

PL-2301: TORTS AND EVIDENCE

Cuyahoga Community College

Viewing: PL-2301 : Torts and Evidence

Board of Trustees:

MARCH 2024

Academic Term:

Fall 2024

Subject Code

PL - Paralegal Studies

Course Number:

2301

Title:

Torts and Evidence

Catalog Description:

Fundamental principles of tort law (personal injury, malpractice, intentional tort, and products liability) to explore paralegal responsibilities in trial setting. Students collect and prepare evidence according to Ohio and Federal rules of evidence.

Credit Hour(s):

4

Lecture Hour(s):

4

Requisites

Prerequisite and Corequisite

PL-1300 Civil Procedure, and PL-1401 Legal Research and Writing I.

Outcomes

Course Outcome(s):

Identify the elements of torts involving negligence, intent, and strict liability.

Essential Learning Outcome Mapping:

Critical/Creative Thinking: Analyze, evaluate, and synthesize information in order to consider problems/ideas and transform them in innovative or imaginative ways.

Objective(s):

1. Explain the elements of a negligent tort.
2. Explain defenses to tort liability.
3. Explain the elements of intentional torts.
4. Explain the elements of torts involving strict liability.
5. Prepare claims and defenses in medical malpractice cases.

Course Outcome(s):

Identify the specific rules of evidence that are associated with a client's situation.

Essential Learning Outcome Mapping:

Information Literacy: Acquire, evaluate, and use information from credible sources in order to meet information needs for a specific research purpose.

Objective(s):

1. Explain the role played by the rules of evidence with regards to admissibility of evidence.
2. Explain the fundamental principles of evidence.
3. Use the Ohio Rules of Evidence in preparing a tort case.

Course Outcome(s):

Explain the role of the paralegal in assisting their supervising attorney with completing practical writing and drafting tasks related to real-life tort and evidence matters in a law office setting.

Essential Learning Outcome Mapping:

Written Communication: Demonstrate effective written communication for an intended audience that follows genre/disciplinary conventions that reflect clarity, organization, and editing skills.

Objective(s):

1. Organize a tort case file, summarizing and indexing discovery documents using both manual and computer techniques.
2. Recognize the paralegal role in the tort litigation.
3. Discuss the practical ethical dilemmas that can arise in a tort practice.
4. Gather, preserve, and organize evidence and legal documentation using both computer and manual techniques.
5. Prepare, introduce, and authenticate trial exhibits.
6. Locate and prepare to use expert witnesses.
7. Prepare clients and witnesses for trial.
8. Interview clients and witnesses to a tort.
9. Collect and prepare evidence for a tort client.
10. Draft and/or review interrogatories, requests for production, requests for admissions, subpoenas, witness statements, affidavits, and witness examination questions for a tort case.

Methods of Evaluation:

1. Attendance
2. Preparation of Discovery Documents
 - a. Interrogatories: Students will prepare interrogatories based on a fact pattern involving tort law issues.
 - b. Depositions: Students will prepare deposition questions for a supervising attorney's usage in a deposition setting.
 - c. Requests for Admissions: Students will prepare requests for admissions in order to require the other party to admit to relevant facts that have been identified by a supervising attorney.
 - d. Requests for Production: Students will prepare requests for production in order to obtain documents requested by a supervising attorney.
 - e. Affidavit: Students will prepare an affidavit that chronicles a witness's observations.
 - f. Objection Log: Students will complete an objection log that chronicles the specific objections that have been raised by their supervising attorney.
 - g. Request for Medical Records: Students will complete a request for medical records that is intended to obtain relevant medical records from a health care provider related to care that was provided in response to injuries suffered by a victim of a tort.
3. Quizzes and Examinations
4. Understanding and Analyzing Tort Case Law Assignment: Students will use an Ohio state-level appellate tort case in order to answer questions that measure their understanding of the content of the case decision and its applicability to real-life tort matters.
5. Writing Assignments
 - a. Memorandum Assignment: Students will utilize statutory and case law research in order to complete an in-house legal memorandum for a hypothetical supervising attorney.
6. Complaint Assignment: Students draft a complaint for their supervising attorney's review that will be used to start the litigation process.
7. Client File Folder Assignment: Students use a law firm's client file organizational structure to determine where various types of documents must be placed.
8. Preparation of Tort Evidence

Course Content Outline:

1. Overview of tort law -- identification, categories, and sources of torts
2. Negligent torts
 - a. "Reasonable person" standard
 - b. Unavoidable accidents
 - c. Creation of a prima facie case
 - i. Reasonable care/duty (affirmative duties)
 - ii. Breach of duty
 - iii. Actual cause vs. proximate cause
 - iv. Injury and damages
 - d. Gross negligence
 - e. Negligence per se
 - f. Res Ipsa Loquitur
 - g. Wrongful death
 - i. Wrongful life
 - ii. Wrongful pregnancy or conception
 - iii. Wrongful birth
 - h. Medical malpractice and defenses
 - i. Business (employment) torts and current class action claims
 - j. Defenses
 - i. Contributory negligence
 - ii. Comparative negligence
 - iii. "Last clear chance"
 - iv. Assumption of risk
 - v. Statutory defenses
3. Intentional torts -- what constitutes "intent"?
 - a. Assault and battery
 - b. False imprisonment and arrest
 - c. Infliction of emotional distress
 - d. Fraud and misrepresentation
 - e. Conversion
 - f. Trespass and nuisance
 - g. Invasion of privacy
 - h. Defamation
 - i. Malicious prosecution
 - j. Defenses
 - i. Consent, privilege, and immunities
 - ii. Unavoidable accident; the "Good Samaritan"
 - iii. Defense of self or others; necessity
 - iv. Defense of property; recapture of chattel
4. Business liability
 - a. Premises liability
 - b. Vicarious liability
 - c. Strict liability
 - d. Product liability
5. Presentation of evidence
 - a. Competent witness
 - b. Direct and cross-examination
 - c. Refreshing recollection
 - d. Objections and offers of proof
 - e. Lay or eye-witnesses/expert opinions
 - f. Judicial notice
 - g. Impeachment
6. Privileges
 - a. Spousal
 - b. Attorney/client
 - c. Doctor/patient
 - d. Clergy/penitent

- e. Self-incrimination
- f. Inchoate privileges
 - i. Accountant
 - ii. Journalist
 - iii. Government employee/elected official
- g. Insurance, subsequent safety measures, offers of settlement
- 7. Relevancy and materiality
 - a. Probative value
 - b. Character and conduct
 - c. Experimental, scientific, and demonstrative evidence
- 8. Authenticating writings
 - a. "Best Evidence" rule
 - b. Parole evidence
- 9. Hearsay
 - a. Definition
 - b. Exceptions
 - i. Protections against self-serving testimony
 - ii. "Course of business" exceptions
- 10. Collecting, preparing, and presenting evidence in tort cases
 - a. Interviewing and investigation
 - b. Interrogatories
 - c. Depositions
 - d. Requests for admissions
 - e. Requests for production
 - f. Affidavits and witness statements
 - g. Witness lists and subpoenas
 - h. Exhibits
 - i. Document control
 - j. Summarizing/indexing discovery documents
 - k. Witness preparation
 - i. Client
 - ii. Opposing party
 - iii. Eye- or lay-witnesses
 - iv. Expert witnesses
 - v. Character witnesses
 - l. Exhibit preparation

Resources

Edwards, J. Stanley; Cull, Traci. *Tort Law*. 7th ed. Delmar Cengage Learning, 2022.

Marlowe, Joelyn D. *Evidence for Paralegals*. 5th ed. Wolters Kluwer Law Business, 2015.

Supreme Court of Ohio. *Ohio Rules of Evidence*. Supreme Court of Ohio (online), 2023. <https://www.supremecourt.ohio.gov/docs/LegalResources/Rules/evidence/evidence.pdf>

Morrisette, Emily Lynch. *Personal Injury and the Law of Torts for Paralegals*. 6th ed. Aspen Publishing, 2023.

Bevans, Neal R. *Tort Law for Paralegals*. 7th ed. Aspen Publishing, 2022.

McCord, James W.H. and Tepper, Pamela R. *The Litigation Paralegal: A Systems Approach*. 6th ed. Cengage Learning, 2016.

Resources Other

1. Ohio Rules of Evidence: <https://www.supremecourt.ohio.gov/docs/LegalResources/Rules/evidence/evidence.pdf>
2. Federal Rules of Evidence: www.rulesofevidence.org/
3. Various civil cases accessible throughout a variety of law-related sites and electronic legal research databases.

Top of page

Key: 3657