

Tort Law Syllabus

Tues/Fri 1:00–2:30

Prof. Daniel Pi

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1 Administrative Matters

1.1 Contact and Office Hours

My email address is daniel.pi@law.unh.edu. My office is 319, which is located in the quiet section of the law library. I will hold office hours from 2:30–3:00 on Tuesdays, Wednesdays, and Fridays. I am also willing to meet privately upon request. In general, if my door is open, then you are welcome to drop in for a chat.

1.2 Attendance and Homework

According to [Rule II\(A\)\(1\)](#) of the law school’s rules and regulations, attendance is mandatory.

Readings are assigned for every class session. All students are expected to have read *and carefully thought about* the assigned readings. Note that it is not sufficient merely to have read through the assigned material. My expectation is that students will have *carefully contemplated* the problems, issues, and arguments implicated by the reading. Students should be prepared not only to recall what they read, but to engage in sophisticated discussion about the material which goes *beyond* the text.

Any students who are unable to complete the homework should email me before class. I will not call on those students requesting a pass. There is no limit on the number of “free passes” that a student may be granted throughout the semester, and there is *no* penalty for exercising the privilege. However, extreme abuse of this privilege may affect a student’s participation score in exceptional cases.

1.3 Electronic Devices

The use of electronic devices is strictly prohibited in my classroom. This includes phones, tablets, and laptops. Devices which function passively without user interaction (e.g., wristwatches, audio recording devices) are presumptively permitted. This policy is non-negotiable.

Any electronics brought into the classroom must be set to silent or powered off. Any student whose electronic device produces noise during class (for example, receiving a text message notification) will incur a one increment reduction in their final grade. For example, upon the first infraction, if the offending student would have otherwise received a B+, then they will instead receive a B. Upon the second infraction, their grade will be further reduced to a B–. And so forth.

NOTE: The electronic devices policy does not apply to students requiring disability accommodations.

1.4 Class Recordings

Students are permitted to make audio recordings of class sessions for their personal use. Additionally, I will endeavor to record video of the class sessions and post it to Canvas. Anyone registered for the course may access the videos at any time.

Recordings of class sessions may not be shared with anyone who is not a student in the class. Distributing recorded material from the class sessions will constitute an honor code violation and will result in administrative action.

1.5 Accommodations

According to the Americans with Disabilities Act (as amended, 2008), each student with a disability has the right to request services from UNH to accommodate their disability. If you are a student with a documented disability or believe you may have a disability that requires accommodations, please contact Student Accessibility Services (SAS). Accommodation letters are created by SAS with the student. Please follow-up with your instructor as soon as possible to ensure timely implementation of the identified accommodations in the letter. Faculty have an obligation to respond once they receive official notice of accommodations from SAS, but are under no obligation to provide retroactive accommodations.

NOTE: Students are welcome to go through SAS if they prefer, however I do not require an “official” accommodation letter. I presume students are honest, and I do not require formal “proof” of the need for accommodations.

1.6 Inclusion

In 2020, the faculty adopted a resolution on systemic racism that includes a pledge to promote diversity and inclusion in the curriculum.

1.7 Information Literacy

The law school has adopted a policy that requires students in all courses to be exposed to relevant components of information literacy.

2 Course Objectives

There are three objectives for this course. The primary objective is to instill in students a high standard of rigor in argumentation. This skill will be imparted through the use of Socratic method. The secondary objective is to introduce students to the macro-structure of the law and legal sources (specifically, the common law). This information will generally be communicated in a more lecture-style presentation periodically throughout the semester. The tertiary objective is to acquaint students with doctrines specific to tort law. This knowledge will emerge through a reading of the caselaw, and it will be reinforced through Socratic questioning.

3 Assessment

Performance in this course will be evaluated along two dimensions: participation and the final exam.

3.1 Midterm

There will be no midterm examination, however I will provide a mock examination for your self-assessment midway through the semester. You are not obliged to complete the mock exam.

3.2 Participation

The core of this course is the Socratic method. Accordingly, active participation is crucial to the process. For each case, one or two students will be called upon to answer questions about the reading. Students who are not called are expected to spectate actively, reflecting on the arguments and counterarguments raised in the discussion. Students are welcome to raise their hands if they have questions, or if they wish to rescue a stumped classmate.

On rare occasions, I will bump a student's grade up or down one increment for participation. I am generally reluctant to exercise this right—it is reserved for exceptional circumstances.

3.3 Final Exam

The exam for this course will consist of one long fact pattern (i.e., approximately ten pages of text describing a series of events), which you will analyze, identifying

potential liabilities, formulating possible arguments for both the plaintiffs and defendants. Each argument will be assessed along three dimensions: (1) clarity and rigor of the logic; (2) fidelity to the given facts; (3) identification and application of legal rules. Each argument will be assigned between zero and one point, depending upon its quality. The final exam score will be the sum of points received.

3.4 Grading

The grading weights for the course are:

Participation	10%
Final Exam	90%

The mathematical computation of grades should not affect anyone's approach to this course. The 90-10 breakdown of grading weights is all any student *needs* to know. However, in the interest of transparency, I think it worth explaining precisely how grades are computed. Let x represent a student's participation score, normalized on the interval $[0, 1]$, and let y represent a student's exam score, normalized on the interval $[0, 1]$. The final grade score is computed $g = 0.1x + 0.9y$. The average g for the class is equivalent to the grade B, and each half standard deviation above or below the mean demarcates one grade increment. For example, if a student's g -value were a *half* standard deviation above the mean, then that student would receive a final grade of B+. If a student's g -value were *two* standard deviations above the mean, then that student would receive an A+. Typically, the highest scoring students in my courses have g -values 2.5–3 standard deviations above the mean (however, there is no grade better than an A+).

4 Course Materials

The textbook for this course is Ward Farnsworth & Mark F. Grady's *Torts: Cases and Questions* (3d. ed., Aspen 2019). As electronics are not allowed in the classroom (*see supra* §1.3 of this syllabus), students are strongly encouraged to purchase the casebook in hard copy.

In addition, the following readings, which are not included in the casebook, are also assigned:

- Giuseppe Dari-Mattiacci & Francesco Parisi, *Liability Rules: An Economic Taxonomy*, in *COMPARATIVE TORT LAW* (Mauro Bussani & Anthony Sebok, eds., 2014), *available at* [SSRN](#).

- Margo Schlanger, *Gender Matters: Teaching a Reasonable Woman Standard in Personal Injury Law*, 45 ST. LOUIS U. L.J. 769 (2002), available [here](#).

5 Homework

Homework page numbers refer to Farnsworth & Grady. The note cases and essays will be discussed in class and should be read carefully.

Date	Topic	Subtopic	Homework
Aug. 22 (T)	Negligence	Reasonableness	111,128–146: <i>Carroll Towing</i>
Aug. 25 (F)			112–128: <i>Hays, Purtle, Schlanger</i>
Aug. 29 (T)			146–173: <i>T.J. Hooper, Martin</i>
Sept. 5 (T)			174–194: <i>Byrne, Judson, Ybarra</i>
Sept. 8 (F)		Duty	195–211: <i>Yania, Hurley</i>
Sept. 12 (T)			211–228: <i>Tarasoff</i>
Sept. 15 (F)			228–243
Sept. 19 (T)			243–259: <i>H.R. Moch, Robins Dry Dock</i>
Sept. 22 (F)		Causation	259–270: <i>Robb</i>
Sept. 26 (T)			271–290: <i>Grimstad, Herskovits</i>
Sept. 29 (F)			290–304: <i>Summers, Sindell</i>
Oct. 3 (T)			305–318: <i>In re Polemis, Wagon Mound</i>
Oct. 6 (F)		Damages	318–341: <i>Brauer, Palsgraf</i>
Oct. 17 (T)			443–462: <i>Hatahley</i>
Oct. 20 (F)		Strict Liability	462–475
Oct. 24 (T)	343–361: <i>Behrens, Rylands</i>		
Oct. 27 (F)	361–383: <i>Cyanamid, Bushley</i>		
Oct. 31 (T)	Mixed Liability	Contributory Negligence	493–515: <i>McIntyre</i>
Nov. 3 (F)		Assumption of Risk	515–529: <i>Murphy, Marshall, Dari-Mattiacci & Parisi</i>
Nov. 7 (T)	Products Liability	History	385–400: <i>MacPherson, Escola, Greenman</i>
Nov. 10 (F)		Defects	400–424: <i>Welge, Dawson</i>
Nov. 14 (T)		VETERANS DAY	
		Warnings	424–442: <i>Grinnell, McMahon</i>

Date	Topic	Subtopic	Homework
Nov. 17 (F)	Intentional Torts	Battery	1–26: <i>Vosburg, Mohr</i>
Nov. 21 (T)		Trespass & Conversion	26–50: <i>Desnick</i>
Nov. 24 (F)		THANKSGIVING	
Nov. 28 (T)		False Imprisonment & Assault	50–77
Dec. 1 (F)		Punitive Damages	475–491: <i>Murphy, Kemezy</i>