Torts
Law 502, Section 1
Fall 2017
Room 202 - M, W (11:00 – 12:15); F (11:00 – 11:50)*
Associate Professor Mike Koehler

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Course Overview and Learning Objectives

Torts is a diverse subject that includes a wide range of civil claims concerning conduct that is happening around us every day. This course will introduce you to major areas of tort law such as intentional torts, negligence and strict liability, as well as damages issues in tort actions.

Learning objectives for this course include the following: (i) understanding the sources and policy objectives of tort law, (ii) identifying and analyzing the elements of various substantive torts and related privileges/defenses; (iii) understanding the logistics of bringing and resolving torts cases including the role of judge and jury, burden of proof issues, and the difference between bright-line rules and factor-based tests; and (iv) gaining a new and unique perspective of the world around you through spotting and analyzing tort issues in everyday conduct.

Class Materials

The assigned textbook is Torts: Cases and Materials (Twerski, Henderson & Wendel) (Third Ed. 2012). In addition to text reading, assigned material will also include supplemental reading placed on TWEN. The goal of the supplemental reading is to provide alternative format readings in furtherance of the learning objectives of this course, to stimulate classroom discussion, and to emphasize the current and real-world nature of topics covered in this course. Supplemental readings will be treated the same as text reading for exam purposes.


*During mid-term week, the schedule is as follows: Monday, Oct. 9 (4:00-4:50 Review); Tuesday, Oct. 10th (8:30-9:50 Exam); (10:00-10:50 Feedback)
**Attendance**

Part of your success in your legal career will be to show up at the right place at the right time. The same is true for this course. Class will start promptly at the assigned times and failure to be in your seat at the start of class will result in a class absence. Likewise, class is not come-and-go as you please. Absent true emergency situations or circumstances discussed in advance with the professor, students are expected to remain in their seats for the duration of class.

As specified in the *Rules of the Southern Illinois University School of Law*, “regular attendance to class meetings in all courses is expected and required of all students in accordance with the rule to be announced by the professor at the beginning of each course. Attendance will be taken in class and attendance records will be kept. Violation of this rule shall subject the student to penalties …”.

It is your responsibility to ensure that you sign the attendance sheet during class. You should also note that the *School of Law Honor Code* states that it is academic misconduct to sign another student’s name to an attendance sheet for a class that the other student did not attend.

Students may have no more than a maximum of six absences (partial or total) for any reason (other than jury duty, the student’s hospitalization, birth or adoption of the student’s child, or a death in the student’s immediate family – any of which shall be proven by documentation). Students with more than six absences will be referred to the Associate Dean and will be given the lowest possible grade – a failing grade – for the course.

**Participation**

Being physically present in class is of course not your only responsibility. You are also expected to arrive to class poised to learn and to actively participate in classroom discussions. Active participation in classroom discussions requires preparation for class and reading the assigned course material, understanding the key concepts, and being able to answer any assigned problems or discussion questions circulated prior to class. For additional information, see “Common Expectations for 1L Courses” posted on TWEN.

The primary method used to achieve the course learning objectives is through studying cases in which you will be expected to identify and analyze tort problems using the IRAC (Issue, Rule, Analysis, Conclusion) method. **Please understand that IRAC is merely a learning device designed to extract legal rules and principles from cases.** As part of using this learning device, students are expected to arrive to class able to identify and analyze the following issues in cases: the facts of the case including
identification of the parties; the procedural history of the case; the issue presented to
the court often phrased in the form of a question; substantive rules of law or legal
principles that answer the question; the court’s analysis and conclusion including
authority relied upon by the court in reaching its decision and, if applicable, policy
issues considered by the court.

Students will be randomly called upon during each class session and will be expected to
facilitate learning of the assigned material through discussion of the above issues.

In addition, an important and valuable feature of this course (most Wednesdays) will be
“Torts in the News” in which students will be expected to discuss news articles relevant
to the topics covered in this course. Like the assigned supplemental readings, this
feature of the course is to emphasize the current and real-world nature of the topics
covered by giving students the opportunity to spot and analyze tort issues in the news
and confront various policy issues relevant to tort actions.

**Workload Expectation**

The American Bar Association standards for accrediting law schools contain a formula
for calculating the amount of work that constitutes one credit hour. According to ABA
Standard 310(b)(1), “a ‘credit hour’ is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and
two hours of out-of-class student work per week for fifteen weeks, or the equivalent
amount of work over a different amount of time.” This is a 4-credit hour class, meaning
that we will spend approximately 200 minutes together each week. Applying the ABA
standard to the number of credits offered for this class, you should plan on spending a
total of approximately 11.5 hours per week (3.5 in class and 8 preparing for class) on
course-related work.

**No Laptop Computers or Similar Devices Allowed**

So that all students can best achieve the learning objectives for this course and to
maintain a professional setting with a focus on learning, except for a disability
accommodation (see below), laptop computers or similar devices are not allowed in
class.

**Seating Chart**

To better facilitate classroom discussion and assessment of attendance and
participation, there will be a seating chart for this class.
Grading and Learning Assessment Opportunities

Your final grade will be based on the following:

- 5% Attendance, Participation, and Professionalism
- 10% Exam (closed book, no notes) on Oct. 10th (8:30 – 9:50)
- 85% Comprehensive Final Exam (closed book, no notes) on Dec. 8th at 8:15

There will also be two additional learning assessment opportunities further to the law school’s “Writing Across the Curriculum” initiative. The first will be briefing a case using the IRAC method. The second (due on the last day of class on December 1st) will be a reflective writing assignment. These learning assessments are ungraded, but mandatory and must be satisfactorily completed by each student to receive credit for this class.

Professional Courtesies

Be respectful of your fellow students, their desire to learn and their learning styles. The classroom is a professional learning environment and student’s demeanor and language is expected to reflect this environment. My responsibility as a professor is to make sure that all students learn and to have conversations with all students. Thus, I will not entertain more than one question or comment from a specific student during the same class. All questions and comments of course are welcome, but most questions and comments are best reserved for either before or after class or during office hours.

Cell phones, iPods, and other such devices are not to be used (or heard) in the classroom.

Disability Accommodation

Disability Support Services (“DSS”) provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. http://disabilityservices.siu.edu/. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki
Cares please call (618) 453-5714, email siucares@siu.edu, or visit http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

Emergency Procedures

Southern Illinois University-Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety's website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency. Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.
# Course Overview

*(Subject to Modification Based on the Flow of the Semester)*

*(Denotes Reading Posted on TWEN)*

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<thead>
<tr>
<th>Topic</th>
<th>Reading</th>
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<tr>
<td><strong>Beginning Wednesday, August 23rd</strong></td>
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<td>Topics, reading assignments, etc. for</td>
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<td>orientation week were distributed</td>
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<tr>
<td><strong>Intentional Torts</strong></td>
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<tr>
<td>Intent and Various Intentional Torts</td>
<td>Chapter 1 (pgs. 17-58)</td>
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<tr>
<td>Privileges and Defenses</td>
<td>Chapter 2 (pgs. 75-94; 98-122)</td>
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<tr>
<td><strong>Negligence</strong></td>
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<tr>
<td>Duty and Various Analytical Devices</td>
<td>Chapter 3; <em>Burger King v. Iannelli</em></td>
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<td>Relevant to the Standard of Care /</td>
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<td>Breach of the Standard of Care (“Hand”</td>
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<td>Formula, Reasonable Person, Negligence</td>
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<td>Per Se, and Res Ipsa)</td>
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<tr>
<td>Causation (Actual and Proximate)</td>
<td>Chapters 4 (pgs. 223-246; 254-273); Chapter</td>
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<td>5 (pgs. 275-319; 325-339)</td>
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<td>Limited Duty Rules</td>
<td>Chapter 6 (pgs. 353-424); Sherer v. Sarma*;</td>
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<td>Coleman v. East Joliet Fire Protection</td>
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<td>District*</td>
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<td>Owners and Occupiers of Land</td>
<td>Chapter 7 (pgs. 439-454; 462-478); *Choate v.</td>
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<td>Indiana Harbor RR*</td>
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<td>Affirmative Defenses</td>
<td>Chapter 8 (pgs. 481-494; 499-512; 515-526;</td>
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<td>536-546)</td>
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<td><strong>Strict Liability</strong></td>
<td>Chapter 10</td>
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<td><strong>Damages</strong></td>
<td>Chapter 13 (pgs. 715-737; 742-746; 755-776)</td>
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