Course Information

Office:
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Attendance Policy:
I will follow the law school’s standard attendance policy.

Grading:
Your grade for the course will be based on a paper written on a topic related to immunity as well as class participation. You are free to choose any topic within this area, subject to its approval. The paper should be 15-20 pages. It will be due the last day of the finals period for the term. Please email a copy directly to me. You do not need to send a copy to the Registrar. You can use your name rather than anonymous number because I already will know who is writing on which topic—unless you switch at the last minute and don’t tell me.

Readings:
In place of a text I will assign cases and articles to read that you can find on Westlaw or Lexis or elsewhere online. There will be a reading assignment for each class session.

Class Discussion Schedule:
We will go over certain topic areas, including a general overview of different types of immunity, for the first part of the semester. Discussions for the remainder of the term will include reports by students on their areas of research, and the class readings will be selected and assigned around those topics. We will occasionally have guests with significant experience in the litigation of cases involving immunity.
Course Objectives

There are many forms of civil immunity. Some, like sovereign immunity, are identifiable by their name. Others, like the doctrine of contributory negligence, are less obvious forms of immunity but can operate in similar ways. This seminar is going to focus principally on immunities that directly apply to public entities and public officials. These include: sovereign immunity in federal and state courts; qualified immunity from federal claims; state agent and discretionary function immunity from state law claims.

Each of these five circumstances (drawn from actual cases) involves an application of some of the civil immunity doctrines we will review this semester:

An eighth grade student in an Alabama public school complained to school officials that she was being sexually threatened by a male student. She was instructed to lure her harasser into a school bathroom so that he could be “caught in the act.” She did as instructed but the officials forgot their part of the sting operation. She was sodomized.

The state of Alabama operates the Julia Tutwiler Prison for Women. In 2014 the US Department of Justice found that the prison “...has a toxic, sexualized environment” that creates “...a constant threat of sexual violence”, and that prisoners were raped, threatened and routinely violated by guards and other inmates. Lawsuits have followed.

A 50-year-old Alabama woman in the midst of a psychological crisis was peeled off a tree in her front yard by paramedics and police, handcuffed and strapped to a gurney, taken by ambulance to a hospital where she, still secured to the gurney, was tased three times by local policemen in an effort to quiet her down. A lawsuit against the city, its police chief and two policemen ensued.

Juvenile court judges in Pennsylvania were on the take. In exchange for bribes from a for-profit detention facility they sentenced large numbers of youthful offenders—even those facing minor offenses—to serve time. When the plot was exposed the wrongfully incarcerated children sued.
A Florida raccoon farmer was delivering 243 raccoons to a purchaser in Lauderdale County, Alabama. Each raccoon had a retail value of $15. Alabama game wardens, claiming that this violated Alabama law, made the farmer release the raccoons into the countryside and prevented the sale. The farmer sued seeking compensation for his raccoons.

Among the objectives of this seminar are:

- To learn the basic vocabulary of common forms of civil immunities;
- To identify immunity issues in civil litigation, to anticipate immunity defenses when drafting claims, and apply the appropriate defenses in response;
- To assess the tension between civil immunity and the ability of the injury victims to receive appropriate compensation.

**Syllabus**

Initial readings (to be supplemented during the semester) will include:

**SOVEREIGN IMMUNITY (United States)**

“The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.”

U.S.Const. Amdt. 11.


*UAB v. Garrett*, 121 S Ct. 955 (2001)

*Garrett v. UAB*, 344 F.3d 1288 (11th Cir. 2003)


SOVEREIGN IMMUNITY (Alabama)

“That the State of Alabama shall never be made a defendant in any court of law or

DeStafney v. University of Alabama, 413 So.2d 391 (AL 1981)
Ex Parte Carter, 395 So.2d 65 (AL 1980)
Health Care Auth. For Baptist Health v Davis, 158 So.3d 397 (AL 2013)

FEDERAL QUALIFIED IMMUNITY

Tolan v Cotton, 134 S. Ct. 1861 (2014)
Benson v Gordon County, 479 Fed. Appx. 315 (11th Cir. 2012)
Jenkins v. Talladega Bd. Of Education, 115 F.3d 821 (11th Cir. 1997)
Borton v The City of Dothan, 734 F.Supp. 2d 1237 (MDAL 2010)

ALABAMA INDIVIDUAL CAPACITY IMMUNITY

Ex parte Cranman, 792 So.2d 392 (AL 2000)
Ex parte Butts, 775 So.2d 173 (AL 2000)
Town of Loxley v Coleman, 720 So.2d 907 (AL 1998)