Torts
Law 502, Section 2
Fall 2014
Room 202 - M, W (11:00 – 12:15); F (11:00-11:50)
Assistant 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 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.

While not required, should you be looking for a useful Torts supplement, the following is on reserve in the law library: “A Short & Happy Guide to Torts,” West Publishing, Roger Schechter (2012) (KF 1250 .Z9 S34 2012).
**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.

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. Preparation for class should thus include, at a minimum, identification and analysis of the following issues: 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 relevant to the issue; 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 (a portion of each Friday class) 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 tort issues in the news and confront various policy issues relevant to tort actions.

**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 and Participation
- 95%  Comprehensive Final Exam (closed book, notes) on Dec. 2nd at 8:15 a.m.

Prior to the final examination, there will be three learning assessment opportunities further to the law school’s “Writing Across the Curriculum” initiative. The first (in lieu of class on September 5th) will be briefing a case using the IRAC method. The second (in lieu of class on October 1st) will be a timed in-class practice exam that allows for practice taking a typical law school exam and provides an assessment of your progress towards the learning objectives of this course. The third (due on the last day of class on November 21st) will be a reflective writing assignment. All assessments are ungraded, but mandatory and must be satisfactorily completed by each student to receive credit for this class.

**Professional Courtesies**

Be on time. Be respectful of your fellow students, their desire to learn and their learning styles. Cell phones, iPods, and other such devices are not to be used (or heard) in the classroom. Should you choose to take notes during class using a laptop computer, use of the computer shall be strictly limited to taking notes (any other use will result in forfeiture of future computer usage).

**Class Recordings**

For the benefit of students who are unable to attend a particular class due to an unavoidable circumstance, and for students who wish to review a particular class to
better facilitate comprehension of the learning objectives, class sessions will be recorded and made available for viewing.

**Disability Accommodation**

Pursuant to the *Rules of the Southern Illinois University School of Law*, “the Law School will make reasonable accommodations for students with disabilities. A student seeking such accommodation must make application to the Associate Dean in accordance with the Southern Illinois University School of Law Policy Concerning Applicants and Students with Disabilities. A student is required timely to submit appropriate documentation of the disability sufficient to allow the Associate Dean to determine the reasonableness of the accommodation requested. If the requested accommodation concerns examinations, the Associate Dean will decide whether to grant the accommodation after consultation with the appropriate faculty member(s). The Associate Dean and the faculty members involved will treat the identity of the student requesting accommodation as confidential, to the maximum extent practicable.”

**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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<th>Topic</th>
<th>Reading</th>
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<tr>
<td>Introduction, Course Overview, and Issue-Spotting Exercise</td>
<td>Syllabus</td>
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<tr>
<td>The Objectives of Tort Law and an Overview of a Torts Case</td>
<td>Pgs. 1-8; How to Phrase the Issue of a Case*</td>
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<tr>
<td>Intentional Torts</td>
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<tr>
<td>Intent and Various Intentional Torts</td>
<td>Chapter 1 (pgs. 9-58); <em>Connell v. Sea World</em></td>
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<td>Privileges and Defenses</td>
<td>Chapter 2 (pgs. 75-94; 98-129)</td>
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<td>Negligence</td>
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<td>Duty and Various Analytical Devices Relevant to the Standard of Care (&quot;Hand&quot; Formula, Reasonable Person, Negligence Per Se, and Res Ipsa)</td>
<td>Chapter 3; <em>Burger King v. Iannelli</em></td>
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<td>Causation (Actual and Proximate)</td>
<td>Chapters 4; Chapter 5 (pgs. 275-319; 325-339)</td>
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<td>Limited Duty Rules</td>
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<td>Owners and Occupiers of Land</td>
<td>Chapter 7; <em>Choate v. Indiana Harbor RR</em></td>
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<td>Affirmative Defenses</td>
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<td>Strict Liability</td>
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<td>Damages</td>
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