

Syllabus

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Learning and Reading Assignments

In the following pages, you will find the weekly Reading Assignments for class. The Reading Assignments provide the weekly topics, assigned pages or handouts, and a list of the principal cases. In addition to the Reading Assignments, I will distribute separately a schedule of detailed Learning Assignments that will include assigned preview exercises, on-line quizzes and writing assignments. The Learning Assignment for the First Class is included here, on page 2.

The required text for the course is **Vetri, Levine, Vogel and Gassama, Tort Law and Practice (5th ed. 2016)**.

Please Note: The publisher of this casebook has recently released a 6th edition. Please do NOT obtain the 6th edition, as **all assignments will be to the 5th edition**.

Proper preparation for class includes reading the material carefully (which means re-reading when necessary and looking up unfamiliar terms or phrases), fully briefing all principle cases, completing all assigned Preview Exercises and Homework, and reviewing the material shortly before class so that it is fresh in your mind. In the Preview Exercises for the first class, you will also review the important elements of a brief for this course.

This fall, all live class sessions will be held on-line through Zoom. For a limited number of sessions, on-line work and at-home exercises will replace a portion of the live sessions. (These dates will be set out in the detailed Learning Assignments distributed separately.) My hope is that these alternative class sessions will enhance your overall learning. Because these additional assignments stand in for classroom sessions, you should take great care to complete them thoroughly, and follow all deadlines for submissions.

In addition to the assigned reading, and the exercises described above, there will also be occasional quizzes and a midterm and final examination (please see Course Requirements at p. 6 of this syllabus for more information about these course components).

Note: On-line quizzes that are labeled “Preview” are not included in your grade and are set to allow you to take them multiple times. While you will see a score, along with detailed feedback, the score is not recorded for grading. The purpose of these quizzes is to guide you through a set of learning exercises. The scores for quizzes labeled “Review” are recorded and included in your grade (see Course Requirements). They are set for a single attempt. All quizzes are open book, open note. Please see the quiz instructions regarding working alone and Honor Code requirements.

In-Class Worksheets

For every live class session, you will have an In-Class Worksheet that you must download and have available on your computer to work on during class. The In-Class Worksheets include various short writing exercises, charts to fill out, and other written work designed to keep you engaged and improve your in-class experience through active learning. These will be available normally a day before class on the course website (see Course Requirements for more details) in the section called Course Materials in folders labeled with the Week #. There is nothing you need to prepare on the worksheet except to download it; all required components of the In-Class Worksheet will be completed during class. When the class is over, the Worksheet should be uploaded immediately. It is a required component of class attendance. The worksheets are not graded, but I will review them for completeness, and to assess the overall learning.

The reading and preparation, the live class sessions, and the assigned at-home work combine to form the equivalent of three (3) hours of classroom time plus six (6) hours of outside work, on average, for each week of the semester.

Please make sure you plan to complete the first set of assignments due prior to the first class. See “Learning Assignment for Week 1” on the next page

Learning Assignment for Week 1

Prior to the First Class

- Complete all reading for Week 1 (See Reading Assignments)
- Enroll in the appropriate Course Website for your section (see Course Requirements)
- The Week 1 Preview PowerPoint will be available on the Course Website starting Tuesday, August 18.
- Please carefully review the “Week 1 Preview” PowerPoint and complete all tasks included in the slides.
- Once you have completed the reading, and the review of the Week 1 Preview PowerPoint, you should then complete the “Week 1 Preview Quiz” on the TWEN website
 - The Week 1 Preview Quiz opens Tuesday, August 18
 - The Quiz will be located under Assignments on TWEN
 - Section B: Complete by 10 a.m. on Monday, August 24
 - Section C: Complete by 4 p.m. on Tuesday, August 25
- You should anticipate spending at least one hour on the Week 1 Preview PowerPoint and Preview Quiz, in addition to the time spent preparing and briefing the assigned reading.
- Download the In-class Worksheet, found on the Course Website under Course Materials in the Week 1 folder.

Reading Assignments

The required text for the course is **Vetri, et al., Tort Law and Practice (5th ed.)**. All page references are to this text. Assignments labeled “Handout” will be distributed ahead of time on the course website under Course Materials in folders labeled for each week (please see Course Requirements about access to the course website). You are responsible for all material within the listed pages of the week’s assignment. Principle cases are noted for your reference with starting page numbers, or the indication of “handout”.

WEEK	TOPICS	ASSIGNMENT	CASES
1	Introduction to Tort Law Introduction to Intent	xii, 1-13, 30-45 685-688, 695 (bottom)-703 Case Handout Week 1	<i>White v. Muniz</i> (695) <i>Villa v. Derouen</i> (697) <i>Fisher v. Carrousel</i> (handout)
2	Battery and Assault Applying and Distinguishing Cases	Case Handouts Week 2 707-715	<i>Picard v. Barry Pontiac-Buick</i> (handout) <i>McCracken v. Sloan</i> (handout) <i>Leichtman v. WLW Jacor</i> (707)
3	Intentional Infliction of Emotional Distress False Imprisonment	715-748	<i>Brandon v. Cty of Richardson</i> (716) <i>Alcorn v. Anbro</i> (727) <i>Swenson v. Northern Crop Ins.</i> (729) <i>Graham v. Guilderland Cent. Sch. Dist.</i> (731) <i>Wal-Mart Stores v. Cockrell</i> (741)
4	Other Intentional Torts: ▪ Trespass, ▪ Trespass to Chattels, ▪ Conversion Privileges: ▪ Consent	Restatement 2d Handout, 798-802 (top), 749-757 Case Handout Week 4 757-761 (top)	<i>Creel v. Crim</i> (798) <i>U.S. v. Arora</i> (749) <i>CompuServe v. Cyber Promotions</i> (handout) <i>Intel Corporation v. Hamidi</i> (handout) <i>Hogan v. Tavzel</i> (757) <i>Hellriegel v. Tholl</i> (759) <i>O'Brien v. Cunard</i> (handout)
5	Privileges: ▪ Self-defense ▪ Necessity Pre-Midterm Review	768-777 (top) 781-784, 787 n.7	<i>Bradley v. Hunter</i> (768) <i>Juarez-Martinez v. Deans</i> (770) <i>Rossi v. Del Luca</i> (781) <i>Vincent v. Lake Erie</i> (782)
6	Midterm		

WEEK	TOPICS	ASSIGNMENT	CASES
7	Introduction to Negligence Reasonable Care	11-13, 832 (bottom)-833: “Historical Perspective” Case Handout Week 7 47-72, 77-82, 89-95, 102 (note 9)-106 (top)	<i>Brown V. Kendall (handout)</i> <i>Rudolph v. Arizona B.A.S.S. Fed’n. (53)</i> <i>Edwards v. Johnson (70)</i> <i>Bashi v. Wodarz (77)</i> <i>U.S. v. Carroll Towing (89)</i>
WEEK	TOPICS	ASSIGNMENT	CASES
8	Reasonable Care: ▪ Custom ▪ Statute	106-115, 121-137	<i>Trimarco v. Klein (107)</i> <i>The T.J. Hooper (113)</i> <i>Ferrell v. Baxter (122)</i> <i>Wright v. Brown (129)</i>
9	Res Ipsa Loquitur Post-Midterm Review	142-143 (top), 147-161	<i>Eaton v. Eaton (149)</i> <i>Ybarra v. Spangard (155)</i>
10	Limitations on Duty ▪ Policy ▪ Landowner liability ▪ No duty to rescue ▪ Resp. for 3 rd persons	189-199, 205-229 (top), 238-239 (notes 5-7) 243-249, 253-260	<i>MacPherson v. Buick Motor Co. (192)</i> <i>Am. Indus. Life Ins. Co. v. Ruvalcaba (205)</i> <i>Rowland v. Christian (216)</i> <i>Tarasoff v. Regents of Univ. of Calif. (243)</i> <i>Dunkle v. Food Service East (253)</i>
11	Actual Causation	359-363, 391 (note [3] at top), 395-399 428-445	<i>New York Cent. R.R. Co. v. Grimstad (361)</i> <i>Corey v. Havener (363)</i> <i>Summers v. Tice (428)</i> <i>Hymowitz v. Eli Lilly & Co. (431)</i> <i>Brenner v. Am. Cyanamid Co. (440)</i>
12	Proximate Cause	448-474	<i>Palsgraf v. Long Island R.R. Co. (452)</i> <i>Juisti v. Hyatt Hotel Corp. (459)</i> <i>McClenahan v. Cooley (469)</i> <i>Price v. Blaine Kern Artista, Inc. (473)</i>
13	Proximate Cause, cont’d Claims for pure Economic Loss	490-493 499-509 Case Handout Week 13	<i>Pace v. Ohio Dept. of Transp. (490)</i> <i>In re Kinsman I-1964 (handout)</i> <i>In re Kinsman II-1968 (handout)</i>
14	Claims for mental distress Final Exam Review	283-287 (top), 299-305, 307-308 (notes 1 & 2) Case Handout Week 14	<i>Burgess v. Superior Court (301)</i> <i>Frame v. Kothari (handout)</i>

Course Learning Objectives

The learning objectives for Torts I include both mastery of skills and doctrinal knowledge. Below you will find a list of key skills that will be practiced and developed, and an outline of the areas of doctrinal coverage. Basic mastery of these skills and a complete understanding of these doctrinal areas is necessary to earn a grade consistent with good standing.

Skills:

- **Issue Spotting:** You will be able to identify the appropriate legal question arising out of a fact pattern.
- **Rule Statement:** You will be able to state an accurate paraphrase of applicable rules, including appropriate legal terms of art.
- **Holdings:** You will be able to develop broad and narrow holdings for all cases.
- **Rule Interpretation and Application:** You will be able to interpret and apply a rule to a hypothetical set of facts, recognizing the different approaches required by different types of rules.
- **Case Synthesis and Application:** You will be able to apply and distinguish cases in relation to a hypothetical set of facts, with appropriate explanation of significance—i.e., the relevance of the similarities and differences to the outcome of the dispute.
- **Making Policy-Based Arguments.** You will be able to identify the public policies of a precedent case or rule, to explain the policy implications of a legal controversy, and to use those policies in support of arguments for particular outcomes of the legal controversies.

[Please see the next page for Doctrinal Coverage]

Doctrinal Coverage:

A. Intentional Torts

1. Battery
 - a. Intent: the meaning of intent in the context of battery
 - b. Contact: the meaning and outer limits of harmful and offensive contacts.
2. Other Intentional Torts:
 - a. Assault
 - b. Intentional Infliction of Emotional Distress
 - c. False Imprisonment
 - d. Trespass
 - e. Trespass to Chattels
 - f. Conversion
3. Privileges
 - a. Consent
 - b. Self-Defense
 - c. Necessity

B. Negligence

1. Basic Standard
 - a. Historical Development of Negligence
 - b. Learned Hand Formula
 - c. Elements: duty, breach, causation, damages
2. "Shortcuts" for determining breach:
 - a. The role of custom in determining duty/breach
 - b. Negligence Per Se: the role of statutes in determining duty/breach
 - c. Res Ipsa Loquitur
3. Limitations on duty
 - a. Landowners toward invitees, licensees, trespassers.
 - b. No duty to rescue (w/exceptions)
 - c. Responsibility for third persons
4. Actual Causation
 - a. "But for" causation
 - b. Substantial factor
 - c. Complications with multiple parties
5. Proximate Cause
 - a. "Foreseeable Plaintiff" approach (Cardozo in *Palsgraf*)
 - b. Direct consequences/policy based limitations (Andrews, e.g.)
 - c. Alternative approaches
6. Liability limitations based on damages
 - a. Pure economic loss
 - b. Mental distress

Course Requirements and Other Details

1. Attendance is mandatory.
 - For those class dates that do not have a live Zoom session scheduled, failure to complete all assigned work (including Preview PowerPoint and Preview Quiz) counts as an absence.
 - During Zoom sessions, you are required to complete an in-class Worksheet and upload it immediately after class; failure to complete and upload that Worksheet promptly will prevent you from receiving credit for attendance for that class. If you exceed more than the allowed number of absences (four for day students, whose classes meet twice a week, and two for evening students), you will be dropped from the course. ***You are responsible for keeping track of the number of absences you accumulate. Please keep records.***
 - Promptness is also mandatory.
2. Class participation and preparation are required. If you are unprepared in class, **your final grade will be adjusted down by one tenth for each occasion.**
3. In addition to the at-home work required to be completed for attendance, there will be occasional additional writing assignments or other homework. All such exercises must be completed in good faith and on time. **Failure to do so on more than one occasion will result in the same penalty as set out in #2 above.** The “free bite” (the one missed or late exercise for which no penalty is assessed) is designed to cover emergencies. Because of the ease of electronic submission, absence from class does not affect due dates or excuse completion of homework.
4. **Preview Quizzes.** On-line quizzes that are labeled “Preview” are not included in your grade and are set to allow you to take them multiple times. While you will see a score, along with detailed feedback, the score is not recorded for grading. The purpose of these quizzes is to guide you through a set of learning exercises. Students who score less than 75% of the total available points are encouraged to retake the quiz to make sure they have retained the information or mastered the skills based on the feedback. **Students who score less than 50% of the total are required to retake the quiz until they reach a minimum 50% score in order to receive credit for completion.**
5. **Review Quizzes.** The scores for quizzes labeled “Review” are recorded and included in your grade. They are set for a single attempt. The sum total of all scores on Review Quizzes will count for 5% of your grade.
6. The **Midterm** will be a take-home exam administered during Week 6. The Midterm will count 15% of your grade.
7. The final examination will be 80% of your final grade.

8. Enrollment in your section's **Course Website on TWEN** is mandatory. All assignments and quizzes are made available there, and completed assignments are uploaded there. There is a separate Course Website for each section. Please see the name of the Course Website, and the password for each one below. It is very important that you sign up for the correct Course Website, as the relevant assignment deadlines and other important information may be different.

Section	Course Website Name	Password
B	Torts IB Fall 2020	kellert1b
C	Torts IC Fall 2020	kellert1c

9. I will maintain Office Hours by appointment using Zoom **on Monday and Wednesday afternoons from 3:30-6:30**. You may sign up for these appointments using the sign-up sheet feature on TWEN. If the available slots are full or you have a conflict with the available times, please contact me by email at skeller@wsulaw.edu.

10. **Requirements for Students in Zoom Sessions.** Below, you will find the faculty approved requirements for Zoom sessions. Additional requirements for the Torts I class will follow on the next page...

- Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.
- Arrive to class early and dressed as you would to attend an in-person class.
- Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.
- Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.
- Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.
- If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.
- If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.
- Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.

11. Additional Zoom Requirements and Recommendations:

- Sign into Zoom with the name under which you are registered for class. If you prefer to be called by a different name or nickname, please let me know.
- Unless I instruct you otherwise, please mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions.
- If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you will resolve that technological issue before your first class session and consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.
- I will use a number of interactive functions in Zoom to engage with students, e.g., polling questions, breakout rooms, as well as asking you to share your screen, or type in the chat window. Like being called on in a live classroom, you are expected to participate fully in these activities and functions, i.e., answer polling questions, speak with your classmates in breakout groups, share your screen as requested, etc.
- Students seeking to participate in class, ask a question, or respond to an open question should use the “Raise Hand” feature in Zoom, located in the “Participants” window. Please familiarize yourself with that function prior to class.
- Please do not use the “Chat” feature in Zoom while class is in session unless specifically instructed to do so. If you wish to get my attention or make a contribution, please use the Raise Hand feature instead. Communicating with other students by chat during the class session, unless there is a specific instruction to do so as part of an exercise, can be distracting. And “helping” another student with an answer actually can undermine the learning experience, which often is enhanced by some quiet contemplation and productive struggle.
 - Please **do** feel free to use Chat to communicate with me during the period of time before class begins, during break, or when I am hanging out on Zoom after class.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker’s ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author’s ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.