

TORTS
(Law 108C – Section AO2)
2010-2011

Course Description

Professor: Freya Kodar

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Course Website: The course website is a Moodle site that can be accessed at
<http://moodle.uvic.ca/>

I. Course Description

In this course we examine the legal principles that govern the ascription of liability for various forms of harm suffered by others. The focus is on the following: identifying those responsible for harms suffered by others, the components of the law of negligence and defences to negligence actions; medical malpractice; and the wrongs that have been classified traditionally under the heading "trespass" and in particular on the tort of battery, false imprisonment and defences to actions for intentional interferences with the person of another.

II. Course Objectives

The course aims to:

- ◆ provide you with an understanding, in general terms, of the systems in place to compensate people for the loss, injury or damage;
- ◆ convey the basic principles and rules which govern liability in tort law, along with a sense of the historical development of tort law, its theoretical justifications, and the social, economic and ideological context in which it has operated and continues to operate; and
- ◆ enable you to identify legal issues in torts problems and to work with both substantive law and policy considerations in resolving them.

III. Administrative Details

A. Class Times and Location

Fall: Wednesdays, 10:30 a.m. – 12:30 p.m.
Room 158

Spring: Mondays and Wednesdays, 10:30 a.m. – 12:00 p.m.
Room 158

B. Office Hours

I have an open door policy.

C. E-mail

Please check your email account regularly for any notices from me about class cancellations, reading assignments, paper deadlines or other matters.

Please feel free to e-mail me to make an appointment or ask general questions. Please be advised that I do not answer substantive questions by e-mail. If you have a substantive question, please see me after class or come by my office to speak with me.

D. Taping

As a general rule I do not permit lectures to be taped. I do make exceptions. If you would like to tape a lecture please speak to me beforehand.

IV. Materials

A. Required Course Materials

- ◆ Coursepack available for purchase at the Course Distribution Centre. There are two volumes.
- ◆ Philip H. Osborne, *The Law of Torts* (3rd ed., 2007).
- ◆ Reserve items available in the library.
- ◆ Supplementary judicial decisions and readings available on the course website, or handed out in class

Time limitations will inevitably prohibit us from having a detailed discussion about every case, note and idea in the assigned materials. Students are nevertheless expected to be familiar with all of the assigned readings.

B. Reference Texts (On Reserve in the Library)

You may wish to refer to the following materials from time to time.

Joanne Conaghan & Wade Mansell, *The Wrongs of Tort* (1993).

Ken Cooper-Stephenson & Elaine Gibson, eds., *Tort Theory* (1993).

John G. Fleming, *The Law of Torts* (9th ed., 1998).

Lewis N. Klar, *Tort Law* (4th ed., 2008).

Allen M. Linden and Bruce Feldthusen, *Canadian Tort Law* (8th ed., 2006).

Nicholas J. Mullany & Allen M. Linden, *Torts Tomorrow: A Tribute to John Fleming* (1998).
David G. Owen, ed., *Philosophical Foundations of Tort Law* (1995).
William L. Prosser & Page Keeton, *On the Law of Torts*, 5th ed. (1984).
Sanda Rodgers, Rakhi Ruparelia & Louise Bélanger-Hardy, *Critical Torts* (2009).
Ernest Weinrib, *The Idea of Private Law* (1985).

V. Teaching Methodology

This course will be taught through a combination of lectures, discussion sessions and problem solving.

It is my expectation that students will (i) have read and thought about the assigned materials before coming to class; and (ii) be able to identify and discuss relevant issues raised by the readings.

VI. Classroom Environment

An inclusive, respectful, and diverse classroom environment is crucial to our work in this course. To ensure that all class members feel welcomed and equally able to contribute to class discussions, both I as instructor and you as students must endeavor to be respectful in our language, our examples, and the manner in which we conduct our discussions and group work. We have both an ethical and legal obligation to support this kind of environment.

For your reference, you may wish to consult the University's Discrimination and Harassment Policy: http://www.uvic.ca/shared/shared_usecc/docs/policies/GV0205_1150_.pdf. The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. I expect all aspects of this class to be conducted with this commitment firmly in mind. If you have any concerns about the climate of the class, please feel free to contact the Associate Dean or me.

VII. Scented Products

Scented products aggravate health problems for some people, especially those with asthma, allergies and other medical conditions. In the interests of maintaining a healthy classroom environment please refrain from wearing scented products such as perfume, cologne, hairspray, lotions and creams in class.

VIII. Laptops

You do not need to use a laptop computer in class to succeed in this course. If you choose to take notes on a laptop, as a courtesy to your colleagues, please sit at the back of the classroom.

IX. Evaluation

- ◆ Collective Note-taking Submissions, Due as Assigned: **Pass/Fail**
- ◆ December Examination, Wednesday December 15, 2010 (1:00 p.m.): **30%** (Subject to Final Examination)
- ◆ Essay Assignment, Due March 28, 2011 (10:30 a.m.): **1/3 of Final Examination Grade**
- ◆ Final Examination, Wednesday April 14, 2011 (1:00 p.m.): **70%-100%** (Depending on the result of the December examination).

The final examination and the essay assignment are together worth **70% - 100%** of your final grade (depending on the result of the December examination).

A. Collective Note-Taking Due as Assigned

Each term you and at least one other member of the class will be responsible for providing collectively produced notes on what goes on in a class. In the **fall term**, the collective notes must be no longer than **one (1) page**. In the **spring term** they must be no longer than **two (2) pages**. **They are due seven (7) days after the class in question**. They can be handwritten or typed, and will be posted on the course website so that the rest of the class can access them. This will give everyone access to a collectively produced set of "notes" from the course.

The fall schedule listing the classes for which you are responsible for collective note-taking is posted on the course website. The schedule for the spring will be posted in January 2011.

Collective notes will receive a failing grade if:

- ◆ they are longer than two (2) pages; or
- ◆ they are not submitted within 7 days of the class in question.

A failing grade will result in a deduction of 2.5 marks from your final grade for the course.

B. Essay Assignment Due by 10:30 a.m. on Monday March 28, 2011

The essay assignment will require you to reflect on the materials and ideas discussed in class. It will be distributed on Monday March 14, 2011.

C. Examinations

The December examination will cover all the material assigned for the fall term. The April examination will cover all the material assigned for the year, with primary emphasis on the spring term.

The December examination is potentially worth 30% of your final grade for the course. However, it will count as 30% of the final grade in the course ONLY if it raises that grade. That is, if the December grade is lower than your final examination grade, your grade in the course will be based only upon the final examination grade.

The December examination in this course MUST BE WRITTEN, *i.e.*, it is COMPULSORY. **In the absence of a documented medical or other acceptable reason, failure to write the examination in December will mean that a penalty of one grade point will be deducted from your grade in the final examination in April.** (For example, if this penalty were to be applied, a final examination grade of B+ would become a B.)

An acceptable reason for not writing a December examination is a reason that would normally justify a Special Examination in a course (*i.e.* illness, family affliction or other pressing special circumstances) and the procedures to be followed to establish that an acceptable reason exists are the same as those that apply to Special Examinations. Among other things, these procedures require that you contact Associate Dean Heather Raven as soon as possible, and no later than five days after the scheduled date of the examination, to inform her of the problem and provide the documentation necessary to substantiate your grounds for missing the examination. (All students should ensure that they are familiar with the Faculty's Regulations regarding Special Examinations, which are set out in the calendar and posted on the main notice board.)

A student who establishes an acceptable reason for failing to write the December examination on the scheduled date may be granted special permission to write the examination on a deferred basis, provided that he or she is capable of doing so within the regular examination period in December. In such a case, the December examination grade will count in the calculation of the final grade for the course in the usual way. Arrangements to write an examination on a deferred basis must be made through the Associate Dean's office and an undertaking regarding non-discovery of the contents of the examination will be required.

A student who has an acceptable reason for failing to write a December examination on the scheduled date, and who cannot write the examination within the regular examination period, will not be allowed to write the examination at a later date and have it count in the calculation of his/her final grade for the course. In such a case, the penalty for failure to write the examination will not apply and calculation of the final grade will be made on the basis of the grade for the April examination.

Students should also be aware that, although writing the December examination in this course cannot adversely affect your final grade in the course, December grades for first year students have become relevant in other contexts. For example: the Director of Co-op may refer to them if a First Year student is not performing well in the Co-op preparation course, to help her determine whether that student should be allowed to apply for a summer work term; the law school will refer to these grades if you apply for a summer research position; and you may be asked to provide your unofficial December grades to prospective employers.

In addition, in January, the faculty will meet to review the December grades in order to identify students who are experiencing academic difficulties so as to be in a better position to assist them. Students who receive a grade of less than C in the December examination may be required to do remedial work of some kind to help them prepare for the final examination.

D. Accommodations

If you would like to discuss classroom, assignment or exam accommodation necessitated by a permanent or temporary disability, or for other reasons, please see Associate Dean Heather Raven as soon as possible.

E. Grading

The following breakdown of letters and percentages is the one that the University of Victoria Faculty of Law uses to determine course grades:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+ A A-	9 8 7	90-100% 85-89% 80-84%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
B+ B B-	6 5 4	75-79% 70-74% 65-69%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
C+ C	3 2	60-64% 55-59%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
D	1	50-54%	Marginal performance. A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory performance.

X. Regulations

- A. **Academic integrity is expected of all participants in the University Community. It is a serious academic offence to engage in plagiarism or other forms of academic dishonesty or to assist others in doing so.** You should familiarize yourself with the University's Policy on Academic Integrity, which is set out in the University of Victoria Undergraduate Calendar 2010-11 ("University Calendar"). The policy is available on-line at:
<http://web.uvic.ca/calendar2010/FACS/UnIn/UARe/PoAcI.html>

“Plagiarism

A student commits plagiarism when he or she:

- ◆ *submits the work of another person as original work*
- ◆ *gives inadequate attribution to an author or creator whose work is incorporated into the student's work, including failing to indicate clearly (through accepted practices within the discipline, such as footnotes, internal references and the crediting of all verbatim passages through indentations of longer passages or the use of quotation marks) the inclusion of another individual's work*
- ◆ *paraphrases material from a source without sufficient acknowledgement as described above*

Students who are in doubt as to what constitutes plagiarism in a particular instance should consult their course instructor.

The University reserves the right to use plagiarism detection software programs to detect plagiarism in essays, term papers and other assignments.”

- B. The Undergraduate Academic Regulations (2010-2011) of the University Calendar set out the University's expectations about attendance, assignments and examinations. These are available on-line at:
<http://web.uvic.ca/calendar2010/FACS/UnIn/UARe/index.html>