TORTS I

LAW 508 – SECTION I & III

FALL SEMESTER, 2020

PROFESSOR CONSTANCE FAIN

COURSE SYLLABUS
TABLE OF CONTENTS

THE PROFESSOR, CLASS TIME, AND OFFICE HOURS INFORMATION ........................................... 3
COURSE BOOKS & OTHER MATERIALS.................................................................................................. 3
COURSE DESCRIPTION & OBJECTIVES.................................................................................................. 4
STUDENT LEARNING OUTCOMES........................................................................................................... 5
GRADING .................................................................................................................................................. 6
ACCOMMODATIONS.................................................................................................................................. 6
CLASS FORMAT, PARTICIPATION, ATTENDANCE, PROFESSIONALISM, ETC. ................. 7
ACADEMIC CALENDAR ............................................................................................................................... 8
POLICIES & PROCEDURES......................................................................................................................... 9
TORTS I: TOPICS AND ASSIGNMENTS (FALL, 2020) ................................................................. 10
HEALTH AND SAFETY ON CAMPUS ..................................................................................................... 13
THE PROFESSOR, CLASS TIME, AND OFFICE HOURS INFORMATION

NAME: CONSTANCE FRISBY FAIN

TELEPHONE: 713-313-7393 (LAW SCHOOL)

EMAIL: fainconstance@att.net

LOCATION: ROOM 221-F

CLASS TIME: MONDAY, WEDNESDAY AND FRIDAY 12:00 NOON TO 1:00PM

OFFICE HOURS: • TUESDAY AND THURSDAY
(TENTATIVE) • 12:00 NOON TO 3:00PM (TELEPHONE CONFERENCES)
(PLEASE PROVIDE A TELEPHONE NUMBER IF YOU WOULD LIKE ME TO CALL YOU DURING THESE HOURS)
• OTHER TIMES BY APPOINTMENT
• TIMES MAY CHANGE IF NECESSARY

COURSE BOOKS & OTHER MATERIALS

Required Text

Reference Texts
2. W. Keeton, D. Dobbs, R. Keeton and D. Owen, Prosser and Keeton on Torts, West Publishing Co., 1984 (This is a hornbook on tort law.)
3. Restatement of Torts, Latest Editions (These restatement provisions are in a series of books containing the law of torts, commentary, and illustrations.)

❖ IMPORTANT NOTE: Please include a telephone number in your emails. I prefer to answer most questions by phone. If you are not able to answer your phone when I respond to your email, I will leave a detailed voicemail which will include an answer(s) to your questions. Please be sure to listen to my voicemail responses.
Students will be introduced to basic theories of liability in Torts. Students will examine in depth the following topics: (1) Development of Liability Based Upon Fault; (2) Intentional Torts; (3) Privileges to the Intentional Torts; (4) Negligence (duty and breach); (5) Negligence: Causation in Fact; (6) Negligence: Proximate Cause; (7) Negligence: Joint Tortfeasors; (8) Negligence: Duty of Care ("Special Duty" Cases); (9) Negligence: Owners and Occupiers of Land; and (10) Negligence: Damages (Torts I or II, or both). These tort actions involve civil wrongs committed by one person against another and/or property of another. Additionally, an attempt will be made to examine the public policy considerations involved in the establishment and development of all of the torts, defenses, and concepts covered in the course. The overall objective is for the student to master and demonstrate competency of the topics listed above.
STUDENT LEARNING OUTCOMES

The following are the analytical skills you are expected to develop and master in order to achieve the course objectives or student learning outcomes for Torts I. You will continue to sharpen these skills in your study and application of various concepts in your second and third years as you prepare to take the bar exam.

I. Critical Reading, Case Analysis, And Thinking Skills
Upon completion of Torts I, these skills will help you to be able to:

- Read, comprehend, analyze, synthesize, and assess court opinions by:
  1. dissecting them into components by identifying such elements as:
     (a) litigation status of the parties in the trial and appellate court(s); (b) cause(s) of action; (c) defense(s); (d) elements of the cause(s) of action; (e) procedural history of the case; (f) facts; (g) issue(s); (h) holding(s); (i) plaintiff's arguments; (j) defendant's arguments; (k) rule(s) of law; (l) policy rationale; (m) disposition; and (n) add your own commentary;
  2. learning and understanding the meaning of the elements of each tort cause of action; and
  3. breaking rules of law or legal principles into parts in order to understand what the rules mean and how to apply them.

II. Problem Analysis And Oral Advocacy Skills
Upon completion of Torts I, these skills will help you to be able to:

- Read, comprehend, analyze and argue (orally and in writing) tort problems by:
  1. identifying the relevant tort cause(s) of action;
  2. identifying the relevant issues;
  3. identifying the elements of the relevant cause(s) of action;
  4. identifying the relevant rule(s) of law;
  5. applying the rule(s) of law to the relevant facts completely;
  6. identifying pro-arguments, counter arguments and rebuttal arguments;
  7. identifying relevant policy arguments; and
  8. articulating legal arguments clearly, efficiently, completely, and professionally.

**NOTE: “STUDENT LEARNING OUTCOMES”: TO BE MORE FULLY DEVELOPED AND ENHANCED.**
**GRADING**

Exams will be administered on Blackboard. There will be a total of approximately three (3) or four (4) cumulative real interim examinations (including the midterm - Exam #2) during the Fall semester. One of the three or four exams will be a timed Essay, and the others will be multiple choice since Torts is tested as a multi-state subject on the Bar Examination. Tentatively, an Exam will be administered in September, October, and November. The Essay will be administered in the latter part of the semester. I will give you Practice Multi-state Exams to answer on your own time throughout the semester. Practice exams are cumulative and will aid you in preparing for the interim exams, the final exam, and ultimately the Bar Examination. Extra class sessions will be scheduled for Real Exams unless otherwise informed. Since I require that the Tutor administer a minimum number of his/her own quizzes, the points you receive on those assessments will be counted as part of the professor’s 50% component of your final grade. Therefore, all interim real exams, quizzes, and practice exams are mandatory. Failure to take those exams will result in a lower final 50% score. Excess absences and unpreparedness will also result in your final score being lowered. If you are unprepared for class, inform me in writing the day before class, and you will be excused on the day of class.

Extra credit opportunities may be available, which could enhance your grade in the course. Extra credit projects will be announced at the appropriate times.

***NOTE: The law school has a uniform examination policy for all first-year substantive law courses. Therefore, the final examination in all sections of Torts I will be the same. The final exam will be cumulative and may be referred to as the Uniform Exam or Uniform Comprehensive Exam.***

**ACCOMMODATIONS**

Students that require or feel that they need accommodations must contact Dean Mouton’s office as soon as possible to fill out the necessary forms. Your prompt attention to this matter will allow for timely accommodations to be provided by the Law School once you have submitted your application and medical documentation. Your application and other documentation will remain confidential. Dean Mouton’s contact information is: Virgie.Mouton@tmslaw.tsu.edu (Email) and 713-313-7909 (Office). Dean Mouton is the Assistant Dean of Student Development and Academic Support.
CLASS FORMAT, PARTICIPATION, ATTENDANCE, PROFESSIONALISM, ETC.

This class will be taught synchronously, and you are expected to be online during the regularly scheduled day and time. Class meets on Monday, Wednesday and Friday from 12 noon to 1:00pm. Blackboard will be used for the following course information: (1) Announcements; (2) Content; (3) Tests; (4) Syllabus; (5) etc. For class meetings, the Zoom platform will be used. The Meeting Link will be provided in the Announcements section of Blackboard.

Each student is required to read the assigned materials and brief the cases before they are discussed in class. Some of the cases will be assigned to individuals in advance. Additionally, students are expected to read relevant sections of the Restatement (Second) and (Third) of Torts, as well as all of the Notes following the cases and other textual information in the textbook. Supplementary materials listed under “Reference Texts” on page 4 of this syllabus should be helpful in clarifying tort concepts. From time to time other reading materials will be assigned.

Students are expected to attend this online class on a regular basis. You are expected to be ready to participate when the class starts. The grade of any person who has been absent from regular class sessions more than five (5) times may be lowered one (1), two (2) or three (3) grades, depending on the number of excess absences, by the Professor or Law School Administration. Points will be deducted from the grades of persons who are unprepared for class when called on to respond. You are expected to conduct yourself in a professional manner at all times, which includes respecting your classmates and the professors. Refrain from side conversations or other distracting conduct during class. Once class begins, you should remain seated and fully engaged in the discussion unless you have a medical condition. Make sure you inform Dean Mouton of your condition.
# ACADEMIC CALENDAR

## THURGOOD MARSHALL SCHOOL OF LAW

**Texas Southern University**

**ACADEMIC CALENDAR 2020 – 2021**

### FALL SEMESTER 2020 (Modified 13-Week Schedule)

<table>
<thead>
<tr>
<th>Event</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orientation (online)</td>
<td>Mon-Fri August 3 – 7, 2020</td>
</tr>
<tr>
<td>First Day of Class</td>
<td>Monday August 10, 2020</td>
</tr>
<tr>
<td>Last Day to ADD/DROP</td>
<td>Wednesday August 12, 2020</td>
</tr>
<tr>
<td>Labor Day (NO CLASSES)</td>
<td>Monday September 7, 2020</td>
</tr>
<tr>
<td>Purge of all unpaid course selections</td>
<td>Monday September 14, 2020</td>
</tr>
<tr>
<td>Mid Term Examinations</td>
<td>Mon – Fri October 5-9, 2020</td>
</tr>
<tr>
<td>Last Day to Drop a Class with grade of “W”</td>
<td>Friday October 30, 2020</td>
</tr>
<tr>
<td>Last Day of Classes</td>
<td>Wednesday November 4, 2020</td>
</tr>
<tr>
<td>First Year Professors’ Grades due</td>
<td>Wednesday November 4, 2020</td>
</tr>
<tr>
<td>Reading Period (NO CLASS)</td>
<td>Thurs- Sun November 5-8, 2020</td>
</tr>
<tr>
<td>Final Examinations</td>
<td>Mon – Thu Nov 9 – 19, 2020</td>
</tr>
<tr>
<td>Commencement Exercises</td>
<td>Saturday November 21, 2020</td>
</tr>
</tbody>
</table>

### SPRING SEMESTER 2021

**TBA**

Please note that the Calendar events and/or dates are subject to change.

Updated July 1, 2020
POLICIES & PROCEDURES

Please reference the Thurgood Marshall School of Law Student Rules and Regulations Handbook concerning policies and procedures.

EXAMS AND REVIEWS
Real exams and reviews will be scheduled at times other than the times that the class meets unless informed otherwise. Attendance at reviews conducted by the professor or posted on Blackboard is not mandatory. Tutorial sessions will be scheduled and conducted by the Student Tutor, who will develop and administer several quizzes during the semester as mandated by the professor. Therefore, these quizzes will count as part of the final grade.

FIREARMS
Although this class is currently being taught remotely, my office is a gun-free zone. Therefore, guns are banned in my office (Room 221-F) when the school returns to normal operations.

COMPUTERS, ETC.
When the school returns to normal operations, which means no online or hybrid classes, cell phones, laptops, tablets and other electronic devices must not be used during class sessions. They will be allowed if you have written permission from Dean Mouton or the Professor asks the class to use them for a particular reason. These devices will also be prohibited during exam review conferences when school returns to normal operations.

TOPIC AND ASSIGNMENT ADJUSTMENTS
The professor reserves the right to adjust the schedule, classroom topics, and other activities as needed to achieve course objectives or student learning outcomes.
TORTS I: TOPICS AND ASSIGNMENTS (FALL, 2020)

WEEK I
(Aug. 10-14)
- Overview of Tort Law
- Development of Liability Based Upon Fault (Chap. 1).
- Intentional Interference with Person Or Property: “Intent” Element (Chap. 2) pp. 1-16

WEEK II
(Aug. 17-21)
- Intentional Interference with Person Or Property: (Intent; Battery; Assault; False Imprisonment; Intentional Infliction of Emotional Distress) (Chap. 2) pp. 21-78

WEEK III
(Aug. 24-28)
- Intentional Interference with Person or Property (Trespass to Land; Trespass to Chattel; Conversion) (Chap. 2) pp. 78-105

WEEK IV
(Aug. 31-Sept. 4)
- Privileges to Intentional Torts (Consent; Self Defense; Defense of Others; Defense Of Property; Recovery of Property; Necessity; Authority of Law; Discipline; Justification) (Chap. 3) pp. 107-149

WEEK V
(Sept. 7-11)
- LABOR DAY (Sept. 7th)
- Negligence (Duty and Breach Elements; Standard of Care) (Chap. 4) pp. 151-195

WEEK VI
(Sept. 14-18)
- Negligence (Duty and Breach: Elements; Standard of Care; Rules of Law; Violation of Statute; Circumstantial Evidence; Res Ipsi Loquitur) (Chap. 4) pp. 195-288
WEEK VII  
(Sept. 21-25)  
- Negligence (Causation in Fact: Sine Qua Non; Concurrent Causes; Determining Which Party Caused the Harm) (Chap. 5) pp. 289-334

WEEK VIII  
(Sept. 28-Oct. 2)  
- Negligence (Proximate or Legal Cause – Scope of Liability; Unforeseeable Consequences; Intervening Causes; Public Policy; Shifting Responsibility) (Chap. 6) pp. 335-393

WEEK IX  
(Oct. 5-9)  
- Negligence (Proximate or Legal Cause - Scope of Liability – Continued) (Chap. 6) pp. 393-414  
- Negligence (Joint Tortfeasors: Liability and Joinder of Defendants) (Chap. 7) pp. 415-427

WEEK X  
(Oct. 12-16)  
- Negligence (Joint Tortfeasors: Satisfaction and Release; Contribution and Indemnity; Apportionment of Damages) (Chap. 7) pp. 428-454

WEEK XI  
(Oct. 19-23)  
- Negligence: Duty of Care (“Special Duty” Cases: Privity of Contract; Failure to Act; Pure Economic Loss; Emotional Distress; Unborn Children) (Chap. 8) pp. 455-535

WEEK XII  
(Oct. 26-30)  
- Negligence: Owners and Occupiers of Land (Persons On and Outside the Premises; Trespasser; Licensee; Invitee; Child Trespasser; Lessor and Lessee) (Chap. 9) pp. 537-578
WEEK XIII
(Nov. 2-6)

- Pre-Final Exam (November 2\textsuperscript{nd} and/or 4\textsuperscript{th})
- November 4\textsuperscript{th} (Wednesday) is the Last Day of Class

WEEK XIV
(Nov. 9-13)

- Final Exam Period

WEEK XV
(Nov. 16-19)

- Final Exam Period
HEALTH AND SAFETY ON CAMPUS


2. If, before coming to campus, a student starts exhibiting any symptoms of COVID-19 or does not feel well, the student should not attend class in person. The student should immediately notify the Assistant Dean for Student Development ([virgie.mouton@tmslaw.tsu.edu](mailto:virgie.mouton@tmslaw.tsu.edu)) and attend classes online.

3. Students who have been sick with COVID-19 symptoms, tested positive for COVID-19, or have been potentially exposed to someone with COVID-19 should attend classes online until they are cleared by their healthcare provider. The following is taken from the TSU & Coronavirus FAQs, [http://www.tsu.edu/about/administration/marketing-and-communications/coronavirus/faqs.html](http://www.tsu.edu/about/administration/marketing-and-communications/coronavirus/faqs.html):

Those who have recently traveled internationally or believe they have been exposed to the virus and are experiencing influenza-like illness, with fever greater than 100.3, and symptoms, including cough, body aches, severe sore throat or runny nose, should seek medical attention, especially if symptoms worsen.

**Students should contact TSU Health Services (713-313-7173) and identify themselves as having flu-like symptoms to obtain further recommendations and guidance.** Students should also consult with their regular health care provider or seek treatment at a local health center if they are overseas. Please call ahead to your health care provider to notify them of the reason for your visit.

For additional information about COVID-19, including signs and symptoms, transmission and risk of exposure, and what to do if you are exhibiting symptoms, please refer to the resources section. The [CDC’s website](https://www.cdc.gov/coronavirus/2019-ncov) and [Texas Department of State Health Services](https://www.dshs.state.tx.us) (DSHS) will also issue guidance for those planning to travel or who have recently returned.
4. While on campus and in classrooms, students should observe the rules for social distancing, social health etiquette, and general cleanliness.
   a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
   b. Students should maintain at least 6 feet separation in all directions from other individuals.
   c. Face coverings (over the nose and mouth) are required for all students. Students without a face covering will not be allowed to enter the classroom. Students with an approved exemption and who notify their professor before the start of class may be allowed to wear a face shield instead of a face mask.
   d. Students should wash or disinfect their hands before each class and after any physical interaction with other persons in the classroom.
   e. Students should maintain classroom cleanliness. Students should create a clean classroom environment by putting away unnecessary personal items and cleaning their seating area intermittently.
   f. Students should not expect to enter the Law Building on a day other than the designated day for in-person attendance for an enrolled course. Entry will be permitted only if administration can determine that the maximum occupancy for COVID-19 social distance protocol has not been exceeded.
   g. Students who do not comply with the rules for social distancing, social health etiquette, and general cleanliness may be subject to discipline up to expulsion from law school.
ATTENDANCE POLICY

5. Students are required to attend classes consistent with the format of the enrolled course.
   a. Hybrid – instruction for courses in this format is delivered in person and simultaneously online. Enrolled students are divided into groups and required to attend weekly in-person classes on the weekday(s) predetermined by administration for the designated group. Students may only attend in-person classes on the administration-determined day to ensure that all enrolled students are guaranteed a physical seat for the class. Other class days for the week are to be attended online. Students who have COVID-related health and safety concerns in attending in-person classes must obtain a remote-instruction waiver from the Office of Student Affairs. The waiver can be requested for the entire semester or temporary, based upon the personal circumstance of the affected student.
   b. Online – instruction for courses in this format is delivered 100% online.
   d. For the 100% online course and the hybrid course online instruction component, both the American Bar Association and the Law School rules obligate the professor to obtain assurance that the person who logs into the course online, participates in class, takes quizzes and exams, and engages in collaborative exercises, is the student enrolled in the course. Without being limited to the following methods of attendance verification, professors may require attendance to be contingent upon confirmation of identity via webcam or require webcams to remain on for the entire class period.