

TORTS (§ 1) - Course Information

Professor Lars Noah

Please be aware that this document does not qualify as a “syllabus” under university rules as it includes only essential information about this course; non-essential boilerplate crafted by others can be found elsewhere. This class meets Tuesdays-Thursdays @ 9:00-10:15 a.m. in Room 285C. Unless otherwise announced, office hours will take place on Tuesdays-Thursdays @ 12:15-1:00 p.m. in Rm. 350 (as we can’t insist on masking, I’ve reserved a slightly more spacious seminar room).

We will be using Franklin et al., Tort Law and Alternatives (11th ed. 2021), along with occasional handouts that I’ve posted (designated as “Supp. p.” herein). I’ll also post slides and occasionally other items after each class on our Canvas site. This document indicates the dates on which you should be prepared to discuss the assigned readings, unless I later have to announce a modification.

In addition, I’ve included bracketed endnotes referencing some of my relevant publications (note, however, that these articles often deal with multiple different issues in torts, as I’ve tried to indicate parenthetically, or connect such issues to subjects unrelated to torts); if interested in reading more about my often peculiar take on this field, you can most easily access these via HeinOnline, accessible through <https://www.law.ufl.edu/library/library-information/find-an-article>.

Note that regular (and punctual!) attendance plus occasional participation are expected of everyone. If I detect a problem (esp. if on-time attendance slips below 80%), then I’ll email you to provide notice of the potential consequences. (Patterns of leaving mid class also arouse my ire.)

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Negligence

Aug. 23 (Tue):	<i>Introduction/Vicarious Liability</i> : 1-29 (skim 9-20), 34-35
Aug. 24 (Wed):	<i>Defining the Standard of Care</i> : 37-55, Supp. p.1
Aug. 25 (Thu):	<i>Standard of Care (cont’d)</i> : 55-73 [¹]
Aug. 30 (Tue):	<i>Role of Custom & Statutes</i> : 74-89 [²]
Aug. 31 (Wed):	<i>Inferring Negligence</i> : 89-109, Supp. p.2
Sept. 1 (Thu):	<i>Medical Malpractice</i> : 29-34, 109-28 [³]

Special Duty Rules

Sept. 6 (Tue):	<i>Duties to Others</i> : 129-52 [⁴]
Sept. 7 (Wed):	<i>Duties to Others (cont'd)</i> : Supp. p.3, 152-69
Sept. 8 (Thu):	<i>Duties to Others (cont'd)</i> : 169-89
Sept. 13 (Tue):	<i>Landowner Duties</i> : 190-212
Sept. 14 (Wed):	<i>Family Members/Wrongful Birth</i> : 218-27, 329-40 [⁵]
Sept. 15 (Thu):	<i>Back to Breach/Municipalities</i> : 212-18, 227-43
Sept. 20 (Tue):	<i>State & Federal Entities</i> : 244-60
Sept. 21 (Wed):	<i>Emotional Distress</i> : 261-81
Sept. 22 (Thu):	<i>Emotional Distress (cont'd)</i> : 281-98, Supp. p.4

Causation

Sept. 27 (Tue):	<i>Cause in Fact</i> : 341-48, 353-65
Sept. 28 (Wed):	<i>Lost Chance/Jt. & Sev./Med. Mon.</i> : 365-76, Supp. pp.5-7, 348-53 [⁶]
Sept. 29 (Thu):	<i>Multiple Tortfeasors/Statutes of Limitations</i> : 376-93, 516-18
Oct. 4 (Tue):	<i>Proximate Cause</i> : 405-25
Oct. 5 (Wed):	<i>Prox. Cause (cont'd)</i> : 426-41

Defenses

Oct. 6 (Thu):	<i>Contributory & Comparative Negl.</i> : 443-64
Oct. 11 (Tue):	<i>Comp. Negl. (cont'd)/Mitigation/Waivers</i> : 466-86
Oct. 12 (Wed):	<i>Implied Assumption of Risk</i> : 486-98; Supp. pp.8-9

Strict Liability & Land Torts

Oct. 13 (Thu):	<i>Historical Development</i> : 519-33, 545-50, 562-67
Oct. 14 (Fri): 11:00 a.m. (Rm. 285B)	discuss Practice Exam Question #1 (focused on negligence), which I'll post for you to try the previous afternoon (followed by my model answer) [⁷]
Oct. 18 (Tue):	<i>Abnormally Dangerous Activities/Public Nuisance</i> : 533-44, 704-15
Oct. 19 (Wed):	<i>Trespass & Private Nuisance</i> : 941-48, 687-703

Products Liability

- Oct. 20 (Thu): *Historical Development*: 569-87
- Oct. 25 (Tue): *Mfg. & Design Defect Claims*: 587-606
- Oct. 26 (Wed): *Design (cont'd)/Warnings*: 606-26 [⁸]
- Oct. 27 (Thu): *Warnings (cont'd)*: Supp. pp.10-14, 627-42 [⁹]
- Nov. 1 (Tue): *Hybrid Transactions/Occupational Injuries*: 671-75, 652-66
- Nov. 2 (Wed): *Defenses/Federal Preemption*: 642-52, Supp. p.15, 498-514 [¹⁰]
- Nov. 3 (Thu): [cancelled (for speaking gig in D.C.)]
- Nov. 7 (Mon): discuss Practice Exam Question #2 (focused on prods. liability), which I'll
1:00 p.m. post for you to try the previous afternoon (followed by my model answer) [¹¹]
(Rm. 285B)

Damages

- Nov. 8 (Tue): *Compensatory Damages*: 717-34 [¹²]
- Nov. 9 (Wed): *Comp. Damages (cont'd)*: 734-49, 777-85
- Nov. 10 (Thu): *Punitive Damages*: 749-75
- Nov. 15 (Tue): Course evaluations (first 15 mins.)
Workers' Compensation: 831-56

Intentional Torts

- Nov. 16 (Wed): *Traditional Categories/IIED*: 901-17, 924-30
- Nov. 17 (Thu): *IIED (cont'd)/Defenses*: 934-39, 957-74 [¹³]

- Dec. 1 (Thu): Review session {optional}
10:00 a.m.
(Rm. 285B)

- Dec. 2 (Fri): **Final Exam**: Closed book, three essay-style questions (one hour each, with
[time and strict word limits).
rms. TBA]

Additional reading (relevant items that I've published):

1. *Civil Jury Nullification*, 86 IOWA L. REV. 1601 (2001) (focusing on the division of labor between judges and juries but also discussing the comparative negligence defense and causation).
2. *Rewarding Regulatory Compliance: The Pursuit of Symmetry in Products Liability*, 88 GEO. L.J. 2147 (2000).
3. *Medicine's Epistemology: Mapping the Haphazard Diffusion of Knowledge in the Biomedical Community*, 44 ARIZ. L. REV. 373, 450-65 (2002) (also discussing products liability claims); *Informed Consent and the Elusive Dichotomy Between Standard and Experimental Therapy*, 28 AM. J.L. & MED. 361, 364-79 (2002).
4. *Giving Personal Injury Attorneys Who Run Misleading Drug Ads a Dose of Their Own Medicine*, 2019 U. ILL. L. REV. 701, 717-28 (focusing on negligent misrepresentation claims but also discussing product disparagement).
5. "Go Sue Yourself!" *Imagining Intrapersonal Liability for Negligently Self-Inflicted Harms*, 70 FLA. L. REV. 649 (2018) (also discussing negligent entrustment and dram shop claims, landowner duties to trespassers, and defenses of comparative negligence and express assumption of risk—in short, this may be the one most worth reading, though perhaps not until later in the semester; call it my somewhat warped effort to connect several of the dots).
6. *An Inventory of Mathematical Blunders in Applying the Loss-of-a-Chance Doctrine*, 24 REV. LITIG. 369 (2005).
7. TBA.
8. *The Imperative to Warn: Disentangling the "Right to Know" from the "Need to Know" About Consumer Product Hazards*, 11 YALE J. ON REG. 293, 343-50, 375-91 (1994).
9. *This Is Your Products Liability Restatement on Drugs*, 74 BROOK. L. REV. 839 (2009) (focusing on special rules governing design and informational defect claims involving prescription products); *Doctors on the Take: Aligning Tort Law to Address Drug Company Payments to Prescribers*, 66 BUFF. L. REV. 855, 878-906 (2018) (also discussing informed consent claims).
10. *State Affronts to Federal Primacy in the Licensure of Pharmaceutical Products*, 2016 MICH. ST. L. REV. 1, 27- 35; *Reconceptualizing Federal Preemption of Tort Claims as the Government Standards Defense*, 37 WM. & MARY L. REV. 903 (1996).
11. TBA.
12. *Comfortably Numb: Medicalizing (and Mitigating) Pain-and-Suffering Damages*, 42 U. MICH. J.L. REFORM 431 (2009) (focusing on noneconomic damages but also discussing NIED claims and comparative negligence defense).
13. *Does the U.S. Constitution Constrain State Products Liability Doctrine?*, 92 TEMP. L. REV. 189 (2019) (discussing the role of free speech among other rights in limiting defamation and other torts).

Here's one last item connecting disparate dots from the course: *Confronting the Inevitability of Diagnostic Uncertainty Across Multiple Legal Domains*, my tort-focused talk at a virtual conference (called "When the Illness Has No Name") hosted by the Volcker Center at New York's Hospital for Special Surgery, Weill Cornell Medical College, Apr. 27, 2021: <https://hss.mediasite.com/mediasite/Play/6cfaec514df74486a95b2f091cad682b1d> [counter ##1:46:50-2:05:35]

ADDENDUM from UF Law Dean Laura Rosenbury: The university also requires this document to state the following:

1. Information about the university's grading policies may be found at:
<https://catalog.ufl.edu/UGRD/academic-regulations/grades-grading-policies/>.
2. Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluer.com/ufl/>. Summaries of course evaluation results are available to students [here](#).
3. Students may access information about various resources on the UF Law Student Resources Canvas page, available at <https://ufl.instructure.com/courses/427635>.