and begin General Duty General Duty of Reasonable Care</p>
WEEK 5		
Class 5: 9/24	<p>Content: Affirmative duties; <i>Tarasoff</i>; In- Class Problem; and Premises Liability Read: Text 76-128</p> <p>Problem Set #2 DUE: Synthesized Rule Outline</p>	<p>Problem Set # 2</p> <p>Negligence (cont.): General Duty of Reasonable Care (cont.); Affirmative Duties: Special Relationships; and Premises Liability (Negligence Property Torts)</p>

WEEK 6		
Class 6: 10/1	<p>Content: Pure Economic Loss; Begin “Breach” Element: The Reasonable Person Read: Text 129-145; 149-195</p> <p>Review Intentional Torts DUE: Problem Set #2 / In class review of sample answer DUE: Synthesized Rule Outline</p>	<p>Negligence (cont.): Pure Economic Loss; and Begin “Breach” Element: The Person of Ordinary Prudence (aka The Reasonable Person)</p>
WEEK 7		
Class 7: 10/8	<p>Content: Breach – Industry & Professional Custom Read: Text 195-217</p> <p>MIDTERM EXAM</p>	<p>Negligence (cont.): Breach (cont.) – Custom</p> <p>Review & Midterm</p>
WEEK 8		
Class 8: 10/15	<p>Content: Midterm Review; Cost-benefit; <i>Res Ipsa Loquitur</i>; Negligence Per se; In-class problems Read: Text 217-242; 423 – 439</p>	<p>Midterm Review & Negligence (cont.) Breach (cont.): Cost-Benefit Analysis; <i>Res Ipsa Loquitur</i>; Negligence Per Se</p>
WEEK 9		
Class 9: 10/22	<p>Content: Begin Causation - Actual Cause (aka cause in fact); Multiple Causes; Identifying the tortfeasor when "but-for" test fails</p> <p>Read: Text; and 245-331 [omitting Notes 8 & 9 on pp. 310 and 312]</p>	<p>Negligence (cont.):</p> <p>Begin Causation Element: But-For & Loss of Chance; Multiple Causes; Tortfeasor Identification</p>
WEEK 10		
Class 10: 10/29	<p>Content: Proximate Cause; Superseding causes; <i>Palsgraf</i>; Read: Text 335-396; 405-420</p>	<p>Negligence (cont.):</p> <p>Causation (cont.): Proximate Cause; Superseding Causes;</p>

	Watch: Video Review on Foreseeability in Duty, Breach, and Proximate Cause	<i>Palsgraf</i> and Review Foreseeability in Duty, Breach, & Proximate Cause
WEEK 11		
Class 11: 11/5	Content: Sovereign Immunity; Compensatory Damages & Intro. to Punitive Damages In-class damages problem: juries; and Vicarious liability: <i>respondeat superior</i> Read: 542-543; 547-554; 575-600; 619-631	Negligence (cont.): Begin “Damages” Element: Damages Element: Immunities Overview; Compensatory Damages; Punitive Damages; and Damages Apportionment: Vicarious Liability
WEEK 12		
Class 12: 11/12	Content: Joint & Several Liability, contribution and indemnification; Traditional contributory negligence; comparative negligence (pure and modified); Implied A/R - Primary and Secondary; Express A/R Read: Text 631-638; 493-534	Negligence (cont.): Damages Apportionment (cont.): Joint & Several Liability; Contribution & Indemnification —— NEGLIGENCE DEFENSES Contributory Negligence; Comparative Negligence; and Assumption of Risk (A/R)
WEEK 13		
Class 13: 11/19	Content: Intro. to Strict Liability; Property Torts: Private & Public Nuisance; Abnormally Dangerous Activities (property; animals; other); Intro. to PL; Manufacturing Defects Read: Text 869-871; 921-925 (through Note 6); 930-936; 940-943; 952-957; 959-975; 979-981; 999-1014	—— STRICT LIABILITY Nuisance; and Abnormally Dangerous Activities; and Products Liability (PL): Introduction and Basics; and Products Liability: Manufacturing Defects
WEEK 14		

Class 14: 11/26 ASYNCHRONOUS	Content: Design Defects, Risk-Utility & Consumer Expectations Tests; Warning Defects Read: Text 1015-1035; 1070 – 1095 THANKSGIVING BREAK	Products Liability (PL) (cont.): Design Defects; Warning Defects
WEEK 15		
Class 15: 12/3	Content: Products Liability Defenses (note: no reading on defenses); Products Liability Review; In-Class Problems; and Course Evaluations Course Review	Strict Liability (cont.): PL Defenses; PL Review and Problems COURSE REVIEW
FINAL EXAM: TBD BY REGISTRAR		

I look forward to seeing you in class!