TORT LAW

Professor J. Shahar Dillbary
Course Information and Syllabus, Fall 2013

Class Sessions: Monday, Tuesday & Thursday 10:45am–12:00pm, in room A250
Office Hours: Monday & Thursday 3:30 – 4:30 pm or by appointment
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A. COURSE INFORMATION

I. Course Materials


During the term, I will use TWEN [The Westlaw Educational Network] site to post slides and supplemental materials. Make a habit of logging into TWEN site before each class session. Read and print the relevant materials available for each class and bring them with you. To access the site, go to lawschool.westlaw.com. The passwords for TWEN and the course’s website will be provided to you (together with a tutorial) during orientation. See Mr. David Lowe, the Computer Services Librarian for help as needed.

II. Course Objectives

The objectives of the course are (1) to learn the basic principles of the common law of torts; (2) to consider and debate the policies underlying those principles; and (3) by discussing the assigned decisions and materials, to develop skills in critical reasoning and advocacy.

III. Class Requirements

Class attendance and punctuality are required. You must come to class prepared. Keep up with the readings and come to class each day prepared to participate in the discussion and answer questions. Volunteering is encouraged. If you are not prepared for a class, you should notify me at least 15 minutes before the start of that class, by email or by stopping by my office. Failure to prepare for class is tantamount to an absence from class.

Class preparation, participation and attendance may be a factor in your grade potentially raising or lowering your grade. Any raised grades will be based on extraordinary contributions to classroom discussions, accounting for both quantity and quality. Any lowered grades will be
based failure to attend, prepare for class or offer meaningful contributions or violation of this syllabus’ policies. Except as previously noted, your grade for the course will be based on the final examination. I may also assign a number of assignments, some of which may count toward your final grade. Please observe the law school’s rules regarding eating and drinking in the classroom.

IV. Use of Computers, Recording Devices & Internet Postings

In accordance with the University of Alabama School of Law Policy, you may use a computer for note-taking only. The use of a computer or any other devices to record a class or any part thereof is strictly prohibited. You may not directly or indirectly post on the Internet, copy or circulate (a) materials distributed in class or any compilation thereof; and (b) any summaries of class sessions, notes and/or outlines. Cell phones and other noise-making apparatuses should be turned off. Violation of this section may result in severe sanctions.

V. Special Accommodations

The Law School provides appropriate accommodations to students with physical, learning and other disabilities. Students with disabilities are encouraged to contact Claude Arrington, Senior Assistant Dean for Students/Academic Services, at (205) 348-5750 or carrington@law.ua.edu, so that your needs can be evaluated in a timely manner.

VI. Attendance

You are expected to attend every class. If you miss more than 4 classes during the course of the semester, please speak to me about it. If you miss more than 5 classes, you must speak to Dean Arrington. Students who exceed 8 absences receive no credit for the course. I take attendance by passing out an attendance sheet at the beginning of each class. If you arrive late do not sign the attendance sheet. Similarly, if you unexpectedly leave before the end of the class make sure to delete your name from the attendance sheet in the first possible opportunity. If you are late more than 2 minutes or plan to leave early you cannot enter the class. Hats are not allowed in class. Please observe the law school’s rules regarding eating and drinking in the classroom.

VII. Outlines & Exam

The final exam will require knowledge and understanding of the doctrinal and theoretical issues that will be covered in class and assigned in your readings. It will most likely consist of one or more essay questions. Exams will be taken on a computer using the law school’s software (“ExamSoft”). If you have any questions regarding the software please contact Mr. Terry Davis at the IT Department in a timely manner.
The exam is limited open-book. During the exam, you may consult your casebook; hard copies of materials provided in class or posted on TWEN if they are printed; and any class notes, case briefs, or outline that you prepared yourself. In preparing your outline you may also consult with books and commercial study aids (although I strongly discourage you from using commercial study aids) and you may incorporate these outside sources into your outline by typing relevant information (no photocopying). All other sources are strictly prohibited including for the preparation of your outline and during the examination. You may also work with your classmates in groups to discuss your outlines in order to enhance your understanding of the materials. However, you may NOT consult, use, copy or incorporate any part of another person’s outline into your outline. The use of someone else’s outline or any other unauthorized materials is an honor code violation and may result in serious sanctions. If you have any question you should always feel free to ask them in class or speak with me.

VIII. Readings for the First Class

For our first session please read carefully the materials under “Introduction to Tort Liability” and come prepared to discuss.

IX. Why the Policies in the Syllabus?

For an interesting game-theoretical explanation as to why professors include in their syllabi what seems to be harsh policies see the excerpt below titled “Why Are Professors So Mean?” (from Avinash Dixit, Susan Skeath & David Reiley, Games of Strategy, pp. 10-11 (3rd Ed, 2009).

Many professors have inflexible rules not to give makeup exams and never to accept late submission of problem sets or term papers. Students think the professors must be really hardhearted to behave in this way. The true strategic reason is often exactly the opposite. Most professors are kindhearted and would like to give their students every reasonable break and accept any reasonable excuse. The trouble lies in judging what is reasonable. It is hard to distinguish between similar excuses and almost impossible to verify their truth. The professor knows that on each occasion he will end up by giving the student the benefit of the doubt. But the professor also knows that this is a slippery slope. As the students come to know that the professor is a soft touch, they will procrastinate more and produce ever-flimsier excuses. Deadlines will cease to mean anything, and examinations will become a chaotic mix of postponements and makeup tests.

Often the only way to avoid this slippery slope is to refuse to take even the first step down it. Refusal to accept any excuses at all is the only realistic alternative to accepting them all. By making an advance commitment to the “no excuses” strategy, the professor avoids the temptation to give in to all.

But how can a softhearted professor maintain such a hardhearted commitment? He must find some way to make a refusal firm and credible. The simplest way is to hide behind an administrative procedure or university-wide policy. “I wish I could accept your excuse, but the university won’t let me” not only puts the professor in a nicer light, but removes the temptation by genuinely leaving him no choice in the matter. Of course,
the rules may be made by the same collectivity of professors as hides behind them but, once they are made, no individual professor can unmake the rules in any particular instance.

If the university does not provide such a general shield, then the professor can try to make up commitment devices of his own. For example, he can make a clear and firm announcement of the policy at the beginning of the course. Any time an individual student asks for an exception, he can invoke a fairness principle, saying, “If I do this for you, I would have to do it for everyone.” Or the professor can acquire a reputation for toughness by acting tough a few times. This may be an unpleasant thing for him to do and it may run against his true inclination, but it helps in the long run over his whole career. If a professor is believed to be tough, few students will try excuses on him, so he will actually suffer less pain in denying them.