

# Appendices

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The following pages provide examples of how we have implemented the various principles discussed in the book. We have organized this Appendix in the same way we have organized the book. All material in the Appendices are available to download at [www.lawteaching.org](http://www.lawteaching.org). (Note: There are no appendices for Chapters 1 and 2.)

## Appendix 3-1: Course Goals

### *Course Goals for Civil Procedure I Course*

- A. Affective—Students and teacher will have a challenging and enjoyable learning experience.
- B. Values. Students will:
  - 1. Demonstrate respect for students, staff, and faculty.
  - 2. Develop an attitude of cooperation with students, faculty, lawyers, judges.
  - 3. Understand the multiple roles of a lawyer in civil dispute resolution.
  - 4. Identify ethical issues involved in civil dispute resolution.
  - 5. Begin to formulate his or her version of the moral lawyer.
  - 6. Demonstrate honesty, reliability, responsibility, judgment, self-motivation, hard work, and critical self-reflection.
- C. Skills.
  - 1. Case Analysis. Students will master the following skills:
    - a. Identification of the elements of a reported opinion: procedural facts, issue, holding, rationale, legal rules, policy.
    - b. Synthesis of a line of related opinions.
  - 2. Statutory Analysis. Students will master the elements of statutory analysis:
    - a. Close reading of the words of the statute.
    - b. Identifying the purpose of the statute.
    - c. Fitting the statute into the broader statutory scheme.
    - d. Using legislative history.
    - e. Using cases interpreting the statute.
  - 3. Legal Problem Solving. Students will master these problem-solving skills:
    - a. Identifying legal issues in simple and complex fact situations.
    - b. Identifying the relevant legal authority and policy.
    - c. Identifying potential alternatives to achieve the client's goals.
  - 4. Legal Argument. Students will be able to make effective legal arguments:
    - a. Identifying the legal issues.
    - b. Identifying the relevant facts, authority, and policy.
    - c. Supporting the client's position with facts, authority, and policy.
    - d. Distinguishing unfavorable facts, authority, and policy.
  - 5. Legal Drafting. Students will draft legal documents that communicate clearly, are persuasive, and comply with applicable rules.
  - 6. Critical Thinking. Students will:
    - a. Evaluate cases, statutes, arguments, documents, and attorneys' actions on their effects on (1) clients, (2) the civil litigation system, and (3) society.

- b. Challenge assumptions made by judges, legislators, attorneys, students, professors, and themselves.
- 7. **Lawyering Skills.** Students will experience basic lawyering skills, such as fact investigation and oral argument.
- D. **Content.** Students will be able to identify:
  - 1. Alternatives to civil litigation to resolve disputes.
  - 2. The basic law and policy of civil procedure: Jurisdiction, venue, pleading, pre-trial motions, and discovery.

### *Course Goals for Torts Class*

My goal is to have you develop solid skills that will help you as lawyers. Accordingly, I have high expectations for your performance in class and on assignments. I have these expectations because I believe you can do the work, and I will coach you through the process. I demand a lot from you because I seek to prepare you as professionals. I seek to work hard, have fun and have you learn as much about understanding, applying and analyzing the law of torts.

At the end of the course, you should be able to show me in writing and orally how lawyers solve problems in the area of torts—what laws they use, how they apply them to new facts, and how they use those facts to make arguments to judges or juries.

Specific goals include the following:

- A. **Affective.** Students and teacher will have a challenging and enjoyable learning experience.
- B. **Values.** Students will:
  - 1. Demonstrate respect for students, staff, and faculty.
  - 2. Develop an attitude of cooperation with students, faculty, lawyers, and judges.
  - 3. Develop on-going investment and monitoring of professional development.
  - 4. Identify ethical issues involved in tort issues.
  - 5. Demonstrate honesty, reliability, responsibility, judgment, self-motivation, hard work, and critical self-reflection.
- C. **Skills.**
  - 1. **Case Analysis.** Students will master the following skills:
    - a. Identifying the elements of a reported opinion: procedural facts, legally relevant facts, issue(s), holding(s), reasons and policies, legal rules, and disposition.
    - b. Synthesizing a line of related opinions.
  - 2. **Legal Problem Solving.** Students will master these problem-solving skills:
    - a. Identifying legal issues in simple and complex fact situations.
    - b. Identifying the relevant legal authority and policy.
    - c. Identifying potential alternatives to achieve the client's goals.
  - 3. **Legal Argument.** Students will be able to make an effective legal argument by:

- a. Identifying the legal issues.
  - b. Identifying the relevant facts, authority, and policy.
  - c. Supporting the client's position with facts, authority, and policy.
  - d. Distinguishing unfavorable facts, authority, and policy.
4. **Legal Drafting.** Students will draft legal documents that communicate clearly, are persuasive, and comply with applicable rules.
  5. **Critical Thinking.** Students will:
    - a. Evaluate cases, statutes, arguments, documents, and attorneys' actions on their effects on (1) clients, (2) the tort system, and (3) society.
    - b. Evaluate the strategy and ethics of applying different torts causes of action.
    - c. Challenge assumptions made by judges, legislators, attorneys, students, professors, and themselves.
  6. **Lawyering Skills.** Students will experience basic lawyering skills, such as fact investigation and oral argument.
- D. Content.** Students will learn:
1. The basic law and policy of torts: negligence, intentional torts and products liability.
  2. Which tort issues are decided by judges, which by juries (or judges sitting as fact finders.)
  3. The interrelationship of different torts causes of actions.

## Appendix 3-2: Lesson Objectives

### *Objectives for a Lesson on Express Conditions*

By the end of this lesson, you will be able to:

- a. Distinguish contract terms that unmistakably are promises from contract terms that raise an issue as to whether they are express conditions;
- b. Analyze whether possible express conditions are, in fact, express conditions;
- c. Analyze whether an express condition has occurred;
- d. Articulate the rules dealing with the legal significance of the occurrence or non-occurrence of a condition;
- e. Apply the rules dealing with the legal significance of the occurrence or non-occurrence of a condition to the facts of a case;
- f. Draft a contract term that unmistakably would be treated as an express condition;
- g. Draft a contract term that unmistakably would be treated as a promise.

## Appendix 3-3: Syllabi

### *Torts Syllabus*

#### I. GENERAL INFORMATION

**Class Meetings:** Room \_\_, Tuesday and Thursday 3:00–4:30 p.m.

**Office:** Room 214

**Phone:**

**Work:**

**Home:**

**Mobile:**

**Email:** \_\_\_\_\_

**Office Hours:**

Tuesday 10:00–12:00—and 1:00–2:30 pm (can modify if these times don't work for you)

Anytime by appointment

During the Tuesday times, unless I have notified you otherwise, I will be in my office with free time; I strongly encourage you to come see me if you have any questions about the class.

You should feel free to come by at other times. If I am not busy I will be happy to talk with you. You can also email me or talk to me after class to arrange an appointment. For questions about course material, I encourage you to post them to the Torts TWEN discussion board—you can do so anonymously. I will answer them if one of your classmates doesn't do so first. Chances are that if you have questions, your classmates do too.

**Preferred contact:** Drop by or email

#### II. MATERIALS

**Course Materials:**

**Required:** Best & Barnes, Basic Tort Law

**Recommended:**

Joseph W. Glannon, The Law Of Torts: Examples And Explanations (Examples & Explanations)

A Concise Restatement of Torts

There will be some oral and written exercises during the class—some in teams and some individual. These are required. I will do my best to schedule all exercises and written assignments to avoid conflict with Legal Skills deadlines.

**Teaching Assistants:**

- \_\_\_\_\_ 2L, \_\_\_\_\_ 2L, \_\_\_\_\_ 2L, \_\_\_\_\_ 2L
- Will hold weekly sessions at times to be announced
- You can also seek assistance from the TAs by contacting them via law.unh.edu email

**Course website—TWEN—**

- Please sign up by \_\_\_\_\_
- Please use your law.unh.edu email when signing up
- All electronic written course materials will be on TWEN
- Please post questions to TWEN—you may post anonymously

Mass Media—articles, clips, web pages—materials we find related to torts

**Class handouts**

During the semester, I will hand out assignment sheets, exercises and supplementary material in class. Whenever possible, copies will also be available online, on the Torts TWEN site. These become part of your course materials. I will provide you with one hard copy; you are responsible for other copies.

CALI—on-line computer exercises and tutorials—I will let you know when you may find these useful.

**III. COURSE GOALS**

My goal is to have you develop solid skills that will help you as lawyers. Accordingly, I have high expectations for your performance in class and on assignments. I have these expectations because I believe you can do the work, and I will coach you through the process. I demand a lot from you because I seek to prepare you as professionals. I seek to work hard, have fun and have you learn as much about understanding, applying and analyzing the law of torts.

At the end of the course, you should be able to show me in writing and orally how lawyers solve problems in the area of torts—what laws they use, how they apply them to new facts, and how they use those facts to make arguments to judges or juries.

Specific goals include the following:

- A. **Affective.** Students and teacher will have a challenging and enjoyable learning experience.
- B. **Values.** Students will:
  1. Demonstrate respect for students, staff, and faculty.
  2. Develop an attitude of cooperation with students, faculty, lawyers, and judges.
  3. Develop on-going investment and monitoring of professional development.
  4. Identify ethical issues involved in tort issues.
  5. Demonstrate honesty, reliability, responsibility, judgment, self-motivation, hard work, and critical self-reflection.
- C. **Skills.**
  1. **Case Analysis.** Students will master the following skills:
    - a. Identifying the elements of a reported opinion: procedural facts, legally relevant facts, issue(s), holding(s), reasons and policies, legal rules, and disposition.
    - b. Synthesizing a line of related opinions.
  2. **Legal Problem Solving.** Students will master these problem-solving skills:
    - a. Identifying legal issues in simple and complex fact situations.

- b. Identifying the relevant legal authority and policy.
- c. Identifying potential alternatives to achieve the client's goals.
- 3. **Legal Argument.** Students will be able to make an effective legal argument by:
  - a. Identifying the legal issues.
  - b. Identifying the relevant facts, authority, and policy.
  - c. Supporting the client's position with facts, authority, and policy.
  - d. Distinguishing unfavorable facts, authority, and policy.
- 4. **Legal Drafting.** Students will draft legal documents that communicate clearly, are persuasive, and comply with applicable rules.
- 5. **Critical Thinking.** Students will:
  - a. Evaluate cases, statutes, arguments, documents, and attorneys' actions on their effects on (1) clients, (2) the tort system, and (3) society.
  - b. Evaluate the strategy and ethics of applying different torts causes of action.
  - c. Challenge assumptions made by judges, legislators, attorneys, students, professors, and themselves.
- 6. **Lawyering Skills.** Students will experience basic lawyering skills, such as fact investigation and oral argument.
- D. **Content.** Students will learn:
  - 1. The basic law and policy of torts: negligence, intentional torts and products liability.
  - 2. Which tort issues are decided by judges, which by juries (or judges sitting as fact finders.)
  - 3. The interrelationship of different torts causes of actions.

#### IV. TEACHING AND LEARNING METHODS

Tell me,  
I forget.  
Show me,  
I may remember.  
Involve me,  
And I'll understand.

—Confucius

We will use a variety of teaching/learning methods to achieve the goals of this course, to keep things interesting, and to accommodate various learning styles. I ask for your forbearance when I am using a style that works for others, but not for you.

The methods include:

- A. Teacher and student presentation
- B. Whole class, small group and team discussion and problem solving
- C. Simulations—preparation of legal documents and participation in legal proceedings
- D. CALI

E. Practice exams and quizzes

F. Writing assignments

G. Other

## V. ROLES

### A. Teacher

1. Work hard to help students succeed in the course
2. Share knowledge
3. Model skills and values
4. Provide feedback to students
5. Lead in course and class design
6. Lead in maintaining a positive, challenging learning environment
7. Provide feedback to students
8. Grade student performance
9. Other

### B. Students

1. Work hard to achieve the goals of the course
2. Assist in class design
3. Actively contribute to maintaining a positive, respectful, challenging learning environment
4. Share knowledge
5. Provide feedback to teacher and other students
6. Cooperate and collaborate with other students working in teams
7. Other

## VI. PROFESSIONAL ENGAGEMENT IN LAW SCHOOL

As you may know, you are creating your professional reputation in the law. Accordingly, please behave as the best attorneys do. This includes paying attention and responding to what others say as well as working with others to collectively learn the material. Please be prepared for class and to be ready to work. Please listen to others, avoid dominating discussion, take the initiative to improve your skills, take risks and be resourceful. Please seek help when you realize you need it or when recommended. Please show up every day on time and stay in class the whole time. If you have questions about this, please contact me.

You will all be working in teams of 6–7 students. I will assign you to your teams on the first day of class. Everyone in the team has the responsibility of making sure that the team works together effectively and efficiently.

If you are unable to attend a class due to illness or other good reason, please notify me and your team in writing before class, if at all possible. You may receive an excused absence if you notify me in writing why you need to miss class and provide me with sufficient information for me to excuse you. You will automatically be excused for an absence due to religious observation if you have provided advanced written notice. Such absence will not count toward your maximum absence total for the semester. If you are

not comfortable explaining your reason to me, please contact the Assistant Dean for Student Affairs. Providing notice in writing may be done through email.

If you accumulate 4 or more unexcused absences, you will fail the course and you will be given an “F” in the class.

You are responsible for learning information and getting the handouts provided in class or made available online. If you missed class, talk to classmates to learn what happened and get notes. After talking to classmates, if you have additional questions, talk to TAs and me.

When you are in class, please be *prepared* to participate in the discussion—and *to engage*. Being “prepared” does not mean you have become an expert on the material; it does mean that you will have read (generally more than once for court opinions) and thought about the assigned materials, completed assigned work, and be ready to engage and discuss this work with others. You will not be penalized for asking what you might think are “stupid questions” or letting me know when you are confused. You are responsible, however, for asking questions when you do not understand material.

In class, you are each responsible for participating to an appropriate extent, i.e., neither being silent nor dominating the discussion, but doing your share of the talking.

If you cannot prepare for a class, please notify me that you are unprepared at the beginning of class. Being unprepared counts as an unexcused absence. If you are not prepared for some classes, I may ask you to leave. This would be because we will be discussing material specific to a graded assignment, and it is only appropriate to have the discussion with students who have already completed the assignment.

Professional engagement includes:

- *Resourcefulness.* If you have a problem, first try to figure out a way to solve it.
- *Taking risks.* For some of you, this means volunteering to speak in a class. For others, it is the risk of being silent and not leading a small group discussion. It may mean admitting that you are off track or that you need help with an aspect of the course.
- *Behavior in class.* Interrupting others, talking while whole class instruction or discussion is going on, or making disparaging remarks about other students is unacceptable. If you have been assigned an in-class exercise and find that you have finished it before others, ask for feedback or work on other aspects of the course. Encouraging and allowing others to talk is as important as your talking. Listening skills are an enormous aspect of effective lawyering.
- *Computer usage.* Because of computer abuses, using a computer in a way that does not support your learning—checking email, surfing the internet, IMing, etc.—will be considered an absence from class.
- *Attitude.* Having a positive approach to working with others is important. You are welcome to voice your questions, concerns, and complaints about the course. You are asked to do so directly to me, in person. If you have a complaint, be prepared to offer a solution.
- *Depth and thoughtfulness of your work.* This includes in-class contributions and written assignments.
- *Investing in your learning and growing from your mistakes.* If you have received feedback on an assignment, try to understand it and use it. If one learning ap-

proach has not worked effectively, try another, and reflect on what works. Ask questions about material you don't understand, and struggle with analyzing a problem before giving up. If you sense you are falling behind, based on exercises and class assignments, please ask for help.

- *Effort and perseverance.* This overlaps with some of the other categories but bears repeating. A student who does not give up, but keeps working to develop his or her skills, regardless of where he or she is, is acting professionally.
- *Timeliness.* Completing all assignments on time.

## VI. EVALUATION AND GRADES

### A. Principles (not negotiable)

1. Multiple (more than one evaluation)
2. Varied (different methods of evaluation)
3. Fair (opportunity for practice and feedback; clear directions and criteria)

### B. System (negotiable)

Your grade in the course will be based on the total number of points you earn each semester. Points will be awarded for a variety of written assignments (documents, short essays, quizzes) and exams (part essay, part multiple choice). In addition, there may be in-class writing throughout the semester.

### C. Graded Performances

There will be up to six short, multiple choice Readiness Assessment Tests (RATs) given during the course—one *toward the beginning* of each unit. (The same RATs will be given to individuals and to teams.) There will be one final closed book exam, and two team open book application assessments.

### D. Grading Criteria:

Scores in three major performance areas will determine the grades in this class: Individual performance, team performance, and team contribution.

Grade weights	Within Area	% of Total
1. Individual performance		<u>45%</u>
Individual Readiness Assessment Tests	50%	
Individual Final Exam	50%	
2. Team Performance		<u>40%</u>
Team Readiness Assessment Tests	34%	
Team Assessment I	33%	
Team Assessment II	33%	
3. Team Contribution (Evaluated by Peers)		<u>15%</u>

## *Environmental Law Syllabus*

### I. GENERAL INFORMATION

Office: Faculty Suite 427

Phone: \_\_\_\_\_

**Office Hours:**

Tuesday 11:00–4:00

Thursday 10:00–11:00

Anytime by appointment

Email: \_\_\_\_\_

Faculty Assistant

\_\_\_\_\_  
Faculty Suite

\_\_\_\_\_ (assistant's phone number)

\_\_\_\_\_ (assistant's e-mail address)

**II. MATERIALS****A. Course Books**

1. Percival, Schroeder, Miller, Leape, ENVIRONMENTAL REGULATION: LAW, SCIENCE, AND POLICY
2. ENVIRONMENTAL LAW STATUTORY AND CASE SUPPLEMENT WITH INTERNET GUIDE
3. Hess, ENVIRONMENTAL LAW—SPRING SUPPLEMENT (available on TWEN)

**B. Mass Media****C. Documents****D. TWEN****F. Internet****G. Video****H. CALI****III. GOALS**

A. Teacher and students will have an enjoyable and challenging learning experience.

B. Content. Students will learn the overview and most important details of the following:

1. Environmental Law Perspectives (personal, ecological, economic, philosophical, historical, risk)
2. Administrative agency actions and judicial review
3. National Environmental Policy Act
4. Clean Water Act
5. Endangered Species Act
6. Clean Air Act

C. Skills. Students will:

1. Refine statutory analysis skills through standard of review, statutory language, statutory purpose and policy, overall statutory scheme, legislative history, regulations applying the statute, cases interpreting the statute.
2. Analyze problems involving environmental law in real life.

3. Develop presentation skills relevant to working with environmental law issues in real life.

#### IV. COURSE DESIGN

We will spend part of the first class session engaging in course design. We will make collaborative decisions regarding course goals, methods, roles, responsibilities, and evaluation. In particular, we will address the following design issues.

**Goals**(What do you hope to get out of the course? What content and skills do you hope to learn?)

**Teaching and Learning Methods**(What methods should we use to achieve the goals of the course?)

**Student Role and Responsibility**(What do you expect of yourself and your fellow students?)

**Teacher Role and Responsibility**(What do you expect of me?)

**Evaluation.**(See the next page for a proposed evaluation system. Do you have suggestions for changes in the proposal?)

#### V. EVALUATION

##### A. Principles

1. Multiple
2. Varied
3. Fair (clear directions and criteria)

##### B. Methods. Your grade will be based on your performance in the following areas:

1. Paper (30–50%). The purpose of the paper is to assess your ability to critically analyze a real-world situation based on the content and skills you learned in this

course. You must choose a subject related to the coverage of this course. The paper cannot exceed 10 pages, double spaced.

2. Exam (30–50%). The purpose of the exam is to assess your knowledge of the course content and statutory analysis skills. The final will be a three-hour open book exam. The format will be part essay and part multiple-choice.
3. Participation (20%) Successful completion of all of the following would earn the full 20% for this portion of the grade. Successful completion of less than all of the following would earn a lower percentage, based on my judgment.
  - Prepare for, attend, and be actively involved in all class sessions
  - Complete five short writing/research/presentation assignments. Each project is limited to one page, single-spaced. Brief descriptions of these projects follows:

**Web site review.** The purpose is to locate and review a Web site related to environmental law covered in this course. For example, there are applicable Web sites maintained by federal and state agencies, public interest groups, and industries. The paper should give the site's URL, describe the site, explain its usefulness, and include your reflection on what you learned from the site.

**Public comment.** The purpose is to make public comment in a proceeding relating to a portion of environmental law covered in this course; for example, a proposed rule, a permit application, or an EIS. The paper should contain the text of your written or oral comment and your reflection on what you learned from the comment process.

*One of these:*

**NEPA document.** The purpose is to locate and describe an environmental assessment, environmental impact statement, finding of no significant impact, or other NEPA document. The paper should describe the document, explain its usefulness or applicability, and include your reflection on what you learned from the document.

**ESA recovery plan or guidance.** The purpose is to locate and describe a recovery plan, listing decision, USF&WS guidance document, or other comparable ESA document. The paper should describe the document, explain its usefulness or applicability, and include your reflection on what you learned from the document.

*One of these:*

**CAA emission limit, permit, or guidance.** The purpose is to locate and describe an emission limit for an industry, a permit for an industry, an EPA guidance document related to the CAA, or a comparable CAA document. The paper should describe the document, explain its applicability or usefulness, and include your reflection on what you learned from the document.

**CWA effluent limit, water quality standard, NPDES permit, or guidance.** The purpose is to locate and describe an effluent limit for an industry, an NPDES permit for an industry or municipality, a state water quality standard, an EPA guidance document related to the CWA, or other comparable CWA document. The paper should describe the document, explain its applicability or usefulness, and include your reflection on what you learned from the document.

*One of these:*

**Interview.** The purpose is to report on an interview with a person involved with some portion of the environmental law covered in this course. For example, the interview could

feature an environmental lawyer, a regulator, or a person subject to regulation. The paper should describe the person's views of environmental law in practice and include your reflections on what you learned from the interview.

**Field trip.** The purpose is to see an industry, business, governmental facility, or site affected by environmental law covered in this course; for example, a wastewater treatment facility, industrial facility, or a farm. The paper should describe how the site or facility is governed by some aspect of the law we covered in this course and your reflection of what you learned from the trip.

## SPRING SCHEDULE

<u>Week</u>	<u>Unit</u>
January 12	1
January 19	2
January 26	3A, B
February 2	doc, 3C, D
February 9	3E, 4A, B
TFebruary 16	4C, D
February 23	4 E, F, G
THMarch 2	4H, I, J
March 9	Spring Break
March 16	5A, B
March 23	5C, D, E
March 30	6A, B
April 6	6C, D
April 13	6E, F, G
April 20	6H
April 27	Papers

Papers due in class on April 24.

Final Exam on May 11 at 1:30.