Professor Leo P. Martinez

Albert Abramson Professor of Law Emeritus and Dean Emeritus

University of California, Hastings College of the Law

***University of Lisbon: The American Law of Risk***

This course will begin with a survey of the basic principles of American contract law. With this background, the course will examine the principles of risk allocation by private contract in the form of the comprehensive general liability insurance policy. The course will also address some of the differences and similarities between American and EU legal principles.

***Course Syllabus – The American Law of Risk***

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| Dates TBD | **Class content** |
| Monday2 hours | **I. American law pedagogy and contract law:** This class will feature an explanation of the case method of teaching to highlight both the pedagogy of the Socratic Method and the case method of teaching. The class will also include an overview of American contract law. |
| Tuesday2 hours | **II. Risk as the subject of contract: the insurance bargain and the parties’ obligations:** This class will introduce the application of American contract law in a particular and sophisticated context, that is, contracts involving the assumption of a one party’s risk by another in exchange for money. This basic nature of the insurance bargain and the parties’ roles in the bargain will be outlined. The easy translation of insurance principles across borders is emphasized. |
| Wednesday2 hours | **III. The duty to defend:** One key aspect of an insurer’s obligations in a liability insurance contract is the duty to defend. This class will explain the scope of that duty and how it plays out when disputes arise. |
| Thursday2 hours | **IV. The duty of cooperation:** The person or the entity insured has the obligation to pay money, that is premiums in exchange for an insurer’s assumption of its risk. This is not the only obligation of the insured. This class will address the insured’s duty to cooperate with the insurer. |
| Friday2 hours | **V. Remedies for breach of the insurance bargain:** The one-sided nature of the insurance contract means that the remedies available for breach of the contract by the insurer differ in significant respect from the remedies form breach of a less sophisticated contract. This concluding class explores these differences and serves to review the principles covered earlier in the course. |