TORTS
COURSE INFORMATION AND SYLLABUS

Fall 2011

Professor: Alan L. Durham
Office: 335
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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
(9th 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 appropriate accommodations to students with physical, learning and other disabilities. Students with disabilities should contact Jenelle Marsh, Senior Assistant Dean for Students/Academic Services, at (205) 348-5750 or jmarsh@law.ua.edu, so that their 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 Marsh. 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.

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]

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Duty to Avoid Causing Emotional Harm

Pages 260-298 (Falzone, Portee, Johnson)
[Read Metro-North and Gammon for background]

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, The Wagon Mound, Doe, Palsgraf)

Plaintiff’s Fault

Pages 433-458 (Fritts)

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 897-911 (Garratt, Picard, Wishnatsky), 911-924 (Lopez, Womack), 945-963 (Hart, Courvoisier, Katko, Vincent)
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 intrafamily immunities. Usually we have little enough time to cover the materials listed above.