



**Professor Douglas Donoho**  
**Torts**

**I. COURSE NUMBER AND TITLE:** Torts

Semester & Year: Fall 2017

Course Start and End Dates: August 21 through December 10, 2017

Course CRN & Section: Law (0648) Section 04, 24157

Meeting Days and Times: Mondays & Wednesdays, 1:30 pm – 3:30 pm

Building and Room: Law Building, Room L2

**II. INSTRUCTOR:**

Name: Professor Douglas Donoho

Email: [donohod@nova.edu](mailto:donohod@nova.edu)

Phone: 954-262-6178 (*Use email. I do not answer the phone.*)

Office Hours: By Appointment

I am available for appointments or “drop-ins” at any time **except for the hour before class**. An excellent time to meet with me is immediately after any class. I check my e-mail several times every day and typically respond within 24 hours. ([donohod@nsu.law.nova.edu](mailto:donohod@nsu.law.nova.edu) or [donohod@nova.edu](mailto:donohod@nova.edu) ). I do not answer the phone and may miss messages left on the machine. Please use email.

**III. COURSE DESCRIPTION:**

The primary purpose of this course is to facilitate student mastery of the basic legal principles and issues commonly encountered in the law of Torts. Torts primarily involves civil compensation for personal injuries. A second important objective is to develop student’s problem solving and analytical abilities. After completion of the course, a successful student will understand, and show an ability to use, those Torts concepts commonly tested on state bar examinations.

#### IV. LEARNING OUTCOMES:

The faculty has agreed upon the following general learning outcomes for this class.

Upon completing this course, students will be able to:

1. Demonstrate knowledge of the substantive legal doctrine fundamental to Torts (in the form of case law, legal concepts, legal principles, statutes and regulations)
2. Identify legal issues and apply legal reasoning and analysis to solve problems in a logical and structured manner to issues covered in this course;
3. Communicate orally or in writing, or both, the legal reasoning and analysis regarding issues covered in this course; and
4. Demonstrate a proficiency in reading critically the materials assigned for this course.

In order to achieve the designated learning outcomes for this class you must focus on developing your ability to competently:

- 1) Analyze appellate opinions and statutory provisions in order to extract relevant principles and rules, draw analogies and distinctions, and develop legal arguments;
- 2) Articulate important doctrinal rules, standards and principles of Tort law from memory, explain what they mean and provide appropriate examples;
- 3) Demonstrate a practical understanding of Tort law by identifying key legal issues in unfamiliar fact patterns and logically presenting relevant legal arguments in a coherent and lawyerly fashion; and
- 4) Communicate, orally and in writing, appropriate legal and factual arguments in support of each side of controversies involving Tort law.
- 5) Demonstrate self-directed learning practices for life-long learning.

The following [advice from the ABA website](#) is appropriate for this class:

##### **“Analytic / Problem Solving Skills**

You should seek courses and other experiences that will engage you in critical thinking about important issues, challenge your beliefs and **improve your tolerance for uncertainty**. Your legal education will demand that you structure and evaluate arguments for and against propositions that are susceptible to reasoned debate....”

## **V. COURSE METHODOLOGY**

Class participation is an important aspect of this course. Everyone in the class is responsible for briefing the assigned cases, thinking about their significance, preparing assigned problems and actively participating in classroom discussions. The professor retains discretion to lower any student's grade by one half letter for a lack of meaningful classroom participation. Attendance is, of course, required unless as excused for valid reasons. Excessive absences may result in exclusion from the final examination in accordance with Law School policies.

You should visit and participate in the web based "wiki" for this class on a regular basis. All problems assigned, as well as other instructional materials, will be distributed via the wiki. The wiki is found at: [nsutortswiki](#). You must register as a participant in our class wiki following the instructions given on the web site.

There will be several multiple-choice Bar Exam review quizzes given during the semester. The scores for these quizzes will not count in your final grade. It is possible that other quizzes will be given which may count toward the final grade.

## **VI. REQUIRED TEXTS AND MATERIALS:**

The text for this course is the 13th edition of Prosser, Wade and Schwartz's "Torts Cases and Materials." The book is available used [on Amazon](#) to rent or buy at a substantial discount. (Please note that there is a 12<sup>th</sup> edition. You may use this edition but must, on your own, correlate the readings to the class text and look up any additional new cases, of which there are not very many.) Students are encouraged to consult secondary material such as the Prosser Hornbook, and the Restatement of Torts, Second. You may also find Aspen's "Examples & Explanations" helpful. From time to time I will ask you to complete CALI (Computer Assisted Legal Instruction) exercises. If you find these helpful, there are additional tort lessons available from the CALI website.

## **VII. COURSE GRADING AND OTHER REQUIREMENTS**

### **A. Final Grade**

The final grade for the class will be based exclusively upon a four-hour, closed-book examination (consult the school calendar for dates and times). The exam will consist of 25-30 multiple choice questions modelled after the Multi-State Bar Examination, and 3-4 essay questions. Scoring for the essay questions will be based upon your demonstrated ability to apply relevant Tort Law concepts and rules to the facts provided and provide an organized and coherent explanation of possible outcomes.

An excellent answer will:

- Clearly **identify the essential legal problem** or issues presented by the facts (which, obviously, will directly and exclusively relate to the readings for that module)
- Precisely **set out any relevant rules** or standards that should be applied to resolve the issues identified
- Make clear and **explicit use of the reading materials** in the analysis
- Explicitly **use the facts and apply the relevant legal principles** to those, and only those facts given in the question
- Present a **well-organized, edited written response** that fully explains your reasoning

The most common framework within which to produce this kind of written legal analysis is called IRAC. This acronym means the following:

**I stands for Issue.** Sometimes this part of the analysis is provided to you in the Discussion Question asked. On other occasions you must try to articulate what legal issues you believe are presented by the problem. What does the problem involve and what questions must be answered in order to resolve it?

**R stands for Rule.** This part of the analysis requires you to state precisely the rule of Constitutional Law that applies, including any applicable definitions. The rules and definitions will be contained in the module material. Use key words and phrases drawn from the cases.

**A stands for Application.** This is the most important part of the framework! This is the section of the analysis where you take just the facts given and apply them to the rule/definition that you previously stated. This is the point of the analysis where you

explain why the facts support and prove each element of the rule/definition or why they do not. An organized answer will typically track the parts or elements of the relevant rules.

**C stands for Conclusion.** This part requires you to concisely state your conclusion/answer to the question(s) asked. This is very brief and should not include any reasoning.

B. College of Law Grading Scale: The College of Law uses the following grading system:

A	4.00
A-	3.75
B+	3.50
B	3.00
B-	2.75
C+	2.50
C	2.00
C-	1.75
D+	1.50
D	1.00
D-	0.75
F (or WF)	0.00

**ALL STUDENTS WHO RECEIVE A GRADE BELOW “C-” ON THE FINAL EXAM MUST, BY FACULTY RULE, REPEAT THIS COURSE.**

C. Out-of-Classroom Expectations:

Students are expected to read all assigned materials and be prepared for all classes. As set forth in ABA Standard 310, students should spend a minimum of two hours of out-of-class preparation for every in-class hour in accordance with the [Code of Academic Regulations](#). This means approximately 4-hours of preparation for each 2-hour class period, or 9-10 hours per week. You should consider this standard as an absolute minimum. Successful students typically spend far more time on class preparation and course study.

## VIII. ASSIGNMENTS AND COURSE SCHEDULE

The following is a list of your reading assignments for this fall. Although there may be some adjustments later in the semester, most of the pages listed will be covered. **We will generally cover one assignment per class period.** You should always prepare at least 15 pages beyond the last case discussed in class unless otherwise instructed. All page references listed below are to the Prosser casebook on Torts.

*You are expected to read and carefully consider all of the "case notes" accompanying the cases. They contain important information and material that you will be expected to know and may be tested on.*

<u>ASSIGNMENT</u>	<u>SUBJECT</u>	<u>READINGS</u>
<u>INTENTIONAL TORTS</u>		
1	Meaning of Intent, Battery	pp.1-4, 17-37
2	Assault, False Imprisonment	pp. 37- 47 CALI Lessons Battery Basics, Battery Puzzlers, Role of Juries in Tort Cases
<u>INTENTIONAL TORTS</u>		
3	Mental Distress	pp. 50-68
4	Trespass to Land Trespass to Chattels, Conversion	pp. 68-91
<u>PRIVILEGES/DEFENSES</u>		
5	Consent, Self-defense, Defense of Others, Recovery & Defense of Property	pp. 92-119
6	Necessity & Other Privileges	pp. 119-132

<u>ASSIGNMENT</u>	<u>SUBJECT</u>	<u>READINGS</u>
	<u>NEGLIGENT FAULT</u>	
7	Negligent Risk	pp. 133-49
8	Reasonably Prudent Person	pp. 150-174
9	Professional Malpractice	pp. 174-204
10	Use of Statutes (Negligence Per Se)	pp. 212-238,
11	Proofs & Res Ipsa Loquitor	pp. 238-267
	<u>CAUSATION</u>	
12	Cause in Fact  Concurrent Causes/ Special Causation Problems	pp. 268-84, 291-302
	<u>LIMITATIONS ON DUTY</u>	
13	Proximate or Legal Cause	pp. 303-330
14	Intervening Causes/ Rescue	pp. 330-356
15	Public Policy Limitations Joint Tortfeasors	pp.356-373 pp. 374-401
16	Limits on Duty to Act	pp. 416-19, 428-452

<u>ASSIGNMENT</u>	<u>SUBJECT</u>	<u>READINGS</u>
17	Negligent Infliction of Emotional Distress	pp. 464-78
18	Owners/Occupiers of Land	pp. 494-522
<u>DEFENSES</u>		
19	Comparative Negligence/ Assumption of Risk Limitations/Immunities	pp. 616-639 pp. 639-47, 675-87
<u>LIABILITY WITHOUT FAULT</u>		
20	Vicarious Liability	pp. 688-701
21	Strict Liability- Abnormally Dangerous Activities	pp. 713-739
22	Products - Negligence & Warranty Theories	pp. 745-60
23	Products – Strict Liability	pp. 760-71
24	Products – Manufacturing, Design Defects	pp.771-86
25	Products – Warning Defects, Defenses	pp. 786-94, 799-807
26	Damages/ Wrongful Death	TBA

## **IX. UNIVERSITY-WIDE POLICY STATEMENTS**

### **A. General Information**

Students should visit [www.fcas.nova.edu/about/policies.cfm](http://www.fcas.nova.edu/about/policies.cfm) to access additional required college-wide policies and <https://intranet.law.nova.edu/intranet/students/student-services/documents/CodeOfAcademicRegulationMay2015final.pdf> for policies specific to the College of Law. It is your responsibility to access and carefully read these policies to ensure you are fully informed. As a student in this class, you are obligated to follow these policies in addition to the policies established by your instructor.

The following policies are described on these websites:

- Academic misconduct
- Last day to withdraw
- Email policy
- Student course evaluations
- Student responsibility to register
- Student responsibility for course prerequisites
- Class Preparation
- Graduation Requirements, etc.

### **B. Technology Issues**

It is each student's responsibility to make the technology required for this course work. Each student must do whatever it takes to make sure to comply with the time deadlines for this course. Get to know the technology support staff at NSU and work out with them any problems you may have during the course.

### **C. HONOR CODE**

You are bound by all of the provisions of the NSU and the NSU Law Center Honor Code in this course. Check the website for NSU and the NSU Law Center if you are unsure what the Honor Code requires and be sure to comply with the provisions of the Code.

In this course, this means that every answer to a Discussion Question or answer to an exam question is not a collaborative effort but **only the sole work of each student. You may, however, discuss the questions posted with each other. You simply must write your own answer.**

D. Additional Resources

**Additional Academic Resources:** Nova Southeastern University offers a variety of resources that may aid in student success. Among these resources is:

**Accommodations for students with documented disabilities.** For more information about ADA policy, services, and procedures, students may call the Office of Student Disability Services at 954-262-7189 or visit <http://www.nova.edu/disabilityservices>.