

TORTS, Spring 2012

Mr. Rob Leflar

Assignments for Week 1

Welcome to Torts class! We meet Monday, Tuesday and Thursday from 11:00 to 12:10 in Room 328. The first meeting of the course is Tuesday, Jan. 17. The course book is Twerski, Henderson, & Wendel (THW), Torts: Cases and Materials (Wolters Kluwer 3d ed. 2012). Many students in past years have found Glannon, The Law of Torts: Examples & Explanations (2d ed.) useful as a supplement. But it's not a required purchase.

On Jan. 17 I will be en route back to Arkansas from Lithuania, where I will have given a series of lectures on comparative tort law. So the first class will be conducted by my teaching assistant, Ms. Caitlin Gezgin, who will also be leading review sessions and giving individual mentoring during the course of the semester. I think you will find her advice about this course, and about law school generally, to be quite helpful.

Here are our schedule, your assignments, and some questions to consider for the first week:

Tuesday, Jan. 17:

The “McDonald’s coffee spill case,” Liebeck v. McDonald’s Restaurants, has attained literally legendary status as a symbol of much of what’s thought to be wrong with American tort law. Tuesday you’ll be watching most of the controversial documentary film “Hot Coffee,” which sets out the facts of that case (and addresses a few other “hot” torts topics) from a plaintiff’s perspective. Keep an open mind – we’ll see plenty of other perspectives on torts topics as we go through the course – but pay close attention to the facts and arguments presented.

Assignments:

1. Read the Introduction to THW, pp. 1-8.
 - a. Note the authors’ observations about recent tort law developments causing public controversy: “Some observers applaud these developments, believing that America is a better, safe place for all of it. Other observers are appalled at what they view to be excesses that threaten our national welfare.”
 - b. Distinguish the “corrective justice” perspective from the “instrumental viewpoint.”
 - c. Most law schools offer Torts as a first-semester course, and the first week students know little about torts, or law in general. But here Torts starts in the second semester, and you’ve amassed considerable knowledge about the law. Still, some of this introductory material will be unfamiliar to you. Make a list of what’s new or surprising to you, in the sections on “Ethical Responsibilities of Lawyers,” “Measure of Recovery in Tort,” “Time Limitations on the Bringing of Tort Actions,” and “How to Read an Appellate Decision.”
2. Watch “Hot Coffee” carefully during class, and make notes of your initial impressions.

Thursday, Jan. 19:

After some preliminary information about the course requirements and expectations, we will take up two topics: (1) "Hot Coffee," and how it relates (positively or negatively) to the social objectives of tort law as initially presented in the Introduction; and (2) the first case in the THW course book, Garratt v. Dailey. Here are the assignments and some points to consider:

Assignments:

1. Review your notes on "Hot Coffee."
2. Read THW pp. 9-18. The key goal here is to understand how tort law defines the concept of "intent." The underlying question to consider is why the law should define "intent" that way.

I will ask some of you these questions, among others, about Garratt:

- What are the elements of battery?
- Whose story was more plausible, really, Ruth Garratt's or Brian Dailey's?
- What was the trial court's judgment?
- What was the error of law that the Supreme Court identified in the trial court's actions?
- Why do you think the Supreme Court decided the case the way it did?

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