



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

TORTS I

LAW 508 – SECTION IV

FALL SEMESTER, 2021

PROFESSOR CONSTANCE FAIN

COURSE SYLLABUS



TEXAS SOUTHERN UNIVERSITY THURGOOD MARSHALL SCHOOL *of* LAW

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TEXAS SOUTHERN UNIVERSITY THURGOOD MARSHALL SCHOOL of LAW

THE PROFESSOR, CLASS TIME, AND OFFICE HOURS INFORMATION

NAME: CONSTANCE FRISBY FAIN

TELEPHONE: 713-313-7393 (LAW SCHOOL)

EMAIL: constance.fain@tmslaw.tsu.edu

LOCATION: ROOM 221-F

CLASS TIME: MONDAY, WEDNESDAY AND FRIDAY 9:00^{AM} TO 9:50^{AM}

OFFICE HOURS: • TUESDAY, THURSDAY, AND FRIDAY
(TENTATIVE) • 1:00^{PM} TO 3:00^{PM} (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

1. Schwartz, Kelly & Partlett, Prosser, Wade and Schwartz's Torts, West Academic-Foundation Press (14th ed. 2020).

Reference Texts

1. D. Dobbs, P. Hayden & E. Bublick, Hornbook on Torts, West Academic Pub. (2nd ed. 2016). (This is a Hornbook on tort law.)
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 question(s). Please be sure to listen to my voicemail responses.



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COURSE DESCRIPTION & OBJECTIVES

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 this course. The overall objective is for students to master and demonstrate competency of the topics listed above.



STUDENT LEARNING OUTCOMES

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

1) Critical Reading, Case Analysis, And Thinking Skills

Upon completion of Torts I, these skills enable students 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) student's 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.

2) Problem Analysis And Oral Advocacy Skills

Upon completion of Torts I, these skills will enable students 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.**



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GRADING

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 exams 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 students Practice Multi-State Exams to answer on their own time throughout the semester. Some may be administered in the classroom at a time other than class. Practice exams are cumulative and will aid students 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 students receive on those assessments will be counted as part of the professor's 50% component of students' final grades. 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 the final score being lowered. If a student is unprepared for class, she/he must inform me in writing the day before class, and she/he will be excused on the day of class.

Extra credit opportunities may be available, which could enhance students' grades 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 follow the information provided by Dean Ratra's office



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CLASS FORMAT, PARTICIPATION, ATTENDANCE, PROFESSIONALISM, ETC.

This class will be taught in person. Class meets on Monday, Wednesday and Friday from 9:00^{AM} to 9:50^{AM}. Blackboard will be used for the following course information: (1) Syllabus; (2) Reviews; (3) etc.

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 3 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 class on a regular basis. Students 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. Students are expected to conduct themselves in a professional manner at all times, which includes respecting classmates and the professors. Refrain from side conversations or other distracting conduct during class. Once class begins, students should remain seated and fully engaged in the discussion.



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ACADEMIC CALENDAR



THURGOOD MARSHALL SCHOOL OF LAW

TEXAS SOUTHERN UNIVERSITY
ACADEMIC CALENDAR 2021 – 2022

FALL SEMESTER 2021

FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)

Orientation	Monday-Friday	August 9-13, 2021
First Day of Class	Monday	August 16, 2021
Last Day to ADD/DROP	Wednesday	August 18, 2021
Labor Day (NO CLASSES)	Monday	September 6, 2021
<i>Purge of all unpaid course selections</i>	Wednesday	September 15, 2021
Mid Term Examinations	Mon – Fri	October 11-15, 2021
Last Day to Drop a Class	Friday	November 5, 2021
Last Day of Classes	Tuesday	November 23, 2021
First Year Professors' Grades due	Tuesday	November 23, 2021
Reading Period	Wed	November 24, 2021
Thanksgiving Holiday	Thurs – Fri	November 25-26, 2021
Reading Period	Sat- Sun	November 27-28, 2021
Final Examinations	Monday - Friday	November 29-Dec. 10, 2021
Commencement Exercises	Saturday	December 11, 2021

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



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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 Professor's 50% grade.

FIREARMS

My office is a gun-free zone. Therefore, guns are banned in my office (Room 221-F).

COMPUTERS, ETC.

Cell phones, laptops, and tablets are allowed in class. These devices are prohibited during exam review conferences when exam questions and answers are discussed.

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



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TORTS I: TOPICS AND ASSIGNMENTS (FALL, 2021)

WEEK I

(Aug. 16-20)

- Overview of Tort Law
- Development of Liability Based Upon Fault (Chap. 1). pp. 1-16
- Intentional Interference with Person Or Property: "Intent" Element (Chap. 2) pp. 17-21

WEEK II

(Aug. 23-27)

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

WEEK III

(Aug. 30-Sept. 3)

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

WEEK IV

(Sept. 6-10)

- **LABOR DAY (Sept. 6th)**
- 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. 13-17)

- Negligence (Duty and Breach Elements; Standard of Care) (Chap. 4) pp. 151-195

WEEK VI

(Sept. 20-24)

- Negligence (Duty and Breach: Elements; Standard of Care; Rules of Law; Violation of Statute; Circumstantial Evidence; Res Ipsa Loquitur) (Chap. 4) pp. 195-288



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WEEK VII

(Sept. 27-Oct. 1)

- Negligence (Causation in Fact: Sine Qua Non; Concurrent Causes; Determining Which Party Caused the Harm) (Chap. 5) pp. 289-334
-

WEEK VIII

(Oct. 4-8)

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

WEEK IX

(Oct. 11-15)

- 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. 18-22)

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

WEEK XI

(Oct. 25-29)

- 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

(Nov. 1-5)

- 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
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WEEK XIII
(Nov. 8-12)

- **Makeup Sessions (Monday, Wednesday and Friday of this week will be used to finish discussing Torts chapters if necessary.)**
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WEEK XIV
(Nov. 15-19)

- **Makeup Sessions**
 - **Pre-Final Exam (November 17th and/or 19th)**
-

WEEK XV
(Nov. 22-23)

- **November 22nd (Monday) Review of the Pre-Final Exam**
 - **November 23rd (Tuesday) Last Day of Classes**
-

WEEK XVI
(Nov. 29-Dec. 3)

- **Final Exam Period**
-

WEEK XVII
(Dec. 6-10)

- **Final Exam Period**



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COVID -19 INFORMATION SHEET

HEALTH AND SAFETY ON CAMPUS

1. The University does not require COVID-19 vaccination as a condition for attending school. As a protective measure, students are encouraged to get vaccinated. The St. Luke's vaccination clinic, located on campus in the Nabrit Science Building, is open and accessible to the entire University community, Monday-Friday, 9 a.m. – 7 p.m. There is no cost for the vaccination.
2. Students are expected to continuously self-screen for the symptoms of COVID-19. If you have symptoms and are not fully vaccinated, you should call the Student Health Center at (713) 313-7173. Please remember to exercise caution and be courteous of your fellow students.
3. Students who experience a medical emergency on campus should call (713) 313-7000. If off campus, call 911. Please inform the dispatch operator if you are experiencing shortness of breath, difficulty breathing, coughing, or have a fever.
4. Students who are unable to attend classes for health reasons, including those relating to COVID-19, should immediately contact the Associate Dean of Student Services, Amy Ratra (miamy.ratra@tsu.edu), for further guidance.
5. Students who contract the COVID-19 virus must report the information to the Associate Dean of Student Services, Amy Ratra, and the Student Accessibility Services Office (SASO), by phone at 713-313-4210 or by email at disabilityservices@tsu.edu.
6. Students who contract the COVID-19 virus will be required to quarantine under the advice of Student Accessibility Services Office (SASO). Such students are required to submit Release of Care documentation from a licensed health care professional to SASO and notify the Associate Dean of Student Services, Amy Ratra, before they return to the law school.
7. While on campus and in classrooms, students are encouraged to conduct themselves in a manner conducive to the health and safety of the entire TSU community.
 - a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
 - b. Face coverings (over the nose and mouth) are not required as per the guidelines from the State of Texas. However, students are strongly encouraged to wear face coverings (over the nose and mouth) while in the law school building.
 - c. Students should wash or disinfect their hands before each class and after physical interaction with other persons in the classroom.



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- d. Students should maintain classroom cleanliness. Students should create a clean classroom environment by putting away unnecessary personal items and cleaning their seating area intermittently.
- e. Students who do not conduct themselves on campus in a manner conducive to the health and safety of those with whom they come in contact may be subject to discipline up to expulsion from law school.

ATTENDANCE POLICY

- 8. Law school classes will be fully in-person this fall. The law school attendance policy will be strictly enforced.
- 9. Students who contract the COVID-19 virus will be barred from attending in-person classes until submitting Release of Care documentation from a licensed health care professional to Student Accessibility Services Office (SASO). Such students will be required to study and keep up with the prescribed readings.
- 10. Students that are excused from in-person class attendance because they contracted the COVID-19 virus should designate a student in each of their classes to make audio recordings of the lectures. Professors are required to allow such recordings to be made. Furthermore, professors are required to meet with such students to answer questions about the materials covered during their COVID-19-related absence.

UNIVERSITY RESOURCES

- 11. COVID-19 TESTING
Location: H&PE 109
Hours of Operation: No appointments are necessary. Tuesday – Thursday 8 a.m. – 11:30 p.m.
Results will be available within 24 hours if the test is taken by 11:30 a.m.
- 12. The St. Luke's vaccination clinic is open and accessible to all University personnel and community, Monday – Friday, 9 am – 7 pm in the Nabrit Science Building.
- 13. STUDENT HEALTH SERVICES
 - a. Student Health Services is open 8:00 a.m. – 5:00 p.m. Monday – Friday by appointment only.
 - b. A nurse is available at (713) 313-7173, Monday – Friday, from 8:00 a.m. – 5:00 p.m. to schedule appointments.
 - c. Appointments will be scheduled virtually and in-person, as needed.
 - d. If you are currently enrolled and need a copy of your immunization record, go to <https://tsu.medicatconnect.com>.
 - e. If you are off campus but in the local area and need assistance, contact the Harris County Health Department COVID-19 hotline: www.ReadyHarris.org. If you don't have the internet, call (832) 927-7575 or Houston Health Department COVID-19 Call Center: (832) -393-4220.



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14. UNIVERSITY COUNSELING CENTER

- a. The University Counseling Center (UCC) is providing convenient Telemental Health Services to all students.
- b. Students may call 713-313-7800 to request an appointment. If someone does not answer, please leave your T-Number, name, and a contact number. Students may also complete this form to request an appointment, and someone will contact them during business hours:
https://forms.office.com/Pages/ResponsePage.aspx?id=ViJL72KUK0Su4urH7Z-1ZFNJ2YNoWsVPstLk4r8W_X1UOUk2SUxMRVoyVEdQTVkzV09YRVBLNU5OTy4u.
- c. Students may receive a call from a blocked or private number, please answer, as it may be your counselor trying to contact you.
- d. If a student experiences a crisis outside of regular business hours, the student can call 833-848-1765.
- e. Other resources for support outside of the UCC include:
 - i. Crisis text line – Text Steve to 741-741.
 - ii. National Suicide Hotline - 800-273-TALK (8255).



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TITLE IX INFORMATION

Texas Southern University is committed to fostering a safe learning environment. As professor, one of my responsibilities is to help create a safe learning environment in class. Texas Southern University and Federal Regulations (Title IX) policy prohibit discrimination based on sex and this includes sexual harassment, sexual violence and misconduct, dating violence, domestic violence, and stalking. Texas Southern University understands that these incidents can undermine a student's academic success, so Texas Southern University encourages students who have experienced sexual conduct prohibited by university policy to report these incidents when they happen to the University's Title IX Coordinator or University Confidential Resource so that the student can get the help they may need.

It is my goal that you feel able to share information related to your life experiences in classroom discussions, in your written work, and in one-to-one meetings. I will seek to keep information you share private to the greatest extent possible. However, I also have a mandatory responsibility to notify the University's Title IX Coordinator when I become aware of incidents of prohibited conduct that violate the university's Title IX policy.

Students may speak confidentially to the University Counseling Center. Please feel free to visit their website www.tsu.edu/ucc for more information about their services. Also, students may speak with the University's Title IX Coordinator by calling 713.313.1371 or emailing titleix@tsu.edu.