Introduction to Lawyering Skills/Torts
Professor Nancy Modesitt
nmodesitt@ubalt.edu
410-837-1902
Room 507
Administrative Assistant: Gloria Joy (410-837-4631)

Texts


Note: *Legal Writing* and *Basic Legal Research* can be purchased separately or as a bundled package (available at the campus bookstore) – either way is fine.

Office Hours for Professor Modesitt

Tuesdays & Thursdays 11:45-12:45, or by appointment.

Class meeting times

<table>
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<th>Day</th>
<th>Time</th>
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<tr>
<td>Tuesday</td>
<td>1:30 – 4:15</td>
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<td>Wednesday</td>
<td>3 – 4:15</td>
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<tr>
<td>Thursday</td>
<td>1:30 – 4:15</td>
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Student Assistants

Teaching Assistants: Chris Finke, Emily Green

Law Scholar: Nicole Kozlowski

Course Overview

This class integrates the fundamental lawyering skills of researching, writing, and analyzing the law with the substantive doctrinal class of Torts. Thus, in this class, you will learn about Torts not only through the use of a textbook, but also through your writing and research assignments.

Learning Outcomes

At the end of this class you will have:
1. Gained an understanding of the fundamentals of substantive tort law through reading, class discussion, legal research, and formal and informal writing assignments;
2. Developed proficiency in conducting effective legal research in commonly-used secondary sources as well as statutes and cases;
3. Learned the process by which lawyers analyze and apply tort law to new factual scenarios;
4. Produced formal and informal written legal analysis of a client’s problem;
5. Orally communicated your legal analysis of a client’s problem.

Professionalism

I expect you to display professionalism in this class. This includes arriving on time, attending all classes, being prepared for class, and behaving respectfully. If you are not prepared for a class, please let me know by sending an email before class that day.

Grading

You will receive two separate grades for this class. Your Torts grade (4 credits) will be based primarily on your performance on a final exam. It will also take into account your performance on assessment activities throughout the semester (worth 10%). We will discuss in class whether your Torts grade will also include performance on a midterm examination.

Your Introduction to Lawyering Skills grade (3 credits) will be based upon the following:

1. Closed Research Office Memorandum – 25%
2. Open Research Office Memorandum – 50%
3. Other writing assignments, research and citation assignments/quizzes – 25%

Class participation may result in a 1/3 grade increase or decrease to be determined in my discretion (i.e. excellent class participation can raise your grade from a B+ to an A- while poor class participation can lower your grade from a B+ to a B). Class participation takes into account both the quality and quantity of your participation. It also includes your preparation for meetings with me and your TAs.

For the ILS portion of the class, all assignments (the memoranda and the research and citation assignments/quizzes) must be submitted on time to receive full credit. If you submit an Office Memorandum assignment late, but within 24 hours of the time it was due, it will be penalized 10%. Please do not wait until the last minute to submit assignments on TWEN. Assignments not submitted within 24 hours of
the time due will receive a zero. All assignments must be submitted before the last
day of class in order to pass the class.

This course follows the Law School’s academic standards requiring 15-25% of the
class to receive a grade of A- or higher; 7-14% a C- or lower, and an average grade
between 2.67 and 3.0. Thus, how your performance compares to that of your peers
will be far more determinative of your grade than any fixed grading scale could
reflect. Accordingly, there is no fixed grading scale, but I will provide you with
information so that you will get a sense of where you stand relative to your
colleagues.

**Reading and other assignments**

Reading and other assignments will follow the order listed below. However,
assignments may be added or changed. This listing does not include all
assignments; some will be announced in class and/or posted on TWEN. Changes to
the syllabus will also be announced in class and/or posted on TWEN. You **must** use
TWEN for this class.

You must bring to class all texts from which you were assigned reading for that day.
In addition, you must bring your Bluebook with you on Wednesdays.

**Week 1, August 17**

*Topics:* Introduction to Torts and Lawyering Skills, Introduction to Intentional Torts,
Battery, Basic Legal Citation, Citing a Case, Introduction to Legal Research,
Researching in Legal Encyclopedias and Treatises, Email Correspondence.

**YOU MUST SIGN UP FOR TWEN BEFORE THE FIRST CLASS. YOU WILL RECEIVE
INSTRUCTIONS VIA EMAIL ON ADDITIONAL CITATION MATERIALS IN ADVANCE
OF THE FIRST CLASS.**

Tuesday: Dobbs, Chs. 1 & 2; Neumann & Simon, Chs. 1-3, 5, 6. Sloan, Ch. 4 pp. 43-51,
61-68. Bring to class a hard copy of your brief of *Van Camp v. McAfoos*. If you have
a laptop or tablet, you may wish to bring it to class along with your Westlaw and
LexisNexis passwords.

Wednesday: Sloan, Ch. 1 (do not read the materials on ALWD because we will not
be using that citation manual). Bluebook: please review the Quick Reference:
Court Documents and Legal Memoranda (located inside of the back cover of the
Bluebook), the Table of Contents, and pp. 1-3. In addition, you will receive
instructions via email on additional material that will explain the basics of legal
citation as well as introducing case citation a few days before classes start.
Thursday: **Research Assignment 1 due in hard copy.** Dobbs, Ch. 3, pp. 29-46; Neumann & Simon, Ch. 26. Bring to class a hard copy of your articulation of the torts rule that is most central to the court's decision in *Garratt v. Dailey*. Make sure that you put this into your own words – don't quote the court.

**Your email analysis (assigned in class) must be sent to Professor Modesitt by 8:45 a.m. on Monday, August 24.**

**Week 2, August 24**

*Topics: Assault, False Imprisonment, Torts to Property, The Structure of Office Memoranda, Introduction to Client Interviewing, Drafting an Effective Fact Section and Issue Statement, Researching and Understanding Statutes, Researching Cases.*


Wednesday: Citation materials covering components of a case citation. Sloan, Ch. 5 pp. 91-96; 112-24 and Ch. 7, pp. 167-73; 184-94.

Thursday: **Research Assignment 2 due in hard copy.** Dobbs, Ch. 3, pp. 53-59 (stop at § 5).

**Your draft Issue and Facts section must be emailed to Professor Modesitt by 5 p.m. Sunday August 31.** Before drafting, please read Neumann & Simon, Chs. 21-22 and skim the sample memorandum at Appendix A

**Week 3, August 31**

*Topics: Defenses to Intentional Torts; Working with Legal Rules; Short Form Citation for Cases.*

Tuesday: Dobbs Ch. 4, pp. 63-75; Neumann & Simon, Chs. 7, 12-13. Case chart (assigned in class) due in hard copy.

Wednesday: Citation materials covering short form citation for cases.

Thursday: Pyramid of legal rules to be used in Closed Research Office Memorandum due in hard copy (assigned in class). Neumann & Simon, Chs. 8, 10, 16-18, 20.

**Week 4, September 7**

*Topics: Defenses to Intentional Torts, The Duty Element of a Negligence Claim; Revising Written Documents, The Structure of Legal Analysis, Drafting Legal Memoranda, Citing Statutes.*

Tuesday: Written rule synthesis exercise due in hard copy (assigned in class). Dobbs, Ch. 4, pp. 75-88.
Wednesday: Citation materials covering citing to statutes and short form citation for statutes.

Friday: Dobbs, Ch. 5 pp. 91-107.

Week 5, September 14
Topics: Effective Citation and Signal Use, Revisiting the CREAC Paradigm, Drafting a Conclusion, The Duty Element of a Negligence Claim

Tuesday: Conclusion section due in hard copy; revision to draft CREAC due. Sometime this week or over the weekend you will be meeting with your TA to work on your Closed Research Office Memorandum. Your TA will let you know what the times for these meetings will be and where they will take place. You need to make revisions to your Discussion section prior to meeting with your TA.

Wednesday: Citation materials covering use of citations in legal documents and signals/parentheticals. List of sources, in proper Bluebook format, to be used in Closed Research Office Memorandum due in hard copy.

Thursday: Dobbs, Ch. 5, pp. 108-120.

Week 6, September 21
Using Signals, Revising Written Work, Revisiting the CREAC Paradigm, Research Review; Researching in the Law Library; Using Alternates to Westlaw and Lexis

This week you will meet individually with me to continue your work on your Closed Research Office Memorandum. For this meeting, bring two copies of your draft (one for me and one for you) along with a list of your questions. You must have a complete draft prepared for this meeting.

In addition to meeting with me this week, you will attend two different research training sessions. One session will be with your TA and will take place in the library. This will be scheduled by your TA. Before you attend this session please read Sloan, Ch. 4, pp. 51-60 and Ch. 7 pp. 173-84.

In addition, there will be a research training session held sometime this week. This research session will cover using the materials on the law library’s website as well as some review of legal research using Lexis and Westlaw. Before you attend this session, please read Sloan, Chs. 2, 3, 6 and 10. This research training session is critically important for you to attend so that you are prepared to research the law effectively, which will be part of your grade for your second major writing assignment.

Closed Research Office Memorandum must be submitted by Sunday, September 27 at 5:00 p.m. via TWEN.
Week 7, September 28
Topics: The Breach Element of a Negligence Claim, Citing Secondary Sources, Client Interviewing Revisited; Creating a Research Plan

Tuesday: Dobbs, Ch. 6, pp. 121-146.

Wednesday: Citation materials covering introduction to citing secondary sources/Restatements and citing books and treatises.

Thursday: Dobbs, Ch. 6, pp. 147-175. Sloan, Chapter 11. Be prepared for a client interview.

Week 8, October 5
Topics: Cause in Fact, Actual Harm, Proximate Cause, Creating a Research Plan, Selecting Appropriate Authority

Tuesday: Dobbs, Ch. 7. Review Neumann & Simon, Chs. 8, 12. Bring the best secondary source you located in your research for the Open Memorandum to class and be prepared to explain how you found it and why it is helpful.

Wednesday: Research Assignment 3 due in hard copy.

Thursday: Dobbs, Ch. 8.

Week 9, October 12
Topics: Contributory & Comparative Fault, Conducting Effective Research, Selecting Appropriate Authority

Tuesday: Initial source list for Open Research Office Memorandum due (in proper citation format).

Wednesday: Midterm [if applicable].

Thursday: Dobbs, Ch. 9, pp. 243-260, 265-268. In addition, you must research Maryland law to determine the legal rule that applies where both the plaintiff and the defendant are at fault in a negligence case. Bring a copy of the most important Maryland cases on point to class and be prepared to explain the Maryland approach and compare/contrast it with the approaches outlined on pp. 245-46 of the text.
Week 10, October 19
Topics: Assumption of the Risk, Statutes of Limitation, Revisiting the Duty Element, Organizing a Multi-Issue Legal Memorandum

Tuesday: Section headings and annotated outline for Open Research Office Memorandum due in hard copy; before drafting, read Neumann & Simon Ch. 19. Dobbs, Ch. 10.

Wednesday: Citation and research review.

Thursday: Dobbs, Ch. 11, pp. 283-292, Dobbs, Ch. 12.

Week 11, October 27
Topics: Medical Malpractice and Informed Consent, Nonfeasance, Duty to Protect, Drafting a Multi-Issue Legal Memorandum


Wednesday: Citation and research quiz.

Thursday: Dobbs, Chs. 16, 18.

Week 12, November 2
Topics: Emotion Distress Claims, Introduction to Strict Liability, Vicarious Liability Revisiting the CREAC Paradigm

Tuesday: Draft of one issue in Open Research Office Memorandum due. Dobbs, Ch. 19, pp. 467-490.

Wednesday: Small group sessions with your TA (scheduled during class time).

Thursday: Dobbs, p. 517, Ch. 22.

Week 13, November 9
Topics: Strict Liability, Evaluating Written Legal Analysis (editing, reorganizing, and assessing whether additional authority is needed)

Class will only meet once this week, either Tuesday or Thursday (TBD). The reading for that class will be Dobbs, Ch. 23. You will also have a required meeting with Professor Modesitt to discuss your Open Research Office Memorandum at some point during the week. Sign-up sheets for the meetings will be posted on TWEN in advance of this week. For this meeting, bring two copies of your draft along with a list of questions. You must have a complete draft prepared for this meeting.
Open Research Office Memorandum must be submitted by Sunday, November 15, at 5:00 p.m. via TWEN.

Week 14, November 16
Topic: Products Liability

Tuesday: Dobbs, 24, pp. 563-589.

Wednesday: No new readings.

Thursday: Dobbs, Ch. 24, pp. 589-610.