COURSE OBJECTIVES

This course introduces students to the basic concepts undergirding tort law, such as civil liability, negligence, duty, breach, and strict liability. Throughout, students will be asked to test their intuitions about responsibility, fairness and efficiency against methods the law has developed to try to craft a workable system. Legislators and courts must strike a balance of rights and duties between parties who often did not intend to have anything to do with each other but were brought together by accident or nuisance of some kind. The doctrinal aspects to this course are fascinating—indeed, they provide the foundation for many advanced courses such as agency law, business organizations, entertainment law, environmental law, insurance law, intellectual property, internet law, mass torts, privacy, and products liability. Moreover, the subject matter raises rich philosophical questions about the nature of harm, differing conceptions of justice, and the role of the government in flattening the disparity in resources across society. In sum: who is responsible when bad things happen? What can be done to prevent future harms, and to compensate the losses of those who have undergone harm already? To what extent is this an individual’s problem, versus a societal one?

Despite the wealth of potential issues to investigate, the course’s central aim is less doctrinal than methodological. It provides your first opportunity to do legal analysis, that is, helps you on your way to “thinking like a lawyer.” From piecing together the way the law evolves over time in courts and by legislation, to emphasizing the costs and benefits of different legal solutions, students will learn tools and mental habits that sharpen and deepen their reading and writing skills. By the end of the course, students should have a much clearer sense of the complex challenges facing lawmakers when they approach legal problems, as well insights into the value imparted by a legal education, when tackling those challenges.
TEXTBOOK AND SUPPLEMENTAL MATERIALS

There are two required texts for this course and supplemental materials that will be distributed in class and/or posted on the course website (designated in the syllabus as “W”)

- Russell Banks, The Sweet Hereafter (1992). This book is on reserve at the law library, but I encourage you, for ease of access and repeat reference, to purchase a copy here or elsewhere: http://tinyurl.com/42g8qpa

OFFICE HOURS

My office hours are Tuesdays 3-4pm, and by appointment.

I will post a sign-up sheet for 10-minute time slots on my door on Monday morning, for the week that follows. In addition to Torts-related questions, please feel free to drop by and discuss career options, course selection, an interest in torts, intellectual property or law and literature, work-life balance, or other issues of mutual relevance. If a small number of you wish to sign up as a group, please feel free to do so, and specify whether you might prefer to meet in the Supreme Cup (law school café on the first floor).

COURSE POLICIES: EXPECTATIONS AND GRADING

ATTENDANCE & MAKEUP CLASSES

Students must attend all classes. Students must bring the day’s reading assignment to class. I will not podcast except under exceptional circumstances. If documented illness or other extenuating circumstances arise, students are responsible for

(a) notifying me, in advance of class if possible, and
(b) getting notes from a classmate and
(c) completing any assignments due in class, all before
(d) touching base with me about whether anything additional may be required by me or helpful to the student who missed class.

GRADING

20%: Midterm Examination (at the end of Fall Quarter)
60%: Final Examination (at the end of Winter Quarter)
20%: Class Participation
EXAM

The exams will be open-book. Students may not bring commercial outlines, treatises, or other commercial resources into either exam. Students may bring the required casebook, their own class notes, any materials posted to the class website, and any outlines they personally have prepared or have worked with a group to prepare. If using a computer for the exam, students must use Extegrity’s Exam4 software. Those using the Exam4 software may use the setting that permits access to electronic documents stored on one’s hard drive so long as those documents fall within the guidelines of permitted documents set out above.

MINDFUL PARTICIPATION

Students are expected to participate in class at least once a week, that is, every other class. Participation should reveal students’ familiarity with course materials assigned for the day. I will ‘cold-call’ students during any class, at any time, beginning on the first day of class. Frequently, I will call upon a subsequent student to comment upon or pick up from a prior student’s response. Please listen to and respect the diversity of viewpoints among your colleagues. Students may also voluntarily participate. Students may use three ‘passes’ during the quarter, as follows. A student who wishes to pass should place a small piece of paper with his/her name written on it on instructor’s podium before the start of class. This will excuse a student from class participation for that day. No excuses, reasons, or apologies, are necessary. I will not judge or look askance or suspect the student stayed out partying all night the day before. Law school is an exercise in balancing competing requirements, and most professors understand that. Thus students elect to use their three passes at their own discretion.

COURSE WEBSITE

You are responsible for checking the course web site for updates to the syllabus as well as supplemental cases, statutes or articles. When I show Power Point slides during class, I will post them to the course web site after class, if they contain substantive material; illustrations or photographs will typically not be posted. The website, again, is: https://canvas.uw.edu/courses/917059

RECORDINGS

Students may not make audio or video recordings of class sessions (as much fun as it would be to watch these with big bags of buttered popcorn in one’s ample 1L free time).

LAPTOP USAGE

Laptops may be used only for note-taking. I will ask students to put screens down during moments reserved for discussion. The use of the internet at any time during class is expressly forbidden except in cases in which I indicate otherwise. Please remember that your professor is not a hundred years old. I am sufficiently at home in the digital age that
when students look down at their screens—or the phone in their lap—and smile privately, I will typically assume such students to be engaged in something other than our (granted, often highly amusing) discussions of tort policy or the (to be sure, sometimes) hilarious legal reasoning in the case at hand. Whether or not I announce out loud that I have noticed, I will usually have noticed. More importantly, your classmates notice, and it distracts them. Imagining doing that at a business meeting, trying to impress a client! This is professional school; be professional, starting… now. I adopt a strict view of laptop usage in part out of respect for those classmates trying to pay attention. Please see the language from the Faculty Laptop Policy, appended to this syllabus. Beyond laptops: do not text, or otherwise consult your phone, tablet, or other non-laptop device, during class, unless you have a genuine emergency or unusual set of circumstances. It is unprofessional, harmful to your own learning, and disrespectful of your classmates. Social media policy: I do not accept friend or connection requests until after students graduate, with the exception of LinkedIn connections.

DISABILITY-RELATED NEEDS

To request accommodations due to a disability, please contact Disability Resources for Students (DRS), # 448 Schmitz Hall, (206) 543-8924 (V), (206) 543-8925 (TTY). If you have a letter from DRS, please make an appointment to see me so we can discuss any accommodations you might need in this class.

STUDY TECHNIQUES

These tips are meant to reflect successful strategies I’ve seen in high-performing students or found useful myself in my own studies in law school. Feel free to take or leave them.

a) Join a study group. A single classmate as a working partner is a good alternative, but doesn’t give you as much security, should that student get sick, drop out, or decide a study group is not for her/him. Bonus: your study group may become and remain some of your closest friends, for life. (Really.)
b) Begin working with hypothetical problems immediately. Do not wait until your outline is perfect.
c) Ask yourself why casebook editors/professors emphasize each case on the syllabus.
d) Avoid canned briefs. They short-circuit your learning and, worse still, they are sometimes wrong.
e) Pay attention. This is hardest when you are tired. As a 1L, you will discover a lot of extra tired in your life. When you feel yourself starting to lose the connection with the course material or class discussion (perhaps due to fatigue, perhaps due to lack of comprehension or not being able to hear well enough from where you are sitting, perhaps due to not having finished the reading this one time), rather than opening up a game of Solitaire or otherwise allowing yourself further to disengage, try to dig deep and join back in as well as you can. It will make subsequent study and review much easier.
f) Take care of yourself. Get sleep, get exercise, take breaks to refresh your brain!
# Reading Schedule

**Weeks 1 & 2 – Introduction to the Tort System, Distinguishing Negligence from Intentional Torts**

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Reading</th>
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<tbody>
<tr>
<td><strong>Tuesday, Sept. 23</strong></td>
<td>Introduction to the Tort System, I</td>
<td>• Prosser 1-2</td>
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<tr>
<td></td>
<td></td>
<td>• The Sweet Hereafter 1-88</td>
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<td></td>
<td>• Study Questions (W)</td>
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<tr>
<td><strong>Thursday, Sept. 25</strong></td>
<td>Introduction to the Tort System, II</td>
<td>• The Sweet Hereafter 89-157*</td>
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<td></td>
<td>*Read or skim 159-257, but we may not discuss that section in class, and I will not hold you responsible for it in class discussion.</td>
<td>• Washington State Rules of Prof’l Conduct, Rule 7.3 (W)</td>
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<tr>
<td></td>
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<td>• Prosser 534-539; 546 (from Note 5) to 555 (through Note 24)</td>
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<tr>
<td><strong>Tuesday, Sept. 30</strong></td>
<td>Intro to Intentional Torts</td>
<td>• Prosser 17-30</td>
</tr>
<tr>
<td><strong>Thursday, Oct. 2</strong></td>
<td>Battery and Assault False Imprisonment</td>
<td>• Prosser 30-38; 41-45</td>
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**Weeks 3 & 4 – Intentional Torts, continued**

<table>
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<tr>
<th>Date</th>
<th>Topic</th>
<th>Reading</th>
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<tbody>
<tr>
<td><strong>Tuesday, Oct. 7</strong></td>
<td>IIED (Intentional Infliction of Emotional Distress)</td>
<td>• Prosser 51-65</td>
</tr>
<tr>
<td><strong>Thursday, Oct. 9</strong></td>
<td>Trespass to Land Trespass to Chattels Conversion</td>
<td>• Prosser 68-77; 81-91</td>
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<tr>
<td><strong>Tuesday, Oct. 14</strong></td>
<td>Consent</td>
<td>• Prosser 92-104</td>
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<tr>
<td><strong>Thursday, Oct. 16</strong></td>
<td>No Class</td>
<td></td>
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<tr>
<td><strong>Tuesday, Oct. 21</strong></td>
<td>Defenses to Intentional Torts</td>
<td>• Prosser 104-114; 120-126</td>
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## WEEKS 5 - 7 — NEGLIGENCE: DUTY & BREACH

<table>
<thead>
<tr>
<th>Day</th>
<th>Topic</th>
<th>Prosser References</th>
</tr>
</thead>
</table>
| Thursday, Oct. 23 | **INTRO TO NEGLIGENCE**
Duty, Breach, Causation, Harm | • Prosser 133-150 |
| Tuesday, Oct. 28 | **DUTY**: Affirmative Duties
Privity of Contract
Failure to Act (“Nonfeasance”)
Duties of Owners and Occupiers of Land
Special Duties to Children | • Prosser 416-422; 431-433; 447-452; 494-497; 513-522 |
| Thursday, Oct. 30 | **BREACH**: Standard of Care
Reasonable Prudent Person Standard
Professional Standard | • Prosser 150-159; 174-183 |
| Tuesday, Nov. 4 | **BREACH**: Standard of Care
Rules of Law
Violation of Statute | • Prosser 208-218; 230-238 |
| Thursday, Nov. 6 | **NO CLASS**
— Review & Prep for Exam Exercise on Nov. 13 | |

## WEEK 8 — EXAM PRACTICE

<table>
<thead>
<tr>
<th>Day</th>
<th>Topic</th>
<th>Prosser Reference</th>
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<tbody>
<tr>
<td>Tuesday, Nov. 11</td>
<td><strong>NO CLASS</strong>: Veterans’ Day</td>
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</table>
| Thursday, Nov. 13 | **BREACH**: Proof of Negligence
Circumstantial Evidence
Res ipsa loquitur
Practice Exam in Class
d— Second Half | Prosser 238-249; 255-263 |

## WEEKS 9 &10 — NEGLIGENCE: CAUSATION

<table>
<thead>
<tr>
<th>Day</th>
<th>Topic</th>
<th>Prosser References</th>
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</thead>
<tbody>
<tr>
<td>Tuesday, Nov. 18</td>
<td><strong>CAUSATION</strong>: Proof of Causation</td>
<td>• Prosser 269-276; 279-291</td>
</tr>
<tr>
<td>Thursday, Nov. 20</td>
<td><strong>CAUSATION</strong>: Unidentifiable Causes &amp; Proximate Cause</td>
<td>• Prosser 291-307</td>
</tr>
</tbody>
</table>
| Tuesday, Nov. 25 | **CAUSATION**: Proximate Cause
Unforeseeable Consequences
Intervening Causes | • Prosser 307-312; 319-341 |
| Thursday, Nov. 27 | Thanksgiving Break | |
| Tuesday, Dec. 2 | **NO CLASS** | |

## MIDTERM EXAMINATION: FRIDAY, DEC. 12, 1-4 P.M.
APPENDIX EXCERPT FROM APPROVED FACULTY LAPTOP POLICY:

Faculty members may:

- Restrict types of [laptop] use - a faculty member can tell students that they may only use laptop computers to take notes and not for any other purpose.

- Minimize distracting effect on other students - a faculty member can require students to mute their computers and to set them up before class begins in order to avoid distracting other students.

- Regulate where students using laptops may sit - a faculty member can require students using a laptop to sit in the front row(s) of the classroom (both so that other students and the faculty member can police their use of the laptop for legitimate purposes).

- Punish a failure to comply with the restrictions on laptop use – if a student violates a faculty member’s use-of-laptop policy (such as by using it to surf the internet instead of taking notes), the faculty member can ban the student from using the laptop in class for the remainder of the year.