

Tort Law (Law 1060)
Bora Laskin Faculty of Law
Lakehead University
2015-2016

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Overview

This is a compulsory first-year course, taught once a week in both terms of the Law School's academic year. We meet in the fall and winter terms each Wednesday from 3pm to 6pm. There will be a fifteen-minute break provided at the halfway point of each class.

Aims and Objectives

The class examines the law of torts with particular focus on the law of negligence, as well as legislation relevant to compensation for loss and injury.

Tort law regulates the relationship between individuals, and in some instances, between individuals and the state through the civil system. The classic definition of tort law is: as "a civil wrong, other than breach of contract, which the law will redress by an award of damages."

This course will introduce the basic principles of tort law, and will focus on the use of various causes of action in a litigation practice.

By the end of this course, students will be able to:

1. Identify and critically evaluate the purposes and principles of tort law;
2. Identify the main elements of the tort actions covered;
3. Explain why a particular course of action is preferable over another;
4. Identify and critically analyze the leading cases discussed;

5. Apply the principles learned and cases discussed to new fact scenarios; and
6. Evaluate the success of a particular claim based on the principles learned and cases discussed.

The aims of the course help students to:

1. Understand and examine critically the fundamental principles, rules and language of the law of torts, and their relevance and application in different factual contexts;
2. Read and understand cases and legislation;
3. Gain skills in oral and written communication; and
4. Understand the general scope and purpose of compensatory systems.

Course Materials

Required text: *Canadian Tort Law, Cases, Notes & Materials*, 14th ed. (Toronto: Butterworths, 2014) by Allen M. Linden, Lewis N. Klar and Bruce Feldthusen.

Teaching/Learning Method

Classes will involve a variety of learning methods including lecture, discussion of assigned reading, small group interaction, class exercises and guest speakers.

Evaluation

There are two methods of evaluation:

- 1) Examinations: a 25% midterm and a 60% final exam; and
- 2) Skills Exercises: a 5% assignment in the fall and a 10% assignment in the winter.

Assignment	Date Assigned	Date Due	Value
Skills Exercise - Memo on Set Cases	October 2016 (TBD)	October 2016 (TBD)	5%
Midterm Exam	December 9-19		25%
Skills Exercise – Torts “Drafting a Statement of Claim”	March 2016 (TBD)	March 2016 (TBD)	10%
Final Exam	April 8-21		60%

Examinations

Both the midterm and the cumulative final examinations are open book.

Skills-focused Assignments

There will be two skills-focused assignments integrated directly into the course, with the goal of developing analytical, legal reasoning, research and advocacy skills.

Academic Dishonesty

The University takes a most serious view of offences against academic honesty such as plagiarism, cheating and impersonation. Penalties for dealing with such offences will be strictly enforced. A copy of the "Code of Student Behaviour and Disciplinary Procedures" including sections on plagiarism and other forms of misconduct may be obtained from the Office of the Registrar.

The following rules shall govern the treatment of candidates who have been found guilty of attempting to obtain academic credit dishonestly.

- (a) The minimum penalty for a candidate found guilty of plagiarism, or of cheating on any part of a course, will be a zero for the work concerned.
- (b) A candidate found guilty of cheating on a formal examination or a test, or of serious or repeated plagiarism, or of unofficially obtaining a copy of an examination paper before the examination is scheduled to be written, will receive zero for the course and may be expelled from the University.

Students disciplined under the *Code of Student Behaviour and Disciplinary Procedures* may appeal their case through the Judicial Panel.

Note: "Plagiarism" shall be deemed to include:

1. Plagiarism of ideas as where an idea of an author or speaker is incorporated into the body of an assignment as though it were the writer's idea, i.e. no credit is given the person through referencing or footnoting or end noting.
2. Plagiarism of words occurs when phrases, sentences, tables or illustrations of an author or speaker are incorporated into the body of a writer's own, i.e. no quotations or indentations (depending on the format followed) are present but referencing or footnoting or end noting is given.
3. Plagiarism of ideas and words as where words and an idea(s) of an author or speaker are incorporated into the body of a written assignment as though they were the writer's own words and ideas, i.e. no quotations or indentations (depending on format followed) are present and no referencing or footnoting or end noting is given.

Tort Law, Course Readings 2016-2017

References are to *Canadian Tort Law, Cases, Notes & Materials* (14th ed.)

****NOTE: There will be additional cases that will be provided to the students during the course. These cases will be provided well in advance of the date scheduled for class discussion on the topic.**

TOPIC	READINGS
Introduction to Tort Law	The Nature and Function of Tort Law- Linden Chapter 1
Select Intentional Interferences:	Linden Chapter 2
The Historical Context	Pgs. 49-53
Accidental, Negligent and Intentional Conduct	Pgs. 45-57
Volition and Capacity	Pgs. 57-63
Assault; Battery; Sexual Wrongdoing; Intentional Inflection of Mental Suffering; False Imprisonment	Pgs. 64-97
Trespass to Land	Pgs. 97-103
Invasion of Privacy	Pgs. 110-117
Select Defences to Intentional Interferences:	Linden Chapter 3 (Entire Chapter)
Negligence: Introduction and the	Linden Chapter 4 pgs. 173-192; 214-278

Standard of Care	
Proof of Causation	Linden Chapter 5 pgs. 279-323
Duty	Linden Chapter 6 (entire Chapter)
Duty	<i>Paxton v. Ramji</i> , 2008 ONCA 697; <i>Fullowka v. Pinkerton's of Canada Ltd</i> , 2010 SCC 5, [2010] 1 SCR 132 **(cases will be provided to students)
The Scope of Liability	Linden Chapter 7 pgs. 426-467
Defences to the Negligence Action	Linden Chapter 8 (entire chapter)
Economic Loss	Linden Chapter 9 (entire chapter)
Tort Liability of Public Authorities	Linden Chapter 10 (Entire Chapter) <i>Nelles v. Ontario</i> (1989), 60 D.L.R. (4 th) 609 <i>Miazga v. Kivello Estate</i> , 2009 SCC 51 <i>Henry v. British Columbia (Attorney General)</i> , [2015] 2 SCR 214

	** (cases will be provided to students)
Negligent Investigation and Negligent Supervision	<i>Hill v. Hamilton-Wentworth Regional Police Services Board</i> , [2007] 3 SCR 129; <i>Wellington v Ontario</i> , 2010 ONSC 2043 (CanLII)
Constitutional Torts	<i>Vancouver (City) v. Ward</i> , [2010] 2 SCR 28
Strict Liability	Linden Chapter 11 (Entire Chapter)
Nuisance	Linden Chapter 12 (Entire Chapter)
Business Torts: Deceit, Inducing Breach of Contract, Interferences with Advantageous Business Relations	Linden Chapter 14 pgs. 713-731; 743-750
Defamation	Linden Chapter 15 (pgs.753-787) <i>Libel and Slander Act, R.S.O. 1990, CHAPTER L.12</i>
Defences to Defamation	Linden Chapter 15 pgs. 788-824
Damages	Linden Chapter 16 (Entire Chapter)
Class Action Litigation	Reading material will be provided.