

OAKLAND UNIVERSITY PARALEGAL PROGRAM SYLLABUS

CEPL 25070 Substantive Law: TORTS

Text: Emily Lynch Morissette, Personal Injury and the Law of Torts for Paralegals, Fourth Edition, Wolters Kluwer.

Faculty: Thomas Lynch

Professional experience as trial attorney in Michigan and Federal Courts 1992-1998; Professional experience as corporate counsel from 1998-present at EDS and Ally Financial Inc.; Oakland University instructor of legal education courses in Criminal Law and Procedure, Constitutional Law, Domestic Violence and Contract Drafting and Negotiations. Freelance author, panel speaker at various seminars and author of corporate training programs.

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Schedule: Fall Semester -Every Thursday, beginning May 10, 2018 through August 9, 2018
6:30-9:30; 14 weeks

Credit Hours: 4.2 CEU's

Course Description:

To provide a comprehensive view of the major areas of tort law, including basic intentional torts, defamation and privacy, negligence, strict (or absolute) liability, product liability, nuisance and understand the concepts relevant to all torts. Students will first learn the foundations of law and its institutions. Next, students will learn how to apply the knowledge gained in the substantive portion. Students will learn the step-by-step practice skills from the perspective of both the plaintiff and defense. Students will prepare a set of actual documents based on a given factual situation. Lectures will focus on the actual workings of the Michigan civil law system. The roles of the prosecution, defense and judge will be examined in the text and in class discussions.

Written and oral presentation assignments, including but not limited to some or all of the following: problem solving, case briefing, scenarios, oral argument, internet discussion board, class participation, outside readings and examinations including a Final Examination. Sessions further consist of Chapter Overview, Facilitation, Discussion, Oral Presentations, Arguments and Analysis. As facilitation is an integral part of the learning process, it is a factor in grading. Use of law library, internet search, MCLA, and Michigan and Federal Cases

Academic Honesty:

Plagiarism is a serious academic offense that will not be tolerated and may result in failure for individual projects, course failure, and/or dismissal from the University. Submit work that represents your original words or ideas. Using another's work or idea without acknowledgement or permission, or cheating in any form, is a serious violation. For Academic Conduct Policy see <http://www.oakland.edu/pace/policies-procedures>

Attendance:

Attendance is a factor in awarding CEUs. Students are allowed a maximum of three excused absences. Contact instructor for make-up policy and due dates for incomplete assignments. **If you will be absent from a class please contact the instructor.**

Course Standards:

It is the responsibility of each student to be prepared for each session. All assignments must be submitted on their due date. Students are expected to complete reading assignments prior to the scheduled class. It is required that students actively involve themselves in class discussions. Missing class, being late or unprepared will affect the Class Participation portion of a grade. Students are responsible for arranging with a classmate to obtain missed notes, materials, and/or assignments.

No cell phone or other related electronic use in class. Set phones to vibrate, and leave class if a response is necessary. No tape recording or videotaping except as approved by the instructor.

Evaluation Methods:	Written assignments	33%
	Mid-term	33%
	Final exam	34%

Student Resources: The Office of Disability Support Services (DSS) is the campus office responsible for verifying that students have disability-related needs and determining academic accommodations, auxiliary aids and other services. Students with learning, psychological, or physical disabilities who may require accommodations should contact DSS at: 103A North Foundation Hall, Phone: 248-370-3266; TTY: 248-370-3268 to schedule an appointment with a DSS advisor.

*-Above ratings could be affected, as course grade may be adjusted one level, based on class participation, discussion board, final exam, extra credit and late assignments.

3.8 to 4.0= A	2.7 to 2.9= B-	1.3 to 1.6= D+
3.7 to 3.4= A-	2.3 to 2.6= C+	1.0 to 1.2= D
3.3 to 3.6= B+	2.0 to 2.2= C	0.0 to .9= F
3.0 to 3.2= B	1.7 to 1.9= C-	

In addition we will be rounding GPAs based upon the third digit after the decimal. For example, a 3.015 = 3.02; while a 3.014 = 3.01.

All Sessions include Chapter Overview, Facilitation, Discussion, Oral Presentation, Argument and Analysis. Supplement Assignments with Internet Searches.

Session	Detailed Topic Outline	Activities/Assignments
1	Chapter One: Introduction to Personal Injury and Torts Review basic structure of course and syllabus Tort Law in the scheme of things Traits of a Good Personal Injury Paralegal Anglo-American Legal History Personal Injury Public Policy Purposes of Tort Law Tort Reform Bases Upon which Tort Law is Predicated Alternative Dispute Resolution	Review IRAC formula; brief cases. Homework: Review Case 1.1 and answer the five questions (will be e-mailed to you, Monday morning); be prepared to discuss the second bullet under Exercises on page 13 (Make sure you read the case).

Session	Detailed Topic Outline	Activities/Assignments
2	<p>Chapter Two: Negligence: Duty Duty Introduction to Duty The first element of Negligence: Duty Scope of Duty Duty to Act or Failure to Act</p> <ol style="list-style-type: none"> a. Families b. Jobs c. Other instances where a Duty is owed d. Examples in which a higher duty is owed <p>Negligence Per Se</p> <p>Chapter Three: Negligence: Breach of Duty Introduction to Breach of Duty Reasonableness Learned Hand Formula The Restatement (Second) of Tort's Risk Utility Test Good Samaritan Law</p>	<p>Turn in Homework from Class One;</p> <p>Homework for Chapter Two: Review Question: third bullet; Exercises: 4th and 5th bullets.</p> <p>Homework for Chapter Three: Review Questions 3; Exercises 1, 3 and 6.</p>
3	<p>Chapter Four: Negligence: Causation of Injury Introduction to causation Cause in Fact</p> <ol style="list-style-type: none"> a. But-For Test b. Substantial Factor Test c. Joint and Several liability d. Contribution <p>Proximate Cause</p> <ol style="list-style-type: none"> a. Foreseeability and Unforeseeability b. Intervening Causes c. Eggshell Plaintiff <p>Res Ipsa Loquitur</p>	<p>Turn in Homework from Class Two.</p> <p>Homework: Review Question: 4 and 6; Exercises: 1, 4 and 6.</p>
4	<p>Chapter Five: Fourth Element of Negligence: Damages Introduction to Damages Compensatory Damages</p> <ol style="list-style-type: none"> 1) General Damages <ol style="list-style-type: none"> a) Pain and Suffering b) Emotional Distress c) Explanation of loss of Consortium 2) Special Damages <ol style="list-style-type: none"> a) Lost Wages b) Medical Bills c) Property Damages 3) Punitive Damages 4) Nominal damages 5) Mitigation of Damages 6) Collateral Source Rule 7) Wrongful Death 8) Survival Actions 9) Wrongful Birth 	<p>Turn in Homework from Class Three.</p> <p>Homework: Review Questions: 3 and 8; Exercises: 5, 8 and 10.</p>

Session	Detailed Topic Outline	Activities/Assignments
5	<p>Chapter Six: Special Issues Related to Negligence</p> <p>Introduction to Special Issues in negligence</p> <p>Premises Liability</p> <ul style="list-style-type: none"> a) Trespassers: No Duty of Care <ul style="list-style-type: none"> i) General Rule for Adult Trespassers: No Duty of Care ii) Exception to the General Rule: Child Trespassers and the Attractive Nuisance Doctrine b) Licensees: Duty of Reasonable Care c) Invitees: The highest duty of Reasonable Care d) Vendor and Vendee e) Lessor and Lessee <p>Vicarious Liability</p> <ul style="list-style-type: none"> a) Principal-Agent b) Employer-Employee c) Scope of Employment d) Independent Contractor e) Family Automobile/Purpose Doctrine <p>Negligent Infliction of Emotional Distress (NIED)</p> <ul style="list-style-type: none"> a) The Second Type of NIED: The Physical Manifestations Rule b) The Third Type of NIED: Bystander 	<p>Turn in Homework from Class Four.</p> <p>Homework: Review Questions: Premises Liability: 10; Vicarious Liability: 6; NIED: 3; Exercises: Premises Liability: 2; Vicarious Liability: 1, 2; NIED: 2 and 3.</p>
6	<p>Chapter Seven: Defenses to Negligence.</p> <p>Introduction to Defenses to Negligence</p> <p>Contributory Negligence</p> <ul style="list-style-type: none"> a) Exception to Contributory Negligence: Last Clear Chance b) Exception to Contributory Negligence: Sudden Emergency <p>Comparative Negligence</p> <ul style="list-style-type: none"> a) Pure Comparative Negligence b) Modified Comparative Negligence <p>Assumption of the Risk</p> <ul style="list-style-type: none"> a) Voluntary Assumption of Known Risk: Express Assumption of the Risk b) Voluntary Assumption of Known Risk: Implied Assumption of the Risk <p>Statutes of Limitations</p>	<p>Turn in Homework from Class Five.</p> <p>Prepare and Study for TEST ONE.</p>
7	Test One	<p>TEST ONE</p> <p>Homework: Review Questions for Chapter Nine: 1, 10, 11 and 13.</p>
8	<p>Chapter Nine: Intentional Torts to the Person</p> <p>Elements of all of the Intentional Torts to Person</p> <p>Assault</p> <p>Battery</p> <p>False Imprisonment and False Arrest</p> <p>Intentional Infliction of Emotional Distress (IIED)</p> <p>Fraud</p> <p>Misrepresentation</p> <p>Invasion of Privacy</p> <p>Defamation</p> <p>Malicious Prosecution</p>	<p>Turn in Homework from Class Seven</p> <p>Homework: Exercises: 2, 3, 6, 8, 11, 13.</p>

Session	Detailed Topic Outline	Activities/Assignments
9	Chapter Ten: Intentional Torts to Property Introduction to Intentional Torts to Property Trespass to Land Trespass to Chattels Conversion	Turn in Homework from Class 8. Homework: Exercises 2, 3 and 5.
10	Chapter Eleven: Defenses to Intentional Torts and Immunities Introduction to Defenses to Intentional Torts Consent Privilege Duress Statute of Limitations Immunities	Turn in Homework from Class Nine. Homework: Review Questions: 7 and 9; Exercises: 3, 4 and 5.
11	Chapter Twelve: Strict Liability and Products Liability Introduction to Strict Liability and Products Liability Strict Liability caused by abnormally dangerous activities The rule of Strict Liability for abnormally dangerous activities Strict Liability applied to owners of animals Defenses to Strict Liability Origin of Products Liability The Parties in Products Liability Theories of Recovery a) Negligence b) Strict Products Liability c) Breach of Warranty Restatement (Third) of Torts approach to Products Liability Consumer Product Safety Act US Food and Drug Administration Defenses to Product Liability	Turn in Homework from Class Ten. Homework: Review Questions: 1, 2, 5 and 8; Exercises: 2, 4, 5 and 6.
12	Chapter Thirteen: Nuisance Introduction to and Elements of Private Nuisance a) Interference with Use and Enjoyment of Land b) Interference is Unreasonable and Substantial c) Defendant's Activity must proximately cause the plaintiff's injuries Public Nuisance Remedies to Nuisance a) Damages for Nuisance b) Injunctions as Remedy for Nuisance	Turn in Homework from Class Eleven. Homework: Review Questions: 4; Exercises: 1.
13	Chapter 14: Worker's Compensation Introduction to Worker's Compensation Whether an injury is covered by Worker's Compensation a) The Act occurred within the Employer-Employee relationship b) There was an employment contract c) The employer has the right to control how the job is done d) There was a compensable injury e) There must be proximate cause f) Course and scope of Employment Exclusions to Worker's Compensation Specific Benefits provided under Worker's Compensation a) Medical Treatment b) Permanent Disability Benefits c) Temporary Disability Benefits d) Vocational Rehabilitational Benefits Exclusive Remedy How to file a Worker's Compensation Claim	Turn in Homework from Class Twelve. Homework: Study for the Final Exam

Session	Detailed Topic Outline	Activities/Assignments
	When a Third Party Causes the Worker's Injury	
14	Final Exam	<u>No assignments</u>

NOTE: ASSIGNMENT SCHEDULE AND SYLLABUS IS SUBJECT TO CHANGE
The information provided in this Syllabus, Class, Online, or Program may not be relied upon as legal advice.