

TORTS – Fall 2012
Tuesday, Thursday, 1:00-2:15 p.m.
Room 205

Professor Calhoun
Office Hours (Room 414): Wednesdays, 1:00 – 2:00 p.m. and by appointment
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The casebook for this course is Henderson, Pearson, and Kysar, The Torts Process (Aspen Publishers, 8th Edition). Unless otherwise indicated, all page references in the following syllabus are to this casebook.

The syllabus sets forth anticipated reading assignments for each week of the semester. There will inevitably be some modifications to it, to accommodate the pace of daily class discussions. Nonetheless, I intend eventually to cover all of the material included in the listed reading assignments, in the indicated order.

The course grade will be based on a final exam and class participation. The exam will be open book. An ungraded practice exam will be administered to help you prepare for the final exam.

Class attendance and participation are required. Grade points may be deducted for unexcused absences or inadequate class preparation.

Please consult and familiarize yourself with the Law School Honor Code. In addition, the law school complies with University disability accommodation policies (information available at <http://www.colorado.edu/disabilityservices>), non-discrimination policies (information available at <http://www.colorado.edu/odh>), and religious accommodation policies (available at http://www.colorado.edu/policies/fac_relig.html). Finally, please see the classroom behavior policies at <http://www.colorado.edu/policies/classbehavior.html>.

SYLLABUS

Intentional Torts

Battery: the prima facie case

August 28: Pages 1-18 (main case: *Vosburg v. Putney*) and TWEN posting (Introduction to Torts)

August 30: Pages 19-31 and 35-40 (Main case: *Garratt v. Dailey*, and Problem 1)

Privileges: Consent

September 4: Pages 40-51 (Main cases: *O'Brien v. Cunard Steamship Co.* and *Barton v. Bee Line, Inc.*, and Problem 2)

September 6: Pages 51-69 (Main cases: *Bang v. Charles T. Miller Hosp.*, *Kennedy v. Parrott*, and *Hackbart v. Cincinnati Bengals, Inc.*)

Privileges: Self-Defense and Defense of Property

September 11: Pages 75-85 and 89-97 (Main cases: *Courvoisier v. Raymond*, *Katko v. Briney*, and Problem 4)

Causation

Actual Causation

September 13: Pages 109-127 (Main cases: *Hoyt v. Jeffers* and *Smith v. Rapid Transit*, and Problem 7)

Alternative Liability

September 18: Pages 127-141 (Main cases: *Summers v. Tice* and *Ybarra v. Spanguard*, and Problem 8)

Concurrent and Successive Causation; Vicarious Liability

September 20: Pages 143-148 (Main cases: *Dillon v. Twin State Gas* and *Kingston v. Chicago & N.W. Ry.*; and Problem 10)

September 25: Pages 148-158 and *Berhanu v. Metzger* (materials to be distributed at a later date)

Negligence

The General Standard

September 27: Pages 159-167 (historical background); pages 167-188 (Main cases: *U.S. v. Carroll Towing Co.*; *Washington v. Louisiana Power & Light* and *Weirum v. RKO General, Inc.*)

Special Rules of Proof (violation of criminal statutes)

October 2: Pages 188-200 (Main cases: *Martin v. Herzog*, *Tedla v. Ellman*, *Brown v. Shyne* and Problem 13)

Special Rules of Proof (custom)

October 4: Pages 200-216 (Main cases: *Trimarco v. Klein*, *The TJ Hooper*, and *Helling v. Carey* and Problem 14)

Mid-term exam: October 9

Special Rules of Proof (res ipsa loquitur)

October 11: Pages 216-227 (Main cases: *Boyer v. Iowa High School Athletic Association*, *Shutt v. Kaufman's Inc.*, *City of Louisville v. Humphrey*, and Problem 15)

October 16: Pages 227-230 (Main case: *Escola v. Coca Cola Bottling Co.*);
Review mid-term exam

Limitations on Liability (rescue)

October 18: Pages 244-256 (Main cases: *Erie R. Co. v. Stewart*, *Tubbs v. Argus*, and Problems 18)

October 23: Pages 257-272 (Main case: *Tarasoff v. Regents of Univ. of California*, and Problem 19)

Proximate Cause

October 25: Pages 273-284 (Main cases: *CSX Transp., Inc. v. McBride*, *Ford v. Trident Fisheries*, *Lyons v. Midnight Sun Transportation Services, Inc.*, and *Cahoon v. Cummings*)

October 30: Pages 284-290 and 294-308 (Main cases: *Palsgraf v. Long Island RR*, *Marshall v. Nugent*, *Herrera v. Quality Pontiac*, and *Stahlecker v. Ford Motor Company*)

November 1: Pages 308-316 (Problems 21 and 22, and *Gorris v. Scott*)

Special Rules of Nonliability for Foreseeable Consequences

November 6: Pages 316-333 (Main cases: *Waube v. Warrington*, *Dillon v. Legg*, *Thing v. La Chusa*, and Problem 23)

Contributory Fault, Assumption of the Risk, and Comparative Fault

November 8: Pages 380-392 (Main case: *Meistrich v. Casino Arena Attractions* and *Stelluti v. Casapenn Enterprises LLC*; and Problem 25)

November 13: Pages 392-400 (Problem 26)

Global Dimensions of Tort Law

The Alien Tort Claims Act

November 15: Pages 935-945 (Main case: *Sarei v. Rio Tinto, PLC*)

November 19-23: Fall and Thanksgiving Break

Strict Products Liability

Manufacturing and Design Defects

November 27: Pages 479-509 (Main cases: *Vandermark v. Ford Motor Co.*, and Problem 30)

November 29: Pages 524-544 (Main cases: *McCormack v. Hanksraft Co.*, *Troja v. Black & Decker Manufacturing Co.*, *Parish v. JumpKing, Inc.*, and Problem 31)

Affirmative Defenses Based on Plaintiff's Conduct;
Instructions and Warnings

December 4: Pages 516-524 and 560-567 (Main cases: *Murray v. Fairbanks Morse* and *Sheckells v. AGV Corp.* and Problem 33)

Instructions and Warnings (continued) and
Statutory reform and preemption

December 6: Pages 567-582 (Main case: *Gray v. Badger Mining Corp.*); and
Supreme Court decision on statutory preemption, to be determined

Review Session: date to be determined

Final Exam: Thursday, December 20, 8:15 a.m.