

Schulich School of Law, Dalhousie University

TORT LAW AND DAMAGE COMPENSATION

**Section B - Prof. Phillip Saunders
2018/19**

A GENERAL INFORMATION

Class Times and Location (Fall term only)

Tues.: 15:00 - 16:20 Rm. 305 Weldon
Thurs: 09:30 - 10:50 Rm. 305 Weldon

Contacts

Office # 416 Weldon
Phone 494-1044
E-mail: p.saunders@dal.ca

Regular Office Hours (Fall term): Mon: 15:30-17:00, Weds. 15:30-17:00

Otherwise (and more simply) email me for an appointment, or just speak after class.

B MATERIALS

i) The **required** text (available from the Bookstore and online at www.lexisnexis.ca and other online sources) is:

“CANADIAN TORT LAW - Cases Notes and Materials”, **15th edition**; A.M. Linden, L.N. Klar, B Feldthusen (commonly referred to as "Linden").

ii) Reference Material - You may well find it useful from time to time to consult texts or treatises on tort law, particularly where the assigned readings are unclear or insufficient to your needs. As a starting point I recommend:

"Canadian Tort Law - A.M. Linden & B. Feldthusen (10th edition – 2015 – note – Student edition is much less expensive) – on reserve in library.

"Tort Law" - L. Klar & C. Jeffries (6th ed - 2017) – on reserve in library.

"The Law of Torts" - J. Fleming (commonly referred to as "Fleming") –9th ed, 1998 on reserve in library (a bit out of date, but useful on some earlier caselaw)

As noted, these reference materials are available in the library - I do not recommend you buy one at this stage. If you feel the urge later at least you will have a better idea of which might suit you.

The usefulness of texts is primarily in the broad overview and synthesis they provide, cutting through the maze of specific cases. The important *caveat* to keep in mind is that the opinions of the authors are just that, and that there is often disagreement among them. They assist, but do not substitute for, your independent analysis of the materials.

C CLASS ORGANIZATION

Classes will be organized around lecture and discussion – participation is strongly encouraged.

Readings from the required text (and handouts as required, posted on Brightspace) are outlined in the **attached Readings List**, up to the end of October, along with the outline of what is to follow. Further reading lists will be distributed in advance. Please note that the dates are approximate, and will be adjusted during the term depending on progress in class.

D EVALUATION

Evaluation for this course will consist of the following components:

- i) Fall Term Examination - There will be a 1 ½ hour examination on first term material. This examination is worth 30 % of the overall course mark, but is only counted in the final grade for the year on a "fail-safe" basis (if the mark is higher than your result on the final exam).
- ii) Final Examination - A final 3 hour examination will cover the entire course, and will count for either 100% of the mark, or 70% if the December exam mark is higher.

Open Book Exams

Exams are "open book", which means you may take in the required texts and your **own** notes, as well as any handouts and powerpoints. Other texts, treatises etc. are not allowed. If any special materials are needed you will be notified or they will be provided.

E. ACADEMIC POLICIES

Please take note of the following policies and procedures:

1. Student Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation.

Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

2. Submission of Major Papers and Assignments

Major papers and assignments must be submitted in hard copy. Students should hand papers in to the place stipulated by the instructor and ensure they are date and time stamped. Please read the law school policy on late penalties: <https://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>

Please note students may also be required to provide an identical electronic copy of their paper to the instructor by the due date. Papers may be submitted by the instructor to a text-matching software service to check for originality. Students wishing to choose an alternative method of checking the authenticity of their work must indicate to the instructor, by no later than the add/drop date of the course, which one of the following alternative methods they choose:

- a) submit copies of multiple drafts demonstrating development of their work
- b) submit copies of sources
- c) submit an annotated bibliography

3. Plagiarism

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any

paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

**TORT LAW AND DAMAGE COMPENSATION
COURSE READINGS, FALL 2018 – Sept. 13 – Nov.8**

Section B (Saunders)

Page references are to Canadian Tort Law: Cases Notes and Materials (15th edition).

Sept 13	Nature and Function of Tort Law: 1-4 (to end of note 4); 5-10 (Fleming); 12-19 (to end of note 6)
Sept 18	Nature and function cont'd Accidental, Negligent and Intentional Conduct: 54-57 (all of section B.)
Sept 20	Volition and Capacity: 57-62 (all of section C) Direct vs Indirect: p. 49, and Notes 4-8, pp. 50-51
Sept 25	Assault: 63-73 (all of section D)
Sept 27	Assault: cont'd Battery: 73-74 (to end of notes); 82-83 (start of section F to end of note 5)
Oct 2	Battery cont'd
Oct 4	Infliction of Mental Suffering: 85-89 (all of section G) Handout (<i>Boothman</i>)
Oct 9	Infliction of Mental Suffering, cont'd Extent of Liability in Intentional Torts: 74-77 (<i>Bettel v Yim and Mann v Canadian Tire</i>) Proof: 51-54 (<i>Goshen v Larin</i> and notes 1-2)
Oct 11	Review
Oct. 16	Defences - Consent: 119-131 (end of note 7)
Oct 18	Consent cont'd 131-140 (end of note 5)
Oct 23	Consent cont'd Self-defence: 148-153 (including defence of third party)

- Oct 25 Self-defence cont'd
- Oct 30 Defence of Property 153-156
- Nov 1 Legal authority 156-168
 Necessity (no readings)
- Nov 6 Legal authority and Necessity cont'd
 Review & problems
- Nov 8 Private Nuisance 663-673 (to end of *Antrim*)
- Nov 13 & 15 “Study” Week

Following break: (readings to be distributed)

1. Private Nuisance cont'd
2. Public Nuisance
3. Strict Liability