

Torts I
Syllabus Fall 2026 Version v. 1.0.2
Prof. H. Tomás Gómez-Arostegui

Section:	Time:	Room:
RED	Tuesdays & Thursdays 10:05 am - 12:00 pm	2

Contact Info and Office Hours: My office is on the middle floor of the Legal Research Center (same floor as the Cafeteria), at the very end of the hall. My phone number is 503-768-6816, and my e-mail is tomas @ lclark.edu. I have drop-in, in-person office hours for Torts and am also available to meet with students on Zoom for office hours. I have an electronic whiteboard that I can use, which works well on Zoom. I am also open of course to setting up other times for in-person meetings.

Torts	Tuesdays: 12:00 - 1:20 pm ¹	Online via Zoom: I'm generally available
In-Person:	Thursdays: 12:00 – 1:20 pm	on Fridays and most weekends too. Just reach out to set up a time to Zoom with me.

Required Materials: (1) **Casebook:** DOBBS, HAYDEN & BUBLICK, TORTS AND COMPENSATION: PERSONAL ACCOUNTABILITY AND SOCIAL RESPONSIBILITY FOR INJURY (9th ed. 2022). Note: Make sure to purchase the standard edition; do **not** purchase the “Concise Edition” or a prior edition as they are not interchangeable. (2) **Supplements:** One supplemental reading for Class 3 is posted on my class website: https://law.lclark.edu/faculty/h_tomas_gomez_arostegui/torts_i/ [WEB]. (3) **Class handouts:** I have already posted all the handouts to the WEB (bookmark it). All will remain available for download throughout the semester. I generally assume students will bring laptops to class and will download the WEB materials ahead of time, but I also will project them during class sessions.

Scope and Purpose of Course: Unlike your course on Civil Procedure, which focuses on rules of court procedure that apply across many different types of claims that one can file in court, our focus in this course is on substantive law and on one class of claims in particular: tort. A tort is not the name of a single claim, but the label we use for a whole class of claims. In short, a tort is a type of civil wrong that someone (a defendant) can commit against a person (a plaintiff) or that person's property. You will have already heard of some torts, and might be wondering: What does it take to prove a claim of battery against someone? Or what do I have to prove to succeed on a claim of negligence? We will explore three standards of conduct: intentional wrongs, negligence, and strict liability (no fault). Some claims require intent, some only require negligence, and some require no showing of fault at all. The bulk of the course will be spent on negligence because it forms the basis for most personal- and property-injury claims. Thus, one would be mostly correct in stating that our course covers the “Law of Accidents.” We will also examine other issues associated with civil liability, such as common affirmative defenses (the statute of limitations, for example) and remedies. By the end of this course, you will be able to assess the likelihood of succeeding on the various claims and defenses we will study.

This is a foundational course in part because many other types of injuries and claims—be they injuries

¹ I will occasionally have to cancel Tuesday office hours due to a faculty meeting. If that happens, I will let everyone know during class.

to intellectual property, the environment, or civil rights—draw their default principles from tort law. So this course remains very valuable, even if you never plan to practice personal-injury law.

Uniform Learning Outcomes Across Torts Sections:

After taking this course, students should be able to do the following:

Distinguish intentional, reckless, and negligent conduct and the different consequences of each;

Articulate and apply the elements of common intentional, negligence, and strict-liability torts;

Articulate and apply rules for when a party may be liable for torts committed by others;

Articulate and apply common affirmative defenses to tort claims;

Articulate and apply common remedies available for tortious injuries;

Identify when a tort claim, defense, or remedy is a clear winner, reasonably debatable, or a clear loser;

Analyze judicial opinions to identify the plaintiff's claim, the central facts of the case, the legal issues involved, the legal rules articulated, and the court's analysis and resolution of the issues;

Distinguish common law and statutory law and articulate the manner in which statutory and judge-made law interact;

Recognize the importance of facts to legal analysis, identify and analyze facts necessary to the analysis and resolution of legal issues, identify legal issues raised by relevant facts, and reason by analogy on issues of fact;

Distinguish questions of law and fact, and appreciate the respective roles played by the judge and the jury in the litigation process.

Seating: Sit wherever you like on the first day of class. I will circulate a seating chart after everyone has taken their seats. You will then have to sit in the same seat for the remainder of the semester. After the first class, I'll take an image of the seating chart and email it to everyone so you can refer to it as needed.

Class Breaks: I ordinarily take a 10-minute break in the middle of class. Please avoid taking breaks at other times to use the bathroom or for other business. Leaving during class for long stretches could lead to me marking you absent (see below on **Attendance**).

Reading Assignments: You are responsible for all the assigned materials, whether discussed or not, but I consider the material we discuss in class to be the most important (see below under **Final Exam**).

Other Materials: You do not need to consult other materials to do well in this class. Nevertheless, students often ask for my thoughts on additional materials. For one, do not use Quimbee. And I would not buy any commercial outlines or case briefs of Torts. The following are not required, and you should feel comfortable to come see me first with questions, but they are useful as alternative sources should you want to review information on your own on *material we are covering in class*.

First, included with your casebook (if purchased new) or if purchased separately as the CasebookPlus Learning Library, are study guides and many review problems. These guides and quizzes are available as an online, password-protected resource. I will provide you, in a separate document, with a list of questions that you can review from this online companion; the list will save you time because we do not cover everything in the casebook, and so there are some problems online that you will skip.

Second, there are other study aids available in or through the library in print and online. I have found that in the first half of the semester it is a better use of your time to re-read an assignment rather than going to a secondary source for help. You can still “crush” my exam without picking up any secondary materials. But if you must, I recommend these (in addition to the online companion mentioned above):

Mini-Hornbook:

JOHN L. DIAMOND, LAWRENCE C. LEVINE & ANITA BERNSTEIN, UNDERSTANDING TORTS (7th ed. 2023 or 6th ed. 2018)

Hornbook:

DAN B. DOBBS, PAUL T. HAYDEN & ELLEN M. BUBLICK, THE LAW OF TORTS (2d ed. 2016)
[Written by our casebook authors, this is available online for free through our law library.]

Study Guide with Questions and Answers:

JOSEPH W. GLANNON, EXAMPLES & EXPLANATIONS: THE LAW OF TORTS (6th ed. 2020 or 5th ed. 2015) [This *might* be available online for free through our law library, I am not sure, so check before buying. In any case, a physical copy will be on reserve in the library.]

Outlines from Former Students: In preparing for the exam, students will sometimes use outlines written by my former students. I urge you not to use them. These outlines often misstate the law, may cover material that we did not cover, omit material that we did cover, or rely on older handouts that I have since updated in a material way. Besides, it is important for you to do your own work. In my experience, students who crib in whole or in part from prior outlines tend to do poorly on the exam. A few weeks into the semester, I will hold a special bonus Zoom session on how to outline a course.

Attendance: Students are expected to attend all class sessions. The school has a uniform attendance policy for all 1L doctrinal courses. The administration will provide you with a copy, and here is a link: https://law.lclark.edu/academics/whats_what/registration_and_policies/attendance_policy.php. Like many of your professors, I will be using the smart phone app EZCheck.me to take attendance, which is described in a separate document. Each class session, I will project the EZCheck check-in window

on the overhead screen about 5-10 minutes before class begins, and I will close it right when class starts at 10:05 am. So you must check in before I close the window or you are technically late. It is your obligation to ensure you have actually checked in and that your attendance record in EZCheck reflects that. If you realize you were unable to check in due to a technological issue or you missed the check-in because you were late, you must come see me during the break so that I can manually check you in. If you wait until a day or more afterward I am unlikely to check you in and it will count as an absence. And do **not** use the late-check-in request function in the EZCheck app. I never read those messages.

If you plan to leave class early for some reason, you should not mark yourself as present unless you have consulted with me first. Marking yourself as present is a representation that you plan to attend the entire session.

Tardiness: Unfortunately, tardiness has been a problem in iL courses the last few years, even with courses starting at 10:05 am, like ours. As you can imagine, having many students arrive late, often, each a few minutes apart, can be very disruptive to your classmates and to me. So please arrive on time. I wish stating that alone would be enough, but it hasn't been in the past. So for every three class sessions you are late, even if only late by a few seconds, I will lower your course grade one step (e.g., A to A-).

Cold Calling and Class Participation: I will call on people without prior notice of any kind. If you feel uncomfortable with public speaking, please reach out to me and we can chat about ways to ease you into this necessary exercise. If someone else has been called on and is answering a question, please keep your hands down. If you are unprepared on a particular day, please let me know **before** class begins—via email or by telling me right before class—and I will not call on you. But you get only one cold-calling pass. If I call on you and it is clear to me that you did not do the reading, that will, of course, count as being unprepared. It also eliminates any cold-calling pass you had not used. Importantly, if I call on you and you are unprepared twice, I will lower your course grade one step (e.g., from A to A-). But apart from that, strong or weak class participation does **not** affect your grade.

Note that you have the right to have all your questions answered, but not always during our class sessions. Sometimes time constraints or questions from other students (particularly those I may not have heard from as much) may take precedence. Office hours are always available for follow up.

Recordings: Recording of class sessions or of office hours, by any means, is prohibited. That includes using a listening device, whether AI-driven or not, to transcribe or synthesize the material. The law school records all of our classes for students who have an accommodation from the Office of Student Accessibility necessitating that they access recordings or transcripts. I do not freely distribute recordings or transcripts to other students, as they are for students with a disability. Nor will Dean Sullivan share them. Making recordings and transcripts widely available can actually stifle conversations in class. So if you missed a class, you will need to get notes from a classmate.

Technology Use: Unless you obtain permission from me beforehand, use of the Internet on any device during class (e.g., web surfing, AI-apps, email, Reddit, Slack, Twitter, texting, or otherwise PM'ing each other) is prohibited. The same goes for gaming during class, whether using the Internet or not and whether on a device or not. All of the above distracts you and your classmates, and we demand

your undivided attention. You are permitted during class to use the Internet to access class notes on the cloud, use EZCheck.me, your e-casebook, our Torts webpage (see above), and Westlaw/Lexis to look up opinions or terms in legal dictionaries that relate to what we are discussing during class. Lastly, due to privacy concerns, smart glasses are banned from my classroom and office hours.

Student Privacy: Because the school records our sessions, conversations you have with me (and your classmates) just before classes start, during breaks, or just after class ends, are likely to be picked up and recorded. So it is best to discuss matters of a personal nature outside of those time periods.

Final Exam: Your grade for the course will be based on an examination at the end of the semester. The exam will be closed book—no materials whatsoever. The subjects I will test you on include only: (1) material that I assigned for reading *that we discussed in class*; (2) any material that I assigned for reading that we did not discuss in class, but that I *expressly stated was fair game on the exam nonetheless*; and (3) material that was not part of the assigned reading but *that I discussed in class and expressly stated is fair game on the exam*.

Accommodations—Disability and Religious Practices: Students who have a disability, as defined by the Americans with Disabilities Act, may seek an accommodation through the Office of Student Accessibility (access@lclark.edu), which is located on the undergraduate campus. Students whose religious practices may impact their academic schedule, may seek accommodation through Associate Dean for Student Affairs Tracy Sullivan (tracys@lclark.edu). For questions regarding any type of accommodation, please contact Dean Sullivan.

Class & Day	Topics [Approx. Total Pages for Class Session]	Notes
[01] 9/1 Tues	Introduction [23pp] A. Tort Law and Goals [3–7] B. Reading Tort Cases [19–33] C. <i>Van Camp v. McAfios</i> [8–11]	SKIP: NOTE on p 7
[02] 9/3 Thurs	I. Intentional Torts [25pp] A. The Prima-Facie Case 1. Battery [37–58] 2. Assault [58–63]	SKIP: ¶ beginning “Not all countries” on p 46; SKIM: n. 5 on p 50; SKIP: n. 6 on p 50; n. 3 on p 53; nn. 5–7 on p 54; n. 6 on p 58; NOTE on p 63 BIG TYPO: In

		the middle of p 42, change: “ <i>Held</i> , affirmed” to “ <i>Held</i> , reversed”
[03] 9/8 Tues	[10pp] _ . Assault (discussion cont.) 3. False Imprisonment [63–66; WEB: RESTATEMENT (2D) OF TORTS §§ 35 & 36] 4. Trespass to Land [67–72] 5. Trespass to Chattels [76–77; WEB: RESTATEMENT (2D) OF TORTS §§ 217 & 218]	SKIP: nn. 5 & 7 on pp 66; n. 12 on p 71
[04] 9/10 Thurs	[19pp + 2pp to skim] B. Defenses to Intentional Torts 1. Self-Defense and the Defense of Others [91–97] 2. Defense of Property [97–100] 3. Discipline and Observing Privileges [SKIM 106–107] 4. Consent [108–119]	SKIP: nn. 2 & 3 on p 100; n. 3 on p 111; nn. 8–10 on pp 112–113; nn. 3–4 on p 116; n. 6 on p 119
[05] 9/15 Tues	[22pp] II. Negligence A. The Prima-Facie Case 1. The Standard of Care a. Reasonable Care [131–152]	SKIP: n. 3 on p 143; nn. 3–4 on pp 151–152
[06] 9/17 Thurs	[15pp] _ . Reasonable Care (discussion cont.) b. Negligence Per Se [152–164; 167–170]	SKIP: n. 9 on pp 162–163 Be prepared to discuss the <i>Lind v. Margaret</i> problem on p 170

[07] 9/22 Tues	[22pp + 3pp to skim] 2. Breach of the Standard of Care a. Unreasonable Risk [171–192] i. Multiple Tortfeasors [SKIM 197–200]	SKIP: nn. 3 & 4 on p 173; n. 1 on p 185; nn. 4–5 on p 186; n. 9 on p 200 Be prepared to discuss the <i>Brown v. Stiel</i> problem on pp 172–173
[08] 9/24 Thurs	[15pp] b. Proving the Underlying Conduct [201–212] i. Burdens and Standards of Proof ii. Evidence (a). Direct Evidence (b). Circumstantial Evidence c. Evaluating the Underlying Conduct to Determine if it Constitutes an Unreasonable Risk [215–218; notes 2–3 on p 220; § 8 on pp 221–222]	SKIP: Problem on pp 210–211
[09] 9/29 Tues	[17pp] d. Res Ipsa Loquitur [222–235] 3. Legally Cognizable Harm [237–241]	SKIP: n. 7 on pp 234; n. 2 on p 235; n.2 on pp 239–240
[10] 10/1 Thurs	[26pp] 4. Cause in Fact [241–256; 258–270]	SKIP: nn. 4–5 on p 251; the ¶ about <i>Dillon</i> on p 258; nn. 3 & 5 on pp 260–261; n. 4 on p 267; n. 7 on pp 268–269; STOP after reading n. 9 on pp 269–270
[11] 10/6 Tues	[16pp] _. Cause in Fact (discussion cont.) 5. Proximate Cause [273–281; 289–297]	SKIP: <i>Hammerstein v. Jean Development</i> on pp 295–296; n.

		3 on pp 296–297
[12] 10/8 Thurs	[15pp] _ . Proximate Cause (cont.) [297–311; note 4 on p 314] 6. Review of the Negligence Prima-Facie Case	
[13] 10/13 Tues	[18pp] B. Affirmative Defenses [319] 1. Contributory Negligence [321–322] 2. Comparative Negligence [323–333; 338–342]	SKIP: n.2 on pp 329–330; nn. 5 & 7 on pp 330–331; n. 2 on p 333; n. 6 on pp 341–342
[14] 10/15 Thurs	[16pp] _ . Comparative Negligence (discussion cont.) 3. Assumption of the Risk [357–361; 363 n. 1 – 374] a. Contractual [Express] Assumption b. Implied Assumption	SKIP: n. 4 on p 371; n. 5 on p 374
[15] 10/20 Tues	[17pp] 4. Statutes of Limitation [377–395]	SKIP: nn. 2–3 on pp 379–380; <i>Dasha v. Maine</i> on p 390; nn. 3–4 on pp 391–392; n. 3 on pp 394–395
[16] 10/22 Thurs	[22pp] C. Special Standards of Care and No-Duty Rules [401] 1. Carriers and Host Drivers [403–406] 2. Land occupiers/possessors [407–423]	SKIP: n.6 on p 410; n. 4 on pp 418–419; n. 4 on p 422
[17] 10/27 Tues	[25pp] 3. Lessors [434–437] a. <i>Christie v. Embry Corp.</i> Problem [442] 4. Nonfeasance [543–566]	SKIP: n. 4 on p 436; n. 5 on p 557; n. 1 on p 559; n. 4 on p 560
[18] 10/29 Thurs	[22pp] 5. Controlling Third Persons [589–596; 614–615; note 1 on 616; 617 (NOTE) – 630]	SKIP: nn. 5–6 on p 596; nn. 4–5 on

		pp 615–616; n. 6 on p 625; nn. 4, 7 & 9 on pp 629–630
[19] 11/3 Tues	D. Special Duties of Medical and other Professionals [16pp] 1. Standard of Care [445–456] 2. Res Ipsa Loquitur [Lecture] 3. Informed Consent [458–462]	SKIP: n. 6 on p 449; n. 2 on pp 455–456; <i>HIRPA</i> on p 456
[20] 11/5 Thurs	E. Special Types of Legally Cognizable Harms [29pp] 1. Emotional Harm [635] a. Intentional Infliction [637–647] b. Negligent Infliction [647–657] c. Independent of Physical Risks [662–668] 2. Loss of Consortium [658–662]	SKIP: n. 11 on p 644; nn. 3–4 on p 647; n. 8 on p 657; n. 1 on p 663; nn. 4–5 on p 664 NB: I’ve deliberately asked you to read the last two sections out of order
[21] 11/10 Tues	3. Death [689–694; 697–699; 703–707] [12pp]	SKIP: <i>Laney v. Vance</i>
[22] 11/12 Thurs	III. Common Law Strict Liability [14pp + 5pp to skim] A. History and Strict Liability Today [753–757; SKIM 757–762 (<i>Rylands</i>); READ 767–775]	SKIP: n. 4 on p 770; n. 6 on p 771
[23] 11/17 Tues	IV. Defamation [1045–1068] [23pp]	SKIP: nn. 5–6 on p 1058

[24] 11/19 Thurs	V. Vicarious Liability [24pp] A. Respondeat Superior [711–717; 719–727; note 1 on pp 730–731; NOTE on pp 733–735; 735–741; 745 (starting with <i>O’Banner</i>) – 747] B. Other Forms of Vicarious Liability [748–750]	SKIP: n. 6 on p 741; STOP after reading n. 4 on pp 749–750
[25] 11/24 Tues	VI. Damages [21pp] A. Compensatory Damages [913–934]	SKIP: ¶ <i>Constitutional torts</i> on pp 913–914
[26] 12/1 Tues	B. Punitive Damages [934–957] [23pp]	SKIP: n. 3 on p 949; n. 4 on p 957
TBD Zoom Session	REVIEW SESSION AND EXAM TIPS	