

Western State College of Law

CLASS POLICIES AND ASSIGNMENTS

COURSE: Torts II 132D
SEMESTER: Spring 2012
REQUIRED TEXT: Henderson, et al. The Torts Process
PROFESSOR: Paula Manning (Office—302L, Extension--1116,
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My Fundamental Expectations:

I expect you to:

- have fun (the research on learning shows that students learn more in class when they feel like class is fun);
- care as passionately about your learning as I do;
- treat the class as a professional obligation;
- impose high expectations on me, on yourself, and on your peers;
- be respectful to me and your peers;
- develop skills that will help you be a better lawyer;
- discover for yourself why Torts is the single most exciting course in law school!

Course Goals:

- Values
 - Demonstrate respect for other students, staff and faculty;
 - Develop an attitude of cooperation with students, faculty, lawyers, and judges;
 - Demonstrate honesty, reliability, responsibility, judgment, self-motivation, hard work, and critical self-reflection.
- Skills
 - Spot torts issues;
 - Identify relevant facts in cases, class discussion and on examinations, and be able to use facts to support a position, evaluate a claim and identify potential alternatives;
 - Articulate policy arguments to convince a court to broaden or narrow a prior decision or rule of law and/or to demonstrate the soundness of a conclusion on an essay examination;
 - Demonstrate in writing how lawyers solve problems in the area of torts—by understanding what laws they use, how they apply the law to new facts, and how they use those facts to make arguments to judges or juries;
 - Respond to an essay question using an IRAC format;
 - Apply and analyze the law of torts.
- Knowledge/Content Goals:

- Develop knowledge of the civil system, including how tort claims are litigated;
- Recognize documents used by practitioners in tort litigation and understand the purpose or context for using such documents;
- Know the elements of each of the torts and defenses covered during the course of the semester and the definitions for each of those elements;
- Understand the policies underlying tort law and be able to apply those policies to new situations to reach a reasoned conclusion.

Teaching and Learning Methods used in this course:

- Reading background material
- Reading and briefing cases
- Lecture
- Reviewing and drafting documents used by practitioners
- Writing assignments
- Small group quizzes and other exercises
- Whole class, small group and team discussion and problem solving

Professional Engagement:

As you may know, you are creating your professional reputation in the law. Accordingly, please behave as the best attorneys do. This includes paying attention and listening to what others say, as well as working with others to collectively learn the material.

Please be prepared for class and be ready to work. Please listen to others, avoid dominating the discussion, take the initiative to improve your skills, take risks and be resourceful.

Please seek help when you realize you need it or when recommended. Please show up every day on time and stay in class the whole time.

When you are assigned to work in teams, everyone in the team has the responsibility of making sure that the team works together effectively and efficiently.

Professional engagement includes:

- **Resourcefulness.** If you have problem, first try to figure out a way to solve it.
- **Taking appropriate risks.** For some this means volunteering to speak in a class. For others it is the risk of being silent and not leading a discussion. It may mean admitting you are off track or that you need help with an aspect of the course.
- **Behavior in class.** Be respectful of others by encouraging others to talk during group work. Listening is an enormous part of effective lawyering. If you finish an exercise early or before others, ask for feedback or work on other aspects of the course.
- **Computer usage.** Using a computer in a way that does not support your learning

(facebook, email, etc.) will be considered an absence.

- **Attitude.** Have a positive approach to working with others. If you have a complaint, including one about the course, voice it directly, in person to those that are involved (and be prepared to offer a solution).
- **Timeliness.** Complete and turn in all work on time.
- **Attention to work product.** Be thoughtful about what you say and what you turn in.
- **Growth.** If you have received feedback on an assignment try to understand and use it. If one approach doesn't work, try another—and reflect on what works. Struggle with analyzing a problem before asking about it or giving up—but also remember to ask questions when your struggle doesn't produce the results you hope for.
- **Perseverance.** A student that does not give up, but keeps working to develop his or her skills, regardless of where he or she is, is acting professionally.

Preparation:

Legal education is a cooperative venture, and lawyers must be able to orally communicate their ideas. Class participation therefore is a mandatory part of this course. Please note there is a significant difference between being unprepared and being unable to “answer” a question. You do not need to be an expert, but you must read and think about the assigned materials, complete assigned work and be ready to engage and discuss this work and your thoughts with others. If you are not prepared for some classes I may ask you to leave, because we will be discussing materials related to assignments and it is only appropriate to have the discussion with students who have already completed the assignment.

You should stay sufficiently ahead on your assignments to ensure your readiness to participate for each class. Neither the assertion that you did not anticipate the class or group getting so far, nor that you read the assignment too long ago to remember it will excuse a failure to be prepared. You will not be deemed unprepared simply because you venture an incorrect answer in class (unless, of course, your answer reflects inadequate preparation). You may be excused from participating once during the course for any reason of your choosing if you request an excuse **prior to the commencement of class**. Aside from the above-referenced excuse, there is no such thing as an excused failure to be prepared.

Attendance:

As required by the American Bar Association, the body that accredits law schools, class attendance is mandatory. I understand that this may differ from what you have been used to in your undergraduate or other graduate education. Please inform me of actual or anticipated excessive absences (more than 2 classes). Excessive absences may result in your grade being lowered and/or in your receiving a failing grade in the course. Additionally, a student who has missed more than three classes may be prohibited from sitting for the exam or receiving credit for the course. If you are concerned about your absences or ability to meet this policy, please let me know as soon as possible, so we can work through any problems.

Course Grading:

- ***Class preparation and participation (10% of grade):*** You must complete all assigned preparation activities and have completed all assigned readings and problems prior to coming to class. Each time you cannot contribute to the class discussion of a case or problem or fail to hand in (on time) a complete version of an assignment, you will lose points for class preparation and participation and your grade will be reduced accordingly.
- ***Team Contribution (20% of grade):*** Throughout the course you will be assigned problems and exercises to work on in your teams. One half of the grade for this section will be assigned based upon the work that the team produces. The other half of this grade will be based upon your contribution to your team's efforts as set out in the evaluations submitted periodically by your team members and my observations during class sessions.
- ***Midterm Examination (30% of grade):*** *One and a half hour* essay examination dealing with the main topics covered during the first half of the semester in Torts.
- ***Final Examination (40% of course grade):*** Three hours. The format of the final exam will be two one and a half hour essay questions and a half hour of multiple choice questions.
- ***Penalty for Falsifying Assignments.*** A student who falsifies any exercise, required or optional, will receive an F in the class and will have her or his name reported to the state bar where he or she is planning to sit for the bar. This includes, but is not limited to, submitting work of another as your own.
- **Office Hours, Appointments and E-mail:** Students may use office hours to address their concerns and confusion regarding any of the course material or for other guidance. ***I make my own appointments and we will discuss convenient office hours during the first class session.*** I will arrive to class several minutes before the scheduled start of class, and I do take questions at such times. Unfortunately, due to the large volume of emails I receive, questions posed by e-mail will not always elicit a prompt response—know that I make every effort to respond to email as soon as I am able. If you have questions, please post them to the course webpage (see below).
- **Course Web Page:** Torts has its own webpage on TWEN. The password is “_____”.

Please get into the habit of checking TWEN frequently for new postings. I will post assignments, preparation questions, announcements, this packet, and other information and materials on the site. TWEN also gives us the ability to easily communicate with one another through discussions forums where we will continue and clarify the classroom conversation, ask and answer questions as they arise, and appraise one another of relevant items of interest we may come across in the news or elsewhere. **If you have a question, comment or interesting thought, please post it to the TWEN discussion board, rather than send an**

email. I will wait for other students to respond, and then, if there is no response, or if I have something to add to the response, I will post my response to the discussion board. Other than very personal questions, all questions should be directed first to TWEN, rather than to my email. It allows you to work collaboratively with others, ensures that if everyone has a question or confusion it will be readily apparent to me, and it means that others will have the benefit of having thought about any questions that are asked.

***Adjustment for Extraordinary Course Webpage Participation:** I may adjust your final course grade for extraordinary Course Webpage participation as follows: I will adjust two-tenths upward (e.g., from a 3.0 to a 3.2) the grades of students whose efforts are extraordinary. To achieve this “extraordinary” standard, students must volunteer to participate frequently on the webpage and must contribute ideas and analysis that reflect original and valuable insight.*

- **Disability Services:** Western State strives to assure equal access and full participation by persons with disabilities. If you require services because of a disability, you may notify Kelly Jones-Horwood, on the third floor. This voluntary self-identification allows the Law School to prepare any necessary and appropriate support services to facilitate your learning.
- **Academic Misconduct Policy:** All students are expected to conduct themselves appropriately and ethically in their academic work. Inappropriate and unethical behavior includes (but is not limited to) giving or receiving unauthorized aid on examinations or in the preparation of papers or other assignments, or knowingly misrepresenting the source of academic work.
- **Assignments:** Assignments include materials found in the casebook, and other materials that will be distributed in class.

<u>TOPICS</u>	<u>ASSIGNMENTS</u>	<u>TIME</u> (estimated)
Introduction Negligence Defenses Contributory Negligence Assumption of Risk Last Clear Chance Comparative Fault	Pages 359-64; 374-77	1-1 ½ class sessions (1 week)
Nuisance (and Trespass review)	387-419; optional reading: 385-87 Problem: 419-22	1-1 ½ class sessions (1 week)
Strict Liability Animals Hazardous Activities Limitations	442-46; 423-27; 431-42; 447-49	1-1 ½ class sessions (1 week)
Products Liability Defects (Design, Manufacturing, Warning) Theories of Liability	Restatement and UCC handout Reading TBD	4-6 class sessions (4-6 weeks)
Defamation	723-46; 749-53; 753-60; 760-64; Problem: 746-49	2-3 class sessions (2-3 weeks)
Privacy Torts Intrusion Disclosure of Private Facts False Light Appropriation	769-72; 773-74;777-83; 783-90; 792-801; 801-06; 807-15	1-2 class sessions (1-2 weeks)
Misrepresentation	817-31	½ to 1 class session (1/2 to 1 week)