PA165: Introduction to Torts
Unit 1 Key Terms
From Chapter 1 of Torts & Personal Injury Law

**Alternate Dispute Resolution:** Ways to resolve a legal problem without a court decision; for example, arbitration, mediation, minitrial, rent-a-judge, summary trial, etc.

**Answer:** The first pleading by the defendant in a lawsuit. This pleading responds to the charges and demands of the plaintiff’s complaint. The defendant may deny the plaintiff’s charges, may present new facts to defeat them, or may show why the plaintiff’s facts are legally invalid.

**Arbitration:** Resolution of a dispute by a person (other than a judge) whose decision is binding. This person is called an *arbitrator*. Submission of the dispute for decision is often the result of an agreement (an *arbitration clause*) in a contract. If arbitration is required by law, it is called *compulsory arbitration*.

**Assault:** An intentional threat, show of force, or movement that could reasonably make a person feel in danger of physical attack or harmful physical contact.

**Battery:** An intentional, unconsented to, physical contact by one person (or an object controlled by that person) with another person.

**Common Law:** Either all caselaw or the caselaw that is made by judges in the absence of relevant statutes.

**Complaint:** The first main paper filed in a civil lawsuit. It includes, among other things, a statement of the wrong or harm done to the plaintiff by the defendant, a request for specific help from the court, and an explanation why the court has the power to do what the plaintiff wants.

**Discovery:** The formal and informal exchange of information between two sides in a lawsuit. Two types of discovery are interrogatories and depositions.

**Intentional injury (tort):** An injury *designed* to injure a person or that person’s property as opposed to an injury caused by negligence or resulting from an accident.

**Mediation:** Outside help in settling a dispute. The person who does this is called a *mediator*. This is different from arbitration in that a mediator can only persuade, not force, people into a settlement.

**Minitrial:** Alternative dispute resolution by a panel of executives from two companies engaged in a complex dispute. A neutral moderator helps the two sides sort out factual and legal issues to reach a voluntary settlement.

**Negligence:** The failure to exercise a reasonable amount of care in a situation that causes harm to someone or something.

**Post-trial procedures:** The procedures that occur after a trial, such as an appeal or the steps that must be taken in order to collect on an award.
**Pretrial procedures:** Any procedure that immediately precedes trial; for example, the settlement conference.

**Rent-a-Judge:** Alternative dispute resolution in which two sides in a dispute choose a person to decide the dispute. The two sides may agree to make the procedure informal or formally similar to a real trial, and they may agree to make the decision advisory only or binding and enforceable.

**Service of process:** The delivery (or its legal equivalent, such as publication in a newspaper in some cases) of a legal paper, such as a writ, by an authorized person in a way that meets certain formal requirements.

**Strict (absolute) liability:** The legal responsibility for damage or injury, even if you are not at fault or negligent.

**Summary Jury Trial:** Alternative dispute resolution in which the judge orders the two sides in a complex case to present their most important facts to a small jury, with admission of evidence either agreed to or decided by the jury in advance. The two sides may agree in advance to be bound by the verdict or may interview the jurors and use the results to negotiate a settlement.

**Tort:** A civil (as opposed to a criminal) wrong, other than a breach of contract. For an act to be a tort, there must be: a legal duty owed by one person to another, a breach (breaking) of that duty, and harm done as a direct result of the action.

**Tortfeasor:** A person who commits a tort.

**Trespass:** A wrongful entry onto another person’s property.

**Trial:** The process of deciding a case (giving evidence, making arguments, deciding by a judge and jury, etc.). It occurs if the dispute is not revoked by pleadings, pretrial motions, or settlement. A trial usually takes place in open court, and may be followed by a judgment, an appeal, etc.