

Syllabus

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Learning and Reading Assignments

In the following pages, you will find both detailed Learning Assignments for each class session and weekly Reading Assignments. The Learning Assignments include preview PowerPoint material, on-line exercises, quizzes and writing assignments.

Following the detailed Learning Assignments you will find the Reading Assignments that correspond to each week.

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**.

All page references are to the Vetri text. Assignments labeled **Handout** will be available on the course website. Please see details at Course Requirements.

Please prepare all pages listed in the assignment. Principle cases with starting page numbers in parentheses are noted for useful reference. These page numbers will refer to the Vetri text unless noted as part of the assigned handout. Assume any Problems that fall within the assigned pages are to be studied for discussion purposes, unless instructed otherwise.

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, and reviewing the material shortly before class so that it is fresh in your mind. Proper preparation also continues during the class session, and means that you engage with all exercises and pay full

attention, so that you can respond to questions about material covered during the class. In the first class, we will also review the important elements of a brief for this course.

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. 12 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.

The reading and preparation, the class sessions, and the assigned at-home work combine to form the equivalent of two (2) hours of classroom time plus four (4) 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 assignment for Week 1 under Detailed List of Learning Assignments).

Full instructions for all tasks will be included in the Week 1 Preview PowerPoint, available for download from TWEN on January 10. If you wish to begin your preparation prior to January 10, please refer to the Reading Assignments. In all cases, the reading assignment for the week should be completed prior to the additional exercises.

Learning Assignments

This Learning Assignments table should be reviewed in conjunction with the Reading Assignments table on p. 5-6 of this syllabus. More information about upcoming assignments will be provided in class. You may also always consult the last slide of each week's posted PowerPoint for upcoming assignments. Tasks in addition to those listed here may be assigned in the PowerPoint as part of each week's preparation.

All quizzes can be found on TWEN under Assignments. All written exercises should be uploaded by the due date to the appropriate assignment on TWEN.

In addition to those assignments listed below, for each week you should complete the following tasks:

- Prior to class:
 - Complete all reading for that week (see Reading Assignments)
 - Download the In-Class Worksheet for that week (available on TWEN at 10 a.m. the day of class)
- After class:
 - Upload the completed In-Class Worksheet to the appropriate assignment on TWEN (due 15 minutes after class ends).

WEEK	CLASS DATE	Assignment
1	Jan. 20	Prior to Class: <ul style="list-style-type: none">➤ Review "Week 1 Preview" PowerPoint and complete all tasks included in the slides➤ Complete "Week 1 Preview Quiz" on TWEN website <u>DUE Wed. 1/19, 5:00 p.m.</u>
2	Jan. 27	After Class <ul style="list-style-type: none">➤ Complete <i>Shin v. Ahn</i> exercise: <u>Due Tues. 2/1, 5:00 p.m.</u>➤ Complete Review Quiz: Negligence Defenses: <u>Due Tues. 2/1, 5:00 p.m.</u>
3	Feb. 3	No additional assignments...
4	Feb. 10	After Class <ul style="list-style-type: none">➤ Complete factor analysis paragraph exercise: <u>Due Tues. 2/15, 5:00 p.m.</u>➤ Complete Review Quiz: Nuisance and Strict Liability:

WEEK	CLASS DATE	Assignment
5	Feb. 17	No additional assignments...
6	Feb. 24	After Class Complete Wade factor paragraph exercise: <u>Due Tues. 3/1, 5:00 p.m.</u>
7	March 3	Prior to Class ➤ Review for Midterm, including assigned practice exams
8	March 10	MIDTERM
NO CLASS MARCH 17: SPRING BREAK		
9	March 24	After Class ➤ Complete Review Quiz: Products Liability: <u>Due Tues. 3/29, 5:00 p.m.</u>
10	March 31	<u>Instead of Class:</u> ➤ Complete all reading for Week 10 ➤ Make a thorough study and review of the “Week 10 Preview” PowerPoint and complete all tasks included in the slides. ➤ Complete “Week 10 Preview Quiz” on TWEN website <u>Due THURSDAY. 3/31, 5:00 p.m.</u>
11	April 7	After Class ➤ Complete Defamation Writing Exercise: <u>Due Tues. 4/12, 5:00 p.m.</u>
12	April 14	No additional assignments...
13	April 21	After Class ➤ Complete Review Quiz: Defamation and Privacy: <u>Due Tues. 4/12, 5:00 p.m.</u> ➤ Complete Privacy writing exercise: <u>Due Tues. 4/12, 5:00 p.m.</u>
14	April 28	Prior to Class ➤ Review for Final, including assigned practice exams

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. Principle cases with starting page numbers (or “h” to indicate the Handout) are noted for your reference. However, you are responsible for all material within the listed pages of the week’s assignment.

WEEK	TOPICS	ASSIGNMENT	CASES
1	Introductory Material History of Tort Law Policies in Tort Law Tort Litigation Process Review of Negligence Negligence Defenses Contributory Negligence Comparative Negligence Assumption of Risk	7-13, 30-45, 50-64 (review from Torts I) xii (Briefing Guide) 606-613 (top) 618-619 (note 3) 623-631	<i>Rudolph v. Arizona B.A.S.S. (53)</i> <i>Hoffman v. Jones (608)</i> <i>Bowen v. Cochran (627)</i>
2	Negligence Defenses Contributory Negligence Comparative Negligence Assumption of Risk Governmental Immunity	632-640 (through note C) Case Handout: Week 2 645 (note 3)-652 (top) 675-676 (top)	<i>Murray v. Ramada Inns (632)</i> <i>Shin v. Ahn (handout)</i>
3	Review of Trespass Nuisance	797-802 (review from Torts I) Restatement 2 nd (Week 3 handout) 802-810 818-823, 830 (notes 1 & 2)	<i>Prah v. Maretti (802)</i> <i>Rankin v. FPL Energy (808)</i> <i>Bradley v. Am. Smelting (818)</i>
4	Strict Liability Animals Abnormally Dangerous Conditions Vicarious Liability	832-848 22-23 (note 13) Case Handouts: Week 4	<i>Klein v. Pyrodyne (835)</i> <i>Kane Furniture Corp. v. Miranda (handout)</i> <i>Riley v. Standard Oil (handout)</i>

WEEK	TOPICS	ASSIGNMENT	CASES
5	Products Liability Historical Introduction Manufacturing Defects Design Defects:	192-99 850-866	<i>MacPherson v. Buick Motor Co.</i> (192) <i>Escola v. Coca Cola Bottling</i> (853) <i>Henningsen v. Bloomfield Motors</i> (855) <i>Greenman v. Yuba Power Products</i> (856)
6	Products Liability Design Defects: <ul style="list-style-type: none"> • Consumer Expectation Test • Risk Utility Test 	871-895 (top) 899 (part [c])-911	<i>Leichtamer v. AMC</i> (872) <i>Floyd v. Bic</i> (880) <i>Valk Mfg v. Rangaswamy</i> (884)
7	Writing exercises and Midterm Review		
8	MIDTERM		
9	Products Liability Design Defects: <ul style="list-style-type: none"> • Reasonable Alternative Design Warning Defects Defenses	895-899 919-935 939 (part [c])-943 955-964	<i>Vautour v. Body Masters</i> (895) <i>Nowak v. Faberge USA</i> (919) <i>Ramirez v. Plough</i> (927) <i>Whitehead v. Toyota</i> (955)
10	Defamation Common Law	965-990	<i>Zeran v. Diamond Broad.</i> (977)
11	Defamation Constitutional Law	993-1037	<i>New York Times v. Sullivan</i> (996) <i>Gertz v. Robert Welch, Inc.</i> (1015) <i>Dun & Bradstreet v. Greenmoss</i> (1025)
12	Invasion of Privacy: <ul style="list-style-type: none"> ➤ Overview 1. Intrusion 	Restatement Provisions (Week 12 handout) 1056-1063 (skim) 1063-1065 1081-1085	<i>Shulman v. Group W Part 1</i> (1081)

WEEK	TOPICS	ASSIGNMENT	CASES
13	Invasion of Privacy: 2. Disclosure 3. False Light 4. Appropriation/ Publicity	Case Handouts: Week 13 1102-1107 1111-1115	<i>Shulman v. Group W Part 2 (h3)</i> <i>Crump v. Beckley Newspapers (1102)</i> <i>ETW Corporation v. Jireh Publishing (h3)</i>
14	Writing exercises and Final Review		

Course Learning Objectives

The learning objectives for Torts II 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.
- **Factor Based Analysis:** You will be able to apply factor-based rules to hypotheticals, explaining how each factor weighs in the balance, and explaining the significance of the relevant facts to the outcome.
- **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.

[See next page for Doctrinal Coverage Outline]

Doctrinal Coverage:

- A. Defenses to Negligence
 - 1. Contributory Negligence
 - 2. Comparative Negligence
 - 3. Assumption of Risk

 - B. Trespass and Nuisance
 - 1. Elements of common law Trespass.
 - 2. Private Nuisance doctrine

 - C. Strict Liability
 - 1. Animals
 - 2. Abnormally Dangerous Conditions

 - D. Vicarious Liability

 - E. Products Liability
 - 1. Historical Approaches
 - a. Negligence
 - b. Warranty
 - c. The early development of Strict Liability
 - 2. Modern Products Liability
 - a. Plaintiffs/Defendants
 - b. Manufacturing Defects
 - c. Design Defects. Tests:
 - i. Consumer Expectation Test
 - ii. Risk/Utility Test
 - iii. Reasonable Alternative Design (Restatement 3rd)
 - d. Warning Defects
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- F. Defamation
 - 1. Common Law rules
 - a. Libel vs. Slander
 - b. Damages
 - c. Privileges
 - 2. Adjustment of Standard for First Amendment considerations
 - a. Public vs. Private Figure
 - b. Public vs. Private Matter
-
- G. Invasion of Privacy
 - 1. Intrusion
 - 2. Public disclosure of private facts
 - 3. False Light
 - 4. Appropriation

Course Requirements and Other Details

1. Attendance is mandatory.
 - During all class 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.
 - Students who are unable to use a laptop in class to complete the worksheet electronically should contact me for alternative means of demonstrating completion of handwritten worksheet.
 - If you exceed more than **two (2)** absences, 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. Late arrivals may be counted as absent.
2. Class participation and preparation are required.
 - If you are unprepared when called on in class, you are permitted to say “unprepared” on the **first** occasion without consequence.
 - If you are unprepared on a second and subsequent occasion, **your final grade will be adjusted down by one tenth for each occasion.**
3. In the Learning Assignments above, you will find occasional writing assignments or other written 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** (one tenth deduction for each missing or late assignment after the first one). 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. Deadlines for Quizzes will be strictly observed.
6. The **Midterm** will be administered during Week 8. It will be a timed, in-class midterm (75 minutes). The Midterm will count 15% of your grade.
7. The final examination will be 80% of your final grade.

8. Enrollment in **Course Website on TWEN** is mandatory. All assignments and quizzes are made available there, and completed assignments are uploaded there. The course website is entitled Torts II Keller Spring 2021. The password is kellert2.

9. I will maintain Office Hours by appointment using Zoom, days and times TBA. 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 II 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 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, first name followed by last name. 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. 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, 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.