General Information

**Coverage:** This class is a continuation of first-year Torts I. That course was primarily about negligence. This class will introduce you to products liability, traditional strict liability, defamation, and a sampling of business torts.

**Goals/Outcomes:** This course will continue your understanding of the law and policy of torts, in the contexts of both litigation and business planning. You will expand your oral and written lawyering skills. We will have some guest speakers to bring the law into practical context. You can expect a lot of class discussion.

**Grading:** The final examination will be CLOSED book, to better prepare you for the bar exam. The final will be administered within the published finals schedule; see the dean’s office for special requests. Computers approved by the administration will be allowed. Sample final exams are available on e-reserve. Some writing, group meetings, and other out-of-class work will be required in addition to the standard reading assignments. You are expected to attend and participate in class on a regular and continuous basis. Otherwise, your grade in the class may be adversely affected. This policy is intended to deal with those who do not read the assignment or do not try to contribute to class discussion. Do not worry about saying the “wrong” thing in class. The airing, modification and occasional jettisoning of untested theories are the essence of lively and fruitful discussion. You should make every effort to keep up with class work, but on the rare occasions that you are unprepared, (1) do come to class anyway and (2) do tell me just before class not to call on you.

**Class discussions:** Be aware that the facts of torts cases are sometimes disturbing. Our class discussions will be free-wheeling as we make analogies, invent hypotheticals, and address public policy. We are training you to be lawyers, and lawyers generally believe that virtually any problem is helped by being brought to light and discussed. We generally believe that the cure for bad speech is more speech, to paraphrase Louis Brandeis. That said, professionalism and common courtesy dictate that speech be appropriate to the time, place and audience. Along these same lines, lawyers strive to be impeccable in their choice of words; sometimes we all need to receive feedback about the effect of our words on others. We are all students of the law and of the legal profession, and will be working together on this. All student voices are welcome and respected in my classroom. I grant every student a presumption of good faith, and expect you to do the same for your classmates.

**Class rules:** You may not record class without my express permission or as a formal disability accommodation. No weapons may be displayed in class; please call 911 if you see one. For the University’s firearms policy Q & A, please see: [http://www.uidaho.edu/public-safety-and-security/Weapons-on-Campus](http://www.uidaho.edu/public-safety-and-security/Weapons-on-Campus).
Support of students: If you have a problem of any kind on the day of the final exam, contact Dean Dodge’s office, **not me**, as we wish to protect the anonymous grading process. Reasonable accommodations are available for students who have documented temporary or permanent disabilities. Students should meet with Disability Support Services (DSS) by the end of the first week of class to assess if any accommodations are needed for courses and/or examinations. All accommodation requests are then submitted by DSS to Dean Dodge for final approval. DSS serves as the sole evaluator of medical documentation and determines reasonable accommodations on a per semester basis. The College of Law does not have the authority to evaluate or grant disability accommodations without DSS first submitting a recommendation. You may contact DSS by Visiting the Idaho Commons Building, Room 306, calling 208-885-6307 or emailing dss@uidaho.edu. It is ultimately YOUR - the student’s - responsibility to seek a disability accommodation, and until an accommodation is approved by DSS and Dean Dodge, no student will be entitled to receive any accommodations. To learn more about DSS, visit its website at http://www.uidaho.edu/studentaffairs/taap/dss. Please review the College of Law Catalog and Student Handbook for more information on the disability accommodation process. Additional resources for expression of concern (about anything) or requesting support include: me, your professor (see paragraph on contact with me, below); the College of Law Associate Dean of Students; the University Dean of Students office and staff (885-6757); the UI Counseling & Testing Center’s confidential services (885-6716); or the UI Office of Human Rights, Access, & Inclusion (885-4285).

Contact with professor: I welcome your comments and questions. My office phone is 885 7022. My e-mail is “lillard@uidaho.edu.” My office is 205. Feel free to come up and speak to me after class, or at any time (except the hour right before class).

Reading: The text is Franklin, Rabin & Green, 9th edition OR 10th edition. Attached you will find the latest (Summer, 2018) edition of Prof. Goble’s book on Idaho Negligence cases. As a perk of signing up for this class, you are authorized (by Prof. Goble and me) to make hard copies of that book, or portions thereof, if you wish.

Hard copies: I will provide hard copies of this syllabus in class.

First day: For first day of class, Tuesday, Aug 21, 2018, at 3:30 pm, please prepare the introductory assignment, which is attached.

Speakers: I am already lining up some guest speakers, and am looking forward to a lively and engaging semester with you.
Introductory Assignment – please prepare for the first day of class

Read, in Franklin, Rabin & Green, 9th Ed (“text”): Brown v. Kendall, p. 35; Tarasoff, p. 151; Strauss, p. 168; Palsgraf, p. 418; Escola, p. 557, and Henderson v. Cominco American, 95 Idaho 690, 518 P.2d 873 (1974). Or, if you have the 10th edition, those page numbers are: 40, 150, 166, 421, and 564.

You read these cases in your first year. Read them again. Just read and appreciate them as they stand; do not get into the notes, etc. Come to class prepared to explain:

What is a tort?
What are the goals, constraints, and recurring issues in the law of torts?
What is negligence?
What is the prima facie case for negligence?
How do the elements of the prima facie case fit together?

Come to class flexible in your vocabulary. Professor B. Cover, Professor Pimentel, Professor Goble, and I may all use different words, as do the authors of the various cases and Restatements. Can you understand the concepts even if the labels are different?

And, write: before the first day of class, but only after you have done the above reading assignment, please pick up a hard copy of a questionnaire in the front office – come to class on the first day with the hard copy filled out.