ADVANCED TORTS

The first-year Torts course provides a basic introduction to the three major areas of tort liability: intentional torts, negligence and strict liability. It also focuses on the tensions between the major goals of tort liability, deterrence and compensation.

The curriculum cluster on advanced torts builds upon this foundation by offering students an opportunity to delve in depth into some of the more controversial and important issues now facing the tort system. It also permits students to explore aspects of tort liability not covered in first-year Torts courses.

Professor Heidi Li Feldman teaches a three-credit course in Advanced Torts: Theory and Practice. The course includes an intensive survey of recent torts scholarship and examines the major theoretical issues raised by the literature. It looks at histories of modern tort law; efficiency analysis of tort problems; and tort liability, insurance, and tort reform. The course delves into three substantive areas of tort law – mass toxic torts, workers accidents, and libel and defamation – and considers these areas in a comparative context.

Products Liability and Safety furnishes an intensive look at one of the most disputed and dynamic areas of tort law, the responsibility of manufacturers and sellers for harm caused by unreasonably dangerous products. This course explores the relative institutional competence of the courts and regulatory agencies at regulating unsafe products.

The course in Mass Torts enables students to wrestle with specific issues that arise in product liability cases, as well as other areas of tort law. Disasters caused by mass-marketed products have given rise to problems such as how to develop procedures to handle mass-tort claims fairly and efficiently and how to do justice to thousands of claimants, so that they can obtain adequate recovery for their injuries without exhausting sources of compensation. The mass tort has also made it necessary to explore ways of proving, in the context of the judicial process, the causal relationship between toxic exposures and harms sustained by claimants.

The institution of insurance is essential to the functioning of the tort system, and the course in Insurance Law provides students with a comprehensive understanding of not only liability insurance but also property, casualty, life and health insurance. It also takes up the tort liability of agents and brokers, and the liability of insurers for failing to settle tort claims.

The Class Action Law and Practice Seminar explores the emerging issues surrounding the class action device in a variety of contexts, including mass torts cases. The seminar covers all phases of a class action suit. The Complex Litigation Seminar: Perspectives on Federal Court Reform addresses several issues related to tort law, including proposals to reform punitive damages, joint and several liability and multi-district tort litigation.

Search Advanced Torts Courses (http://curriculum.law.georgetown.edu/course-search/?cluster=cluster_3)
LAW 104 v01 Behavioral Law and Economics: An Introduction (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20104%20v01)
J.D. Course (cross-listed) | 1 credit hour
The economic analysis of law has predominated much of legal analysis for the past few decades. Within this framework, rational choice theory has taken central stage as the key model used in order to predict human behavior. In recent years, however, researchers both in economics and in psychology have demonstrated that people systematically deviate from the predictions set forth by the rational choice model. The goal of this course is to incorporate these findings into legal analysis. In doing so we will first examine traditional economic analysis of law, and then explore how the conclusions of this analysis are altered when behavioral insights are incorporated into it.

Topics that will be discussed in the class include: contract law and contracting, tort law, litigation and settlement negotiations, and the behavior of judges and jurors.

Note: In Spring 2017 this course will meet on Mondays and Wednesdays and one Friday, 9:00 am - 11:00 am on the following dates: 4/3, 4/5, 4/7, 4/10, 4/12, 4/17, and 4/19.

LAW 088 v00 Class Action Law and Practice (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20088%20v00)
J.D. Course | 2 credit hours
Class actions in such diverse areas as securities and corporate governance, employment discrimination, toxic torts, mass accidents, and consumer fraud have challenged the capacity and creativity of federal and state courts throughout the Nation. New forms of class suits continue to pose challenging questions for the judiciary. This seminar will focus on the class action device as an attempt to resolve disputes on an aggregate basis. The principal focus will be on emerging procedural and constitutional issues raised in recent and pending class action suits, and the treatment of those issues in the Supreme Court and federal courts of appeals. The seminar will explore these issues by evaluating class actions in a variety of settings, focusing on appellate decisions that have resolved (or failed to resolve) significant issues in class action law and practice as well as case-studies of pending or recently decided class actions. The seminar will cover all phases of a class action, including pleading and other pre-certification issues, the certification decision, appeals from class certification decisions, class notice, settlement issues, trial, and the legal doctrines governing simultaneous overlapping federal and state-court litigation.

Prerequisite: Civil Procedure (or the equivalent Legal Process and Society).

LAW 1101 v00 Consumer Advocacy: Public Health Regulation of Tobacco and Personal-Care Products (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201101%20v00) (Fieldwork Practicum) | 4 credit hours
In fieldwork practicum courses, students participate in weekly seminars and conduct related fieldwork at outside organizations. This fieldwork practicum course will focus on federal regulation of tobacco and personal-care products by the Food and Drug Administration (FDA) under the Food, Drug, and Cosmetic Act and how public interest groups advocate greater protections for consumers. Students will participate in a two-hour/week seminar and carry out either 10 or 15 hours/week of fieldwork as interns with one of two national consumer and environmental health organizations: the Campaign for Tobacco-Free Kids or the Environmental Working Group. (Two pass/fail credits will be awarded for 10 hours/week of fieldwork, and three pass/fail credits will be awarded for 15 hours/week of fieldwork.)

SEMINAR: In the two-credit, graded, seminar portion of the practicum, students will utilize legislative and administrative materials as well as case law to become familiar with the processes by which the federal government regulates tobacco and personal-care products, and to critique both the statutory framework and FDA's performance in protecting consumers. The 2009 Tobacco Act created a new regulatory regime very different from the FDA's existing authority to regulate other products within its jurisdiction. Examination of the agency's initial steps to carry out this responsibility provides a chance for students to understand how a federal agency responds to a legislative mandate requiring innovative action to address a major public health problem. On the other hand, FDA has minimal authority to regulate personal-care products, raising real concerns for consumer protection. The course will also touch on related topics such as the role of the Federal Trade Commission in the regulation of trade practices, the Freedom of Information Act, the legislative process and the interaction of federal and state regulation.

FIELDWORK: In the two- or three-credit, mandatory pass-fail, fieldwork portion of the practicum, students will work as interns with the Campaign for Tobacco-Free Kids or the Environmental Working Group on projects aimed at strengthening the legislative or administrative processes, or on matters in litigation, under the supervision of attorneys connected with these organizations. (Students who have completed this course will have priority consideration if they opt to apply for the year-long Toni Stabile Graduate Fellowship at the Environmental Working Group after graduation.)

Prerequisite: J.D. students must complete the required first-year program prior to enrolling in this course (part-time and interdivisional transfer students may enroll prior to completing Criminal Justice, Property, or their first-year elective).

Recommended: Administrative Law; Food and Drug Law-related courses.

Mutually Excluded Courses: Students may not concurrently enroll in an externship or a clinic or another practicum course.

Note: LL.M. students must seek professor permission to apply.
Evening students who work during the day are encouraged to reach out to the professors to determine whether this practicum course would be compatible with their schedules.
This is either a four or a five credit course, depending on the number of fieldwork hours/week. Two credits will be awarded for the two-hour weekly seminar and either two credits (for 10 hours/week) or three credits (for 15 hours/week) for the fieldwork. The fieldwork will be conducted over a minimum of 11 weeks, to be arranged with the faculty members. Students will have the ability to choose the credit option that best fits their schedules. However, the fieldwork must be completed during normal business hours. All students will initially be registered for a total of four
In this course, you will learn:

1. Business context and objectives for insurance transactions.
2. How to parse and interpret insurance-policy language.
3. How property-casualty insurance responds to “real world” situations, involving losses to property including from natural disasters, mass tort claims, shareholder claims, and other situations.
4. How courts and law makers create incentives for insurance companies to act in positive ways. This includes questions of insurance company “bad faith” or good faith, the obligation of an insurer to accept a reasonable settlement offer from a plaintiff, obligations of insurers to provide lawyers to defend the insured and the ethical limits on the role of the lawyer, including when the lawyer is selected by the insured rather than the insurance company.
5. Through reviewing excerpts from briefs, students will gain a better appreciation of how to articulate insurance-law points and make appropriate argument.
6. The reading material introduces the wide variety of relevant sources that may assist lawyers, such as cases, articles/treatises, attorneys-general opinions, bar-association ethics opinions, and actual insurance policies.

Prerequisite: Torts (or Government Processes), Civil Procedure (or Legal Process and Society), and Contracts (or Bargain, Exchange, and Liability).

Recommended: Corporations.
LAW 1141 v00 Law Sagas Seminar  

J.D. Seminar | 3 credit hours
Starting with personal injury litigation in the 1970s, nonfiction books chronicling specific cases and episodes of complex litigation have increasingly targeted the "trade" audience (as opposed to a primarily academic one). This genre has expanded beyond the boundaries of personal injury litigation, even beyond mass tort actions. Today, all sorts of legal developments become the subject of "law sagas", detailed narratives showing how a legal situation - a settlement, a legislative package, a constitutional amendment, even a career in law - unfolded in its particular context. This seminar, Law Sagas, addresses the broadened scope of a literature that originally focused on more traditional tort litigation (that narrow literature was covered in Tort Sagas, a seminar previously offered at the Law Center.)

Examples of law sagas include:

- Chasing Gideon: The Elusive Quest for Poor People’s Justice
- Madison’s Hand: Revising the Constitutional Convention
- What Is Life Worth?: The Inside Story of the 9/11 Fund and Its Effort to Compensate the Victims of September 11th.

Other recently published law sagas focus on a historical legal episode or individual. Examples include:

- Local People: The Struggle for Civil Rights in Mississippi
- The Trial of Susan B. Anthony: An Illegal Vote, a Courtroom Conviction and a Step Towards Women’s Suffrage
- John Marshall and the Heroic Age of the Supreme Court

A single event or historical development can spawn multiple law sagas. One example is the effort to legislate and ratify the Nineteenth Amendment. A few law sagas on the subject:

- There is Power in a Union: The Epic Story of Labor in America
- Mother Jones: The Most Dangerous Woman in America

Law sagas about the same event offer different perspectives and varying information, illustrating the significance of how legal narratives are framed.

Some biographies and memoirs qualify as law sagas, including books as otherwise different as Power Concedes Nothing: One Woman’s Quest for Social Justice in America, from the Courtroom to the Kill Zones and William Blackstone: Law and Letters in the Eighteenth Century. Finally, some professional work product from lawyers approximates the law saga genre, as does “The Freh Report,” formally entitled Report of the Special Investigative Counsel Regarding the Actions of The Pennsylvania State University Related to Child Sexual Abuse Committed by Gerald A. Sandusky.

Law Sagas will cover most or all of the above referenced works, calling for close reading and student-led discussion of this literature. For paper assignments, students will have the choice of (1) reading and appraising a published law saga (other than those covered in the course) of his or her choosing (subject to professor's approval), setting it in the context of the genre as a whole and giving particular attention to how well or poorly the book conveys legally significant information to its audience or (2) writing a short, original law saga by examining a case or legal development not previously put in broader context and using the techniques demonstrated in the seminar readings to illuminate the case or legal development. Time permitting, students should expect to make presentations to their classmates in which presenters will introduce their classmates to their preliminary ideas (based on paper outlines or drafts) and classmates will provide suggestions for improvement.

LAW 1426 v00 Medical Malpractice Seminar  

J.D. Seminar (cross-listed) | 2 credit hours
This seminar covers the doctrinal and empirical literature on medical malpractice and tort reform. We will cover physician and institutional liability, health care quality and medical error, the economics of litigating medical malpractice cases, the causes of malpractice crisis, and the effect of the reforms that have resulted (and been proposed).
LAW 364 v05 Public Health Law and Ethics (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20364%20v05)
J.D. Course (cross-listed) | 3 credit hours
This course is intended to provoke thought and legal and ethical debate over pressing public policy issues surrounding the major health problems facing America and globally—e.g., infectious diseases, smoking, obesity, violence, injuries, and the environment. First, the course will examine the Constitutional and historical foundations of public health law in the United States. This section will discuss the Constitutional and statutory powers and duties of government to assure the conditions for a healthy and safe population, including the implementation of the Affordable Care Act. Second, the course will examine the conflicts between public health and civil liberties. For example, the course will probe conflicts between: (1) injury and disease surveillance and privacy; (2) labeling and advertising restrictions and freedom of expression; (3) personal control measures (e.g., screening, forced medical treatment and quarantine) and liberty; (4) commercial public health regulation and property rights. Finally, the course will examine the future of public health law. This “Future” includes a careful analysis of biosecurity—both naturally occurring (e.g., Ebola, pandemic influenza, Zika Virus) and intentional (e.g., bioterrorism such as smallpox and the anthrax attacks after September 11, 2001). This course should be important for all students considering careers in health law as well as those simply interested in exploring and debating the state of public health in America. It is a particularly unique opportunity for students given the expertise of Georgetown Law’s own O’Neill Institute for National and Global Health Law.

LAW 364 v06 Public Health Law and Ethics (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20364%20v06)
J.D. Course (cross-listed) | 3 credit hours
This course explores the interwoven dynamics of legal and ethical aspects of public health issues in the United States and abroad, including infectious diseases, tobacco use, obesity, and the environment, among others. This course will be valuable for students interested in global health law, as well as students looking to broaden and deepen their expertise in preparation for a career in health law more generally.

This course will proceed in three movements. First, it will consider the conceptual foundations of public health law in the United States through the lens of governance, ethics, and human rights, affording particular attention to the statutory and regulatory powers and duties of federal and state governmental entities to protect the health and safety of the population. Second, it will examine the sources of tension between the objectives of public health and civil liberties including, among others: labeling and advertising restrictions and free speech; disease surveillance and privacy; and considerations in personal versus population-based conceptions of health. Lastly, this course will conclude by considering emerging public health issues at the intersection of law and ethics, such as biosecurity, vaccine policy, and the role for public health in broader discussions around health care reform in the United States.

LAW 1405 v00 Tort Theory Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201405%20v00)
J.D. Seminar (cross-listed) | 3 credit hours
For several generations, a battle has raged over the soul of tort law. What is the point of tort law, and what do its doctrinal features tell us about its goals? Is it a system for ensuring efficient outcomes when activities create externalities? Is it a public forum for the recognition and correction of private wrongs? Or is it a safety net whose goal is to spread risks as widely as possible? Is it even fair to describe tort law as having goals? This seminar will explore some of these questions through the history both of tort law itself and of scholarly interpretations of tort law. We will read classic works of tort theory, including articles by Richard Posner, Guido Calabresi, John Goldberg, Ben Zipursky, and others. Our class discussions will focus on developing our understanding of the scholarly dialogue as well as thinking critically about the strengths and weaknesses of the various arguments we’ll encounter.

This seminar satisfies the upperclass legal writing requirement. Students will be graded primarily on the basis of a final paper of at least 6,000 words that explores a tort theory topic of their choosing.

Prerequisite: Torts.

Full-time and Visiting Faculty
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