

TORTS – LAW 108C

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Course Website <http://moodle.uvic.ca>

CLASS TIMES AND LOCATION

Fall Term: Wednesday, 10am – 12 noon. Rm. 159

Spring Term TBA

A. 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; the wrongs that have been classified traditionally under the heading "Trespass" and in particular, the Torts of Battery, and False Imprisonment; defences to actions for direct interferences with the person of another.

B. COURSE OBJECTIVES

1. To provide an understanding of the principles and rules that govern liability in tort law;
2. To develop a sense of the historical evolution of tort law, its theoretical justifications, and the social, economic and political context in which it has developed;
3. To identify and assess the various justifications and underlying reasons offered by courts when reaching decisions in tort actions;
4. To develop competence both orally and in writing in developing arguments relating to identifying legal issues in torts problems and in

applying knowledge of the substance of the law and working with policy considerations in resolving them.

C. METHODOLOGY

Lectures, discussion sessions and problem solving are the main vehicles used in the course.

Students are expected to:

- Read assigned materials and questions before each class
- Be prepared and able to identify and discuss the legal and policy issues presented by the assigned materials.

Recording

As a general rule I do not permit lectures to be recorded electronically. Classes may be recorded electronically where necessary to accommodate a student. However, prior permission is required. Other arrangements may be made to accommodate students. Options for accommodation should be explored in consultation with me and the Associate Dean.

D. MATERIALS

1. Required Course Materials

- Philip H. Osborne, *The Law of Torts* (4th ed., 2011). Available for purchase at the bookstore.
 - Coursepack available for purchase at the Course Distribution Centre
- 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 of every case, note and idea in the assigned materials. Students are nevertheless expected to be familiar with all of the assigned readings.

2. Reference Texts (On Reserve in the Library)

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

- Allen M. Linden & Bruce Feldthusen, *Canadian Tort Law* (9th ed., 2011).
- Lewis N. Klar, *Tort Law* (4th ed., 2008).
- John G. Fleming, *The Law of Torts* (9th ed., 1998).
- Ernest Weinrib, *The Idea of Private Law* (1985).
- David G. Owen, ed., *Philosophical Foundations of Tort Law* (1995).
- William L. Prosser & Page Keeton, *On the Law of Torts*, 5th ed. (1984).
- Nicholas J. Mullany & Allen M. Linden, *Torts Tomorrow: A Tribute to John Fleming* (1998).
- Ken Cooper-Stephenson & Elaine Gibson, eds., *Tort Theory* (1993).
- Joanne Conaghan & Wade Mansell, *The Wrongs of Tort* (1993).
- Gerald Postema, *Philosophy and the Law of Torts* (2001).
- Peter Cane and Jane Stapleton, *The Law of Obligations: Essays in celebration of John Fleming* (1998).
- Prosser and Keeton, *On the Law of Torts*, 5th Ed., 1984, updated 1988.

E. CLASSROOM CLIMATE

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 endeavour 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://web.uvic.ca/uvic-policies/pol-1000/1150HPP.html>).

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.

F. EVALUATION

December Examination: DECEMBER

Final Examination: APRIL

1. Examinations

The December and April examinations may include short answer, problem or essay style questions. The December examination will cover all materials assigned for the fall term. The April examination will cover all materials assigned for the year, with primary emphasis on the spring term materials.

2. The December Exam

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 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.

G. 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+	9	90-100%	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.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	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.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance.
C	2	55-59%	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.

H. ACCOMMODATION

Students with a Disability

If you have any type of disability, there are support systems, resources, and accommodation actions available to you. If you wish to access any of these supports, resources or accommodations, I encourage you to contact the Associate Dean or the Resource Centre for Students with a Disability (<http://rcsd.uvic.ca/home.ihtml>) and I would be more than happy to work with you to ensure your success in this course.

Accommodation of Religious Observances

The University of Victoria and the Faculty of Law have policies guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday. If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday, please speak with me (or the Associate Dean) and I will be pleased to work out some satisfactory form of accommodation.

I. ACADEMIC INTEGRITY

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. Students should familiarize themselves with the University's Policy on Academic Integrity, which is set out in the University of Victoria Undergraduate Calendar 2009-10 ("University

Calendar”) and available on-line at:

<http://web.uvic.ca/calendar2011/FACS/UnIn/UARe/PoAcI.html>

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