

## LWZ106 Torts A

<b>Credit points:</b>	10 CP	<b>Mode:</b>	Internal/External
<b>Assumed knowledge:</b>	NA	<b>Location:</b>	Casuarina/Alice Springs/External
<b>Pre-requisite(s):</b>	NA	<b>Learning method:</b>	OLR
<b>Year:</b>	2012		
<b>Semester:</b>	First	<b>Unit coordinator:</b>	Ross Ashcroft
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### Unit Description

The purpose of this unit is to give students an overview of several torts, including negligence. The unit will also introduce students to some other versions of torts, including the liability of public authorities and how to assess damages.

**NOTE: IN SEMESTER TWO, 2012, THE TWO TORTS UNITS (LWZ106 AND LWZ107) WILL BE COMBINED. IF YOU HAVE DONE NEITHER OF THESE SUBJECTS, IT IS ADVISABLE THAT YOU CONSIDER THE NEW COMBINED UNIT. IF YOU HAVE DONE ONE, IT WILL BE OPTIONAL TO DO THE NEW UNIT, HOWEVER IF YOU ELECT TO NOT DO THE NEW UNIT, YOU WILL HAVE TO DO THE REMAINING TORTS UNIT.**

### Learning Outcomes

On completion of this unit a student should be able to:

1. Identify and apply the elements of the following torts to specific legal problems: in depth knowledge of the tort of negligence, defences, assessment of damages and liability in various contexts (e.g. public authorities).
2. Analyse problem situations and identify how the tort of negligence has been applied in novel factual situations involving mental injury, public authorities and pure economic loss
3. Critically evaluate the dynamic nature of the law of torts and how it has developed in response to social, economic and political changes.
4. Demonstrate an appropriate level of general skills including written communications in an IRAC context, oral communication through tutorial participation and research and writing skills for both tutorial preparation and take home exam.

### Teaching and Learning Strategies

Students are expected to take responsibility for their own learning by keeping up with the required reading and assessment tasks. The resources for this unit include: online lectures (synchronous and asynchronous), tutorials, and readings. Students will use legal databases to search and find statutes and case law. This is achieved through "hands on" use of such databases. In order to pass

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the subject, **students are required to score 50% or greater for the entire unit.** This may be difficult if you do not complete all assessment tasks on time and incur penalties.

### Reading:

The amount of reading in this subject is considerable. You should:

- set aside a significant amount of time for reading each week, and not leave it until the last minute;
- practice efficient reading skills, where key points are identified and less important information is skimmed; and
- expect some of the readings will be difficult, as you will be encountering new styles and vocabulary.

To improve your reading skills, you may wish to consult the resources on effective reading at:

<http://www.cdu.edu.au/graduateattributes/aquisition.html>

### Taking notes:

To ensure you remember the information you are learning in the lectures and readings, it is important that you take notes while you study. Note-taking turns the 'passive' act of listening to a lecture or reading a document into an 'active' learning exercise. To get the most out of your notes, read back over them and re-word them, thinking about how to best summarise what you are learning. Use your notes to jot down your own thoughts, ideas, feelings, and responses to what you are learning. If you have reviewed and collated your notes effectively during semester, then you will have done 90% of the preparation for the end of semester exam as you go. You will also get more out of the discussion board and tutorial activities.

You should view the lecture powerpoints and reading guides as guides to assist your learning of the subject material. The lecture audios will not generally follow the slides as the slides are an entirely separate resource for both pre-cursory reading and revision.

CDU provides an online guide to effective study skills at:

<http://learnline.cdu.edu.au/studyskills/>. The section on 'Lectures and Tutorials' outlines various note-taking techniques that can help you take notes most effectively.

### Tutorial activities:

The tutorials for semester two will provide two unique learning environments:

- first, some weeks will have an environment which is immediate and interactive. These will be known as 'live tutorials' (either in Wimba or face-to-face, depending on whether you are an internal or external student) The first type of tutorials will focus on developing oral communication skills, and on developing your understanding of the course materials.;
- secondly, some weeks will enable students to learn using 'asynchronously'. These tutorials will be known as 'discussion board' tutorials. This means you will not be working 'live' with colleagues but rather on a discussion board where comments and responses can be made on an ongoing basis for a period of time. The second type of tutorials will focus on developing basic written communication skills required for a practical business or legal environment.

To prepare for tutorials, you should aim to be up to date with your reading and note-taking. Most of the time, you will not be expected to have prepared specific answers, but you should come to tutorials ready to participate. External students should have a working microphone and speaker in order to participate in tutorials.

### Discussion:

As part of module three for this unit, you are required to participate in discussions with other students using online discussion boards as well as tutorials. The discussion boards are where you:

- help each other to understand the unit materials;
- respectfully debate and discuss ideas and issues related to the course;
- test out your own ideas and learn about other students' perspectives;
- encourage each other and pass on tips for surviving university; and
- develop your communication skills.

When contributing to the discussion board, you should strive to use correct spelling and grammar. Humour is welcome, but do not be offensive. Aim to express yourself in a way that would be appropriate in a professional workplace.

#### Assessment Tasks:

You will be required to undertake a variety of assessment tasks. Quizzes will test the basic applied knowledge. The tutorials tasks develop various skills, including legal research and writing skills, critical thinking, as well as your understanding of key legal concepts taught in the course. The online exam will require students to demonstrate more indepth analytical skills and evaluation skills.

#### Time Management Skills:

Studying at university develops your time management skills. You are responsible for ensuring that you meet important due dates, and for keeping up with a regular study program. Good organisational skills are essential for all graduates in today's workforce. Find routines and time-management techniques that work for you.

### Participation

This unit is delivered in both *internal* and *external* modes. Attendance at tutorials is not compulsory, but is highly recommended to those students interested in passing the subject. **There is a mark of 10% allocated to tutorial participation as an incentive to come and participate in class. Thus, whilst it is not compulsory to attend, failure to attend will mean you lose marks.**

*Lectures – weekly, 2 hours:*

Lectures are recorded and placed on the unit Learnline page. Lecture material will be identical for internal an external students. There will be no internal lectures.

*Tutorials – weekly, 1.5 hours (external) 1 hour (internal):*

Internal students should attend one of the tutorials each week at the Casuarina campus, or undertake alternative task as directed. External students should attend one of the online tutorials using the virtual Wimba classrooms, or undertake alternative task as directed. **It is your responsibility to arrange your schedule and personal affairs so that you can attend tutorials. Once you have joined a tutorial group, you will not be permitted to change.**

#### **Private study commitments**

It is recommended that students undertake 6 hours per week of private study. Private study includes reading time dedicated to prescribed or compulsory reading and undertaking assessment tasks (such as research essay work, court visit report or quizzes).

Specific details of individual class times can be obtained by accessing the class timetable at: <http://skua.cdu.edu.au/swseven/>

### Overview of Assessment

Item	Description/Focus	Value	Relates to learning outcomes
1.	2 online quizzes (each worth 20%)	40%	1, 2
4.	Tutorial Participation	10 %	1, 2, 3, 4

**Special Requirements**

NA

**Resources****Required textbook(s)**

1. Luntz, H, et al, *Torts: Cases and Commentary* (6<sup>th</sup> edition, 2009) LexisNexis Butterworths, Sydney
  2. McGlone, F. & Stickley, A., *Australian Torts Law* (2<sup>nd</sup> ed, 2009) LexisNexis Butterworths, Sydney.
- NOTE: these books are available as a package, which brings a discount to students. They are the same texts as used in LWZ107 Torts B in first semester.

Required textbooks can be ordered from the CDU Bookshop through their website at [www.cdu.edu.au/bookshop](http://www.cdu.edu.au/bookshop)

**Learnline (Online Learning System)**

Learnline is Charles Darwin University's on-line learning system.

In this unit, Learnline will be used to:

- provide important announcements about the unit;
- distribute lecture slides, and other study materials as seen as appropriate by the lecturer;
- allow students to complete online assessments
- access feedback from tasks and grades for assessable work
- provide a communication point where you contribute to discussions as part of your assessment, and to interact with other students in the unit

You will need to connect to the Internet to access it, at <http://learnline.cdu.edu.au/>

Access to Learnline may not be available until Day 1 of Semester.

If this is your first time using Learnline, click on 'Student Learnline Support' in the left-hand navigation panel BEFORE logging in.

It is recommended that all students have access to regular and reliable broadband access to complete unit requirements.

**e-Reserve**

e-Reserve allows electronic copies of journal articles, book chapters and lecturer notes that have been recommended by a lecturer as part of their course reading requirements. You can access e-Reserve at <http://ereserve.cdu.edu.au.ezproxy.cdu.edu.au/>

This site is password protected. Your CDU student login will provide you access. You can then search for items by Lecturer, Unit Code, Title, Author, keyword, Year or Date if you have that information.

**Additional Resources****Required:**

- Melbourne University Law Review, *Australian Guide to Legal Citation* (3<sup>rd</sup> ed, 2010) (available online for free in PDF version)

**Recommended:**

Substantive legal materials in the area of Torts Law:

- Sarah Withnall, Greg Walsh and Patrick Rooney, *Torts – LexisNexis Study Guide* (2008) LexisNexis Butterworths;
- Duncan Holmes, *Butterworths Student Companions – Torts* (6<sup>th</sup> ed, 2003) LexisNexis

Butterworths;

- Carolyn Sappideen et al, *Torts – Commentary and Materials* (10<sup>th</sup> ed., 2009) Thomson Reuters Lawbook Co;
- Bernadette Richards, Karinne Ludlow and Andy Gibson, *Tort Law in Principle* (5<sup>th</sup> ed, 2009) Thomson Reuters Lawbook Co;
- Sam Blay, *Nutshell Series – Torts* (6<sup>th</sup> ed, 2010), Thomson Reuters Lawbook Co.

General writing and grammar skills:

- Peter Butt (ed), *Concise Australian Legal Dictionary*, LexisNexis (3<sup>rd</sup> ed, 2009)
- Michael Meehan and Graham Tulloch, *Grammar for Lawyers*, LexisNexis (2<sup>nd</sup> ed, 2007)

Legal research/study skills and 'survival guides':

- Sue Milne and Kay Tucker, *A Practical Guide to Legal Research*, Thomson LawBook Co (2008)
- Bruce Bott and Ruth Talbot-Stokes, *Nemes & Coss' Effective Legal Research*, LexisNexis (4<sup>th</sup> ed, 2010)
- Claire Macken, *Law Student Survival Guide – 9 Steps to Law Study Success*, Thomson Reuters (2<sup>nd</sup> ed, 2010)
- Michael Brogan and David Spencer, *Surviving Law School*, Oxford University Press (2<sup>nd</sup> ed, 2008)
- Richard Craver, *Mastering Law Studies & Law Exam Techniques*, LexisNexis (6<sup>th</sup> ed, 2006)
- Patrick Keyzer, *Legal Problem Solving - A Guide for Law Students*, LexisNexis (2<sup>nd</sup> ed, 2003)
- Terry Hutchinson, *Research and Writing in Law*, Thomson Reuters Lawbook Co (3<sup>rd</sup> ed, 2010)

## Learning Schedule

Week	Week beginning	Topic	Assignments
<b>0</b>	20 February 2012	Familiarise yourself with Learnline/CDU website	NA
<b>1</b>	27 February 2012	Introduction to torts and negligence	NA
<b>2</b>	5 March 2012	Elements of negligence (duty of care)	Tutorial 1
<b>3</b>	12 March 2012	Elements of negligence (breach of duty)	Tutorial 2
<b>4</b>	19 March 2012	Elements of negligence (causation and remoteness of damage)	Tutorial 3
<b>5</b>	26 March 2012	Defences to negligence	Tutorial 4
<b>6</b>	2 April 2012	Nervous shock	Tutorial 5/Quiz 1
<b>7</b>	16 April 2012	Negligent misstatement & pure economic loss	Tutorial 6
<b>8</b>	23 April 2012	Public authorities	Tutorial 7
<b>9</b>	30 April 2012	Assessment of damages	Tutorial 8/Quiz 2
<b>10</b>	7 May 2012	Assessment of damages	Tutorial 9/Revision
<b>11</b>	14 May 2012	Revision/Summary	Tutorial 10/Revision
<b>12</b>	21 May 2012	No lecture	Exam
<b>REV</b>	28 May 2012	NA	NA
<b>CENTRAL EXAMS</b>	4 – 15 June 2012	NA	NA

## Assessment Item 1 & 2

Description/Focus: Online quiz 1 and 2

Value: 20 % each

**Quiz 1: Monday 2 April 2012 at 1859.** This quiz will only be opened on the due date and it will be open from 1700. Read full details below.

**Quiz 2: Monday 30 April 2012 at 2159.** This quiz will only be opened on the due date and it will be open from 1700. Read full details below.

**These times are when the exam must be completed and submitted by, not merely entered by. If you go past the submission time a grade of zero will be recorded against your name.**

Complete the online quiz questions **WITHIN** time limits indicated.

### Task:

For Quiz one you **must** have:

- thoroughly read all assigned readings from weeks 1 - 4;
- listened comprehensively to the lectures from weeks 1 - 4;
- prepared for tutorials and participated in tutorials 1 - 3; AND
- ensured your computer and internet connection is stable and sufficient (e.g. meet at least the minimum requirements recommended by CDU) when sitting the quizzes.

In quiz one you will only have **one attempt**. **You will be considered to have attempted the quiz if you enter it, regardless of whether you answer or save the answers to the question.** As such, ensure you do not enter it until you are sufficiently prepared to take it. If you open the quiz, answer the questions immediately within the allocated time (**40 minutes**). If the timer fails to stop you automatically, any excessive time spent will result in your mark being scaled a percentage of what you would have done in the allocated time period.

**Preparation:** **NOTE: You cannot accidentally open the quiz.** You must press buttons more than once to open the quiz. If you open a quiz, you must immediately proceed to answer the questions. A second attempt of the quiz **will not be given**.

For Quiz two you **must** have:

- thoroughly read all assigned readings in weeks 5 - 7;
- listened comprehensively to the lectures in weeks 5 - 7;
- prepared for tutorials and participated in tutorials 4 - 6; AND
- ensured your computer and internet connection is stable and sufficient (e.g. meet at least the minimum requirements recommended by CDU) when sitting the quizzes.

In quiz two you will only have **one attempt**. **You will be considered to have attempted the quiz if you enter it, regardless of whether you answer or save the answers to the question.** As such, ensure you do not enter it until you are sufficiently prepared to take it. If you open the quiz, answer the questions immediately within the allocated time (**40 minutes**). If the timer fails to stop you automatically, any excessive time spent will result

in your mark being scaled a percentage of what you would have done in the allocated time period.

**NOTE: You cannot accidentally open the quiz.** You must press buttons more than once to open the quiz. If you open a quiz, you must immediately proceed to answer the questions. A second attempt of the quiz **will not be given.**

**Assessment  
criteria:**

**Correctly answered questions in the quiz.**



### Assessment Item 3

**Description/Focus:** Tutorial Participation

**Value:** 10 %

**Due date:** Weekly ongoing

**Length:** N/A

Students are expected to constructively participate in learning exercises and tasks assigned for each tutorial. The tutorials are designed around developing the skills, knowledge, ethics and attitudes of being a professional in law and/or business.

**Task:** There are two types of tutorial methods which will be used:

1. The 'live' tutorials are for both internal and external students. These tutorials will be conducted with a tutor who will facilitate discussion in 'real time' amongst students on set topics.
2. The 'discussion board' tutorials are for both internal and external students. These tutorials will require students to submit written answers, via discussion board, as instructed.

**Preparation:** Students are expected to come to class having prepared some answers to the questions. Tutorials are merely guided and facilitated by tutors.

**Presentation:** Group discussion and participation

You should **prepare** answers before attending class. Participation is more than mere attendance. The aim is to encourage you to attempt to make substantive contributions to assist with your own learning, as well learn from your peers.

**A maximum of 1 mark per tutorial can be obtained.**

In order to obtain a full 1 mark for a 'discussion board' tutorial, you may participate by:

- Responding to the questions or exercises posed for discussion in the tutorial; **or**
- Expressing opinions about how the questions or exercises for the tutorial and substantive content of the course relates to 'real life' events (e.g. in contemporary media); **or**
- Raising genuine queries about the substantive content or exercises in that week's tutorial e (e.g. I experienced X problem when using the database Y. Did someone else experience this problem and could they please explain how they were able to fix it?); **or**
- Responding to other student's queries or opinions; **AND**
- Following the guides of netiquette set out in Law Central; **AND**
- Complying with basic rules of grammar and professional writing skills (e.g. not using SMS or instant messenger texting styles of writing).

**Assessment criteria:**

In order to obtain a full 1 mark for each 'live' tutorial, you may participate by:

- Responding to the questions or exercises posed for discussion in the tutorial; **or**
- Expressing opinions about how the questions or exercises for the tutorial and substantive content of the course relates to 'real life' events (e.g. in contemporary media); **or**
- Raising genuine queries about the substantive content or exercises in that week's tutorial e (e.g. I experienced X problem when using the database Y. Did someone else experience this problem and

could they please explain how they were able to fix it?); **or**

- Responding to other student's queries or opinions; **AND**
- Following the guides of netiquette set out in Law Central; **AND**
- Complying with basic rules of grammar and professional writing skills (e.g. not using SMS or instant messenger texting styles of writing).

If you attend a 'live' tutorial, but you do not participate, you will be eligible for a maximum of a 0.5 mark for that tutorial.

If you do not contribute to a discussion board tutorial within the timeframe given or do not attend a live tutorial in a particular week, you will not be eligible for a mark for participation for that tutorial.

If you cannot genuinely attend a tutorial (e.g. due to illness, serious family matter etc), you will need to contact the lecturer/tutor in charge to either seek an alternative task or seek permission for an extension. This will be dealt with on a case by case basis. Only genuine reasons for non-attendance will be considered. Inability to otherwise manage time or other commitments (e.g. work) is not considered a genuine reason.

**Students will need to familiarise themselves with the 'netiquette' guide in Law Central and abide by it. This will be assumed knowledge and contravention may see disciplinary action if harassment is reported.**

## Assessment Item 4

Description/Focus: Online Examination

Value: 50 %

Due date: **21 May 2012** at 0900 \*this is final date for submission. **Reductions of marks at 4% per hour (or part thereof) for each hour after the due time.**

Length: Students will be permitted **2000 words** for the entire exam. This must be allocated appropriately by the student to sufficiently answer questions.

The examination must be submitted in word format or PDF format and submitted via the SafeAssign submission point.

**Students will need to have completed a compulsory quiz for the assessment topics to open.**

For the Online Examination you **must** have:

- Preparation:
- thoroughly read all assigned readings in weeks 1 - 11;
  - listened comprehensively to the lectures in weeks 1 - 11;
  - prepared for tutorials and participated in tutorials 1 - 10; AND
  - ensured your computer and internet connection is stable and sufficient (e.g. meet at least the minimum requirements recommended by CDU) when submitted the online examination.

Presentation: For the purposes of LWZ106, online exam means you must submit your examination online in either a word format or PDF format via the Safe Assignment submission point.

Assessment criteria: **A very detailed assessment criteria is attached to the questions and/or available as a rubric prior to assessment piece. Read the instructions carefully. Marks will be assessed on an individual basis for contribution and research journal. The final product (the essay paper) will be marked as one product and all group members will receive the same grade for that component.**

## CDU Graduate attributes

CDU graduate attributes refer to those skills, qualities and understandings that should be acquired by students during their time at the University regardless of their discipline of study. (See <http://www.cdu.edu.au/teachingandlearning/gradattributes.html>).

In this unit, the following graduate attributes are developed:

Attribute	Description	Learning outcomes
Acquisition	Can identify, retrieve, evaluate and use relevant information and current technologies to advance learning and execute work tasks.	1, 2, 3, 4, 5
Application	Is an efficient and innovative project planner and problem solver, capable of applying logical and critical thinking to problems across a range of disciplinary settings and has self-management skills that contribute to personal satisfaction and growth.	1, 2, 3, 5
Creativity	Can conceive of imaginative and innovative responses to future orientated challenges and research.	4, 5
Knowledge base	Has an understanding of the broad theoretical and technical concepts related to their discipline area, with relevant connections to industry, professional, and regional and indigenous knowledge.	1, 2, 3, 5
Communication	Demonstrates oral, written, and effective listening skills as well as numerical, technical and graphic communication skills in a cross generational environment.	5
Team work	Has a capacity for and understanding of collaboration and co-operation within agreed frameworks, including the demands of inter-generational tolerance, mutual respect for others, conflict resolution and the negotiation of productive outcomes.	1
Social responsibility	Is able to apply equity values, and has a sense of social responsibility, sustainability, and sensitivity to other peoples, cultures and the environment.	2
Flexibility	Can function effectively and constructively in an inter-cultural or global environment and in a variety of complex situations.	5
Leadership	Can exercise initiative and responsibility, taking action and engaging others to make a positive difference for the common good.	1