GENERAL INFORMATION

1) **CASEBOOK:** Dobbs & Hayden, Torts and Compensation (5th Edition).

2) **OTHER RESOURCE MATERIALS,** on reserve in the law library, include the following:

   - Dobbs, The Law of Torts (Hornbook)
   - The Restatement (Second) of Torts
   - The Restatement (Third) of Torts
   - A Concise Restatement of Torts
   - Glannon, The Law of Torts

3) **MY OFFICE** is located on the 5th floor, room 561. My office # is 935-6416.

4) **MY E-MAIL** address is norwood@wulaw.wustl.edu. The link for this course, currently is: [http://law.wustl.edu/courses/index.asp?id=4527](http://law.wustl.edu/courses/index.asp?id=4527).

5) **EXAMS:**

   We will have **TWO** examinations in this course: a mid-term examination and a final examination. The mid-term examination will cover all intentional torts and the defenses thereto. It will consist of multiple choice questions and will probably be no more than one hour in length. The final examination will be comprehensive. It will contain essays and possibly some short answer questions. It will be a maximum of three hours in length. Both examinations will be closed book examinations.

6) **PROFESSIONAL CONDUCT:**

   I would like you to do a few simple things:

   a) recognize that everyone does not learn as fast as you;
b) nor do they digest information in the same way you do.

c) we are all different: we look different, we act different, we sound different, we come from different experiences, exposures, cultures, and environments.

Given a-c, I ask that you practice patience during our class discussions. I do not expect you to worry about politically correctness. That is different from the matters of tolerance, civilly, respect, and professionalism. As professionals, I expect you to listen to all speakers in our classroom, respect the opinions of others (although you certainly need not agree with same), respond to differences civilly, and conduct yourself, at all times, in a professional manner.

7) CLASS PREPAREDNESS:

a) You are expected to be prepared for class. Being prepared requires reading assigned materials and giving some thought to what you read before you come to class.

b) You are expected to dialogue with your Professor (that’s me) and to otherwise participate in class discussion, activities, assignments, and simulations.

c) We will NOT always cover materials contained on our syllabus. Please know, however, that with respect to your preparation for examinations, you are responsible for all materials contained on the syllabus, all handouts distributed in class, AND all materials actually discussed in class (including the substance of any speeches by guest lecturers).

d) We will NOT always cover cases in the exact order assigned. For example, if you are required to read pp. 1-10 and there are 3 cases in those 10 pages: case A on p. 1, case B on p. 5, and case C on p. 8; we may cover case C before case A, etc.

e) Regarding absences:

i) Each student will be allowed a maximum of nine absences. Absence is defined as physical non-presence as well as mental non-presence, i.e., being unprepared;

ii) I will NOT provide any warnings concerning how many absences you have accumulated;

iii) After nine absences, one point will be deducted from your final grade for a maximum of a two point deduction (i.e., a person with ten absences will have
one point deducted off his/her final grade). With absence twelve you will not receive credit for the course;

iv) You are expected to be on time for class. Lateness, at my discretion, may be counted as an absence. Talking in class, except when called on, or other disruptions may also be treated, at my discretion, as an absence.

8) BRIEFING CASES:

To help you prepare for class discussion you should consider “briefing” your cases. I do not require students to brief cases. Some professors do. Check with each Professor regarding his or her policy on that issue. Although I do not require students to brief cases in this course it remains true that briefing does help you digest the information and put it together. Below please find a brief summary on what case briefs, should you decide to do them, should include:

FACTS: Statement of the relevant facts, i.e., a) who is suing whom for what, why and, b) how (if briefing an appellate court opinion) the case was disposed of at trial; i.e., did the trial court grant a motion of one of the parties or did it submit all or part of the case to the jury? (if latter, on what instructions? What did the jury find?) What relief, if any, was granted? What aspect of the trial is being appealed?

ISSUE: A statement of the legal question presented for decision by the court whose opinion is being briefed. The questions should neither be too particular (i.e., making unnecessary reference to immaterial factual idiosyncrasies of the case before the court) nor too general (i.e., failing to refer to crucial factual elements which qualify the legal issue and limit the scope of the precedential value of the case).

HOLDING: A simple yes or no answer and result, i.e., yes; judgment for plaintiff affirmed.

RATIONALE: The reasons the court gives for reaching its decision.

DICTUM: Observations made in the opinion, concerning the solution of questions suggested by the facts of the case being decided but not actually presented to the court for decision. Can also include any alternative reasons why court held the way it did.
SYLLABUS

I. AN INTRODUCTION

1) An Overview 2-34, 611-21, Handouts

2) “Fault” normally required 37-40

3) Strict Liability Exception Restatement §§ 519-20; 687-93

II. INTENTIONAL TORTS

4) Battery 40-59

5) Assault 59-65

6) False Imprisonment 65-68

7) Some Torts to Property 68-74

8) IIED (aka OUTRAGE) 560-569

AFFIRMATIVE DEFENSES TO THE INTENTIONAL TORTS:

9) Self-Defense/Defense of Others 82-84

10) Arrest & Detention 84-86

11) Defense of Property 86-89

12) Discipline 89-90

13) Consent 91-100

14) Necessity 100-109

---

1 I will distribute handouts in class as needed and the extras will be placed in the Torts course box in 301. If you are absent and do not receive any handouts distributed that day, please check in 301.

2 This material will not be covered in class.

3 This material will not be covered in class.

4 This material will not be covered in class.
### III. NEGLIGENCE

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>The Common Law <strong>Duty of Care</strong>: 111-133</td>
</tr>
<tr>
<td>16</td>
<td>The Relevance of Duties Contained In Statutes 136-147</td>
</tr>
<tr>
<td>17</td>
<td>The Effect of Compliance with Statute 342-343</td>
</tr>
<tr>
<td>18</td>
<td><strong>Breach</strong> of Duty 148-52; 155-165</td>
</tr>
<tr>
<td>19</td>
<td>The Relevance of Custom Evidence 181-187</td>
</tr>
<tr>
<td>20</td>
<td>Proving Breach When You Don't Know What Happened: Res Ipsa Loquitur 187-200</td>
</tr>
<tr>
<td>21</td>
<td><strong>Actual Harm</strong> 208-211</td>
</tr>
<tr>
<td>22</td>
<td><strong>Cause in Fact</strong> 211-216; 165-169; 216-225; 825-833</td>
</tr>
<tr>
<td>23</td>
<td><strong>Proximate Cause</strong> 234-247, 363-368, 247-259, 266-270</td>
</tr>
</tbody>
</table>

**BACK TO THE DUTY ELEMENT: LIMITED & SPECIAL DUTIES:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>Medical Malpractice 382-397; 406-415; §4 on 417-423</td>
</tr>
<tr>
<td>25</td>
<td>Nonfeasance 483-502</td>
</tr>
<tr>
<td>26</td>
<td>Duty to Protect from 3rd Persons 524-549</td>
</tr>
<tr>
<td>27</td>
<td>Emotional Harm 569-598</td>
</tr>
<tr>
<td>28</td>
<td>Prenatal/Related Matters: Preconcept/ Fetus/Wrongful Life &amp; Birth 599-610</td>
</tr>
</tbody>
</table>

**AFFIRMATIVE DEFENSES TO NEGLIGENCE:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>Contributory Neg/Comparative Fault 272-277; 283-296</td>
</tr>
<tr>
<td>31</td>
<td>Implied Assumption of the Risk 307-319</td>
</tr>
</tbody>
</table>

---

5 This material will not be covered in class.

6 SKIM the materials on pages 530-the end of Note 3 on p. 543. They will NOT be covered in class.