

INSURANCE LAW

SYLLABUS

FALL 2013

Class schedule:

Tuesday – 5:00pm – 6:40pm

Course materials:

Principles of Insurance Law (Stempel, Swisher, Knutsen)
Fourth Edition
Class handouts

Course goals and objectives:

The objective of this course is to provide an introduction to and overview of the operation of the insurance and risk management system, the types of insurance policies and their applications, basic theoretical concepts of insurance and the applicable law governing insurance, with an emphasis on the practical aspects of insurance in the practice of law. This course is designed to provide an overview of the theory and operation of insurance. The major forms of insurance will be surveyed with an analysis of insurance policy construction and judicial resolution of recurring coverage issues. Considerable attention will also be given to the lawyer's role and conduct when representing a policyholder's defense to a claim pursuant to a liability insurance policy and the rights and obligations of policyholders and insurers. By the end of the semester, students should have a basic understanding of insurance theory and practice, the law of insurance, and the operation of insurance within the American system of dispute resolution. Students should also be capable of representing either policyholders or insurers in connection with insurance coverage and claims handling matters (assuming the student is otherwise qualified and competent to function as an attorney.)

Attendance:

Attendance is required and will be taken every class period either by the circulation of a sign-in sheet (please write legibly). A student should sign only his or her own name to the sign-in sheet. **Each student is allowed a maximum of two unexcused absences from class.**

If you are absent for what you believe is an appropriate excuse (e.g. illness, opportunity to join a reality show with seven-figure prize), please notify me in writing, preferably via email and I will consider the absence and treat it accordingly. Absences due to job interviews, leisure or other educational pursuits will generally not be excused. If a student is absent from class for an appropriate reason, please arrange to obtain notes from a classmate. **NOTE: Repeated yet excused absences necessarily will affect your participation score because you cannot participate if you are not in class. Also, class sessions are not recorded on a regular basis**

so there will be no tape available for viewing should you miss a class. Students are not permitted to record class sessions on their own.

Questions concerning this absence/participation policy should be raised in class so we can address it immediately.

Class participation:

Class participation is necessary to generate discussions that vary in substance, opinion and theory. The knowledge you learn will be much broader if there is regular class interaction, and the class will be much more enjoyable under these circumstances.

In the event you are not prepared to discuss the materials assigned for the day, **please notify me in advance of class.** You can email me, call me or tell me before class starts. **Do not wait until I call on you and then tell me.** I will not be upset or think any less of you as I know things occur that can limit or prevent entirely your ability to prepare and study. However, this “absence” from class participation should be used on a limited basis and only when truly necessary. It will be analyzed in conjunction with class absences.

The “NOTES AND QUESTIONS” sections throughout the reading provide further analyses of the competing issues and rationales raised by various courts. These sections of reading are critical to a broad understanding of the topics, and will often be the subject of discussions in class.

Class conduct:

All students are expected to observe a modicum of decorum, civility and personal hygiene (i.e. at least minimum compliance with state and federal health laws). This means, at a minimum:

- Be seated and prepared for class at the class start time. I am reasonable, and understand that late arrival is sometimes unavoidable. I would rather have you arrive late rather than skip class. However, please do not make it a habit.
- Once class starts, please remain seated. Students with special medical needs should inform me. Otherwise, I will assume that all students are capable of sitting still and deferring bathroom breaks.
- No side conversations during class. If you have a question about the reading, class discussion, or other aspects of the course, ask me. If the question is too “individual” to discuss before the entire class, we can address it after class or by phone or email.

- No snide commentary or joking remarks about the comments of other students. Typically, the sociopolitical view of a law school class ranges from Karl Marx to Attila the Hun. The theological spectrum typically ranges from atheism to double born-again zealotry (sometimes for more than one god). The mental abilities of the class are more tightly bunched but on certain days even the best students will say something that may appear to be “wrong” or even “silly”. I expect all students to show civility toward one another and respect the views of one another – and not to be shy about expressing their own views. Disagreement and discussion are encouraged but should be conducted in a civil and professional manner. In addition to doing this because you want to at least act like a good person, your own self-interest should compel civility. Remember, ten years from now, the fellow student you are tempted to attack in class may be a judge presiding over your biggest case or a legislator presiding over legislation vital to one of your clients.

- No eating in class (except for the subtle use of cough drops or lozenges when necessary). Beverages are permitted but please refrain from spilling, slurping or sloshing the drink. Also, please keep your seating areas neat and clean while you are in class, and when you leave class, for the sake of the next students who will sit there.

Religious holidays:

If you miss class because of observation of a religious holiday, this will be counted as an excused absence and you will have up to one week to make up any assignments that may have been administered in a class that you miss. Generally, however, I will not administer in-class writing assignments on a recognized religious holiday, so this should not be a problem. Please obtain notes from a trusted classmate and/or consult with classmates to see what was covered in your absence. Remember as well: if an assignment is due by a certain date and that falls on a religious holiday, you are not thereby granted an extension of the deadline; rather, you must make alternative arrangements for turning in an assignment if you are not in class on the designated day.

Disabilities:

If you have a documented disability that may require assistance, you will need to contact me to coordinate your academic accommodations.

Emergency Procedures:

Emergency Procedures. Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety's website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

*Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.*

Laptops:

I have no objection to the use of a laptop in class as I believe it increases your ability to take notes and simultaneously engage in classroom discussions. **However, should I see, or even suspect, that you are using the laptop during class for any purpose other than taking notes (e.g. email, surfing the web, instant messaging, etc.), I retain sole discretion to terminate your use of the laptop in that class and future classes.** This applies to individual students and the class as a whole should it become a widespread problem.

Recording of class:

Class sessions will not be recorded so if you miss a class, be sure to get good notes from another student.

Grading:

Class participation:	20%
Written assignments:	20%
Final exam:	60%

The final exam will be 2 hours. The exam will be a multiple choice exam.

Conferences:

As an Adjunct Professor, I do not have an assigned office at the law school. **I am routinely available after class or before class with advanced notice. I will also provide you with my phone number in the first class as well as email address (which is also available on TWEN).** Should you need to meet with me or let me know of an absence, the preferred method to arrange same or advise of same is via email. We can then arrange a convenient time to meet thereafter.

Reading assignments:

After the class roster is finalized (likely in week 2), I will break up the reading assignments so you will only be open to being called on in approximately ½ the class meetings. You are fully responsible for reading the full assignment each and every week and the final exam will cover the entirety of the reading assignments. **Do not mistake the fact that I will not call on you in any given class as an “out” for not reading and understanding the material.**

SYLLABUS

Reading assignments are subject to change at any time and notice will be given.

August 20, 2013

Chapter 1: pp. 1-9, 16-32 (stop before [B]), 48 (Section 1.04)-58 (last sentence finishes on 59), 95 [B]-97

Insurance History and Fundamental Concepts

Chapter 2: §2.15, pp. 187-195
Contract Law, Legal Theory, and the Construction of the Insurance Contract

August 27, 2013

Chapter 4: pp. 293-318 (stop before Murphy), 328-347, 350-352 (End of Daddy\$ Money)
The Formation, Operation and Termination of the Insurance Contract

September 3, 2013

Chapter 5: pp. 373-413
The Insurable Interest Requirement

September 10, 2013

Chapter 6: pp. 429-475
Insurer's Limitation of Risk: Warranties, Representations and Concealment

Handout: Declaratory Judgment writing assignment
Due at the beginning of class on October 8, 2013

September 17, 2013

Chapter 7: pp. 491-518
The Insured's Defenses: Waiver, Estoppel, Election and Contract Reformation

Chapter 8: pp. 525-526, 543-546
Causation and the Concept of Accident

September 24, 2013 – No class tonight

October 1, 2013 – No class tonight

October 8, 2013

Chapter 9: pp. 567-594, 634-647
Duties of the Policyholder and Insurer After Loss

October 15, 2013

Chapter 10: pp. 657-691 (stop before [E]), 696 ([F])-701
Property Insurance Issues

October 22, 2013

Chapter 10: pp. 733 (§10.03)-738, 747-752
Amount of Loss, miscellaneous property topics

Read – Appendix C – Homeowner’s policy (do a general overview of it)

Chapter 12: pp. 915-932, 954-966
Life & Health

October 29, 2013

Chapter 11: pp. 777-807
Liability Insurance Issues

November 5, 2013

Chapter 13: pp. 987-1031
Automobile Insurance

November 12, 2013

Chapter 13: pp. 1031-1043
Automobile Insurance

Chapter 10: pp. 758-775
Subrogation
www.arbfile.org

Handout: Written assignment due on November 26, 2013 at the beginning of class.
Arbitration Forums Contentions

November 19, 2013 – Class review

Question and answer session regarding class materials and final exam preparation.

November 26, 2013 - No class. Thanksgiving break.