Course Information

Course Overview

This course integrates instruction in legal reasoning, research and writing with the law of torts. “Torts” refers to the body of law governing responsibility and compensation for the many wrongs—both accidental and intentional—that people inflict on one another, including, for example, battery, automobile accidents, professional malpractice, products liability and defamation. Through in-class discussions, research exercises, and writing projects, you will develop analytical and writing skills that will provide an important foundation for your future coursework and legal practice.

Class Meetings

Tuesday & Thursday, 1:30–4:15 p.m. in AL 803
Wednesday, 9:00–10:15 a.m. in AL 803

Law Scholar Section (highly recommended): Monday, 12:00–12:50 [room TBA]

TA Sections (required): TA Sections will meet most Thursdays during the last 50 minutes of class, from 3:25 to 4:15. [room(s) TBA]

Instructors

Professor Matthew Lindsay
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Office Hours: Wednesday, 3:00-5:00, and by appointment

ILS Teaching Assistants: Gayil Pearlman (abigail.pearlman@ubalt.edu); Katie Nalley (katherine.nalley@ubalt.edu)

Torts Law Scholars: Graham Bennie (graham.bennie@ubalt.edu); Lelia Parker (lelia.parker@ubalt.edu)
Required Materials

- Ward Farnsworth & Mark Grady, *Torts: Cases and Questions* (2nd ed. 2009)
- *The Bluebook: A Uniform System of Citation* (20th ed. 2015)

Attendance

Please review the UB School of Law attendance policy, described on page 21 of the *Student Handbook*: http://law.ubalt.edu/academics/policiesandprocedures/2014-2105%20Catalog.pdf. Consistent with that policy, students with more than five unexcused absences during the semester may be required to withdraw from the course.

An attendance sheet will be circulated at the beginning of every class. Students who sign in will be considered “present and prepared” (and thus eligible to be called on); students who do not sign in will be counted absent.

Grades

You will receive two grades—a four-unit grade for Torts and a three-unit grade for Introduction to Lawyering Skills. The distribution of grades will reflect the Law School’s standard first-year grading curve: Between 15% and 25% will receive an A or A-; between 7% and 14% will receive a C- or lower; and the average grade will be between a B- and B.

*Torts* (4 units): The grade will be based on the following: 1) a 75-minute in-class Midterm Exam (20%); and 2) a three-hour in-class Final Exam (80%). Excellent class participation—regular attendance plus contributions to class discussions that reflect careful preparation—may result in a third-of-a-grade increase. Poor class participation—frequent absences and/or lack of informed participation—will result in a third-of-a-grade reduction.

*Introduction to Lawyering Skills* (3 units): The grade will be based primarily on your written memos and exercises, but may also be affected by class participation, as described above.

- **Research and Writing Exercises** (10%) You will complete a variety of research and writing exercises throughout the semester.
- **Closed Research Office Memo** (25%) You will complete a five-to-seven-page memorandum, which will be assigned during Week 2 and due during Week 8.
- **Open Research Office Memo** (65%) You will research and write a twelve-to-fifteen-page memorandum, which will be assigned during Week 8 and due during Week 15.
Syllabus

The syllabus and other course materials will be posted on the course website, on TWEN. Please consult the posted syllabus regularly, as I expect to update reading and other assignments throughout the term.

- F & G = Farnsworth and Grady
- N & S = Neumann and Simon
- “t,” “m” & “b” following a page number refers to the top, middle or bottom of the page.

**Week 1**

**Tues., 8/18**

*Introduction to Tort Law*
- F & G, Introduction (pp. xxxv-xlvi)

*Introduction to Legal Writing*
- N & S, ch. 1
- Sloan, ch. 2

**Wed., 8/19**—Assign Email to Law Partner—Due Monday, 8/24 at 9:00 p.m. on TWEN.

*Intentional Torts—Battery*
- F & G, pp. 1-11m (Intent and Voluntariness)
- Assign Email to Law Partner

**Thurs., 8/20**

*Intentional Torts—Battery*
- F & G, 19-24t (Consent); 29-37t (Trespass)

*Legal Rules / Rule Synthesis Exercise*
- N & S, chs. 2 & 3

**Week 2**—Email to Law Partner due Monday, 8/24 at 9:00 p.m. on TWEN

**Tues., 8/25**

*Intentional Torts*
- F & G, pp. 40-43m, 46b-48t (Conversion); 64b-67m, 68b-69m (Assault)

*Discuss Email to Law Partner*

*Judicial Decisions and Case Briefing*
- N & S, chs. 5 & 6
- Assign Case Brief
Wed., 8/26 — Email one-page brief of Katko v. Briney (F & G, pp. 85-88) to your TA before the start of class.

Privileges to Commit Intentional Torts
• F & G, pp. 85-94 (Defense of Person and Property)

Thurs., 8/27
Privileges to Commit Intentional Torts [ML]
• F & G, pp. 97b-105m (Private Necessity); 106m-108b, 109b-110t (Public Necessity)

TA Section: Case Briefing
• Discuss case brief of Katko v. Briney

***Closed Memo Assignment Distributed on Friday, 8/28 on TWEN***

Week 3
Tues., 9/1 — NO CLASS
In lieu of class, please: (a) study the closed memo assignment carefully; (b) read the four assigned cases, and (c) read N & S chs. 14 & 15 and Appendix A.

Wed., 9/2
The Negligence Standard
• F & G, pp. 121-138b (The Reasonable Person)

Introduction to the Office Memorandum
• N & S chs. 14 & 15; Appendix A

Thurs., 9/3
The Negligence Standard (continued)
• F & G, pp. 121-138b (The Reasonable Person)

TA Section: Review of Model Memo
• Read model memo posted to TWEN
Week 4

Tues., 9/8—Assign Issue Statement & Facts Section—due Friday, 9/11 at 5:00 p.m. on TWEN

The Negligence Standard (continued)
• F & G, 140t-146t; 151t-152b, 155t-157b; (Risks and Precautions; the Hand Formula and Law & Economics)

Drafting the Issue Statement, Brief Answer and Facts Section
• Assign Issue Statement and Facts Exercise

The Art and Process of Writing
• N & S, chs. 11, 12, 13

Wed., 9/9

The Negligence Standard (continued)
• F & G, pp. 158b-169m (Custom and Medical Malpractice)

Thurs., 9/10

Negligence Per Se
• F & G, pp.170b-178m, 188b-191m

TA Section: Legal Citation Workshop
• The Bluebook, pp. 1-24
• Legal Citation Exercises

Friday, 9/11: Representatives from Westlaw, Lexis and Bloomberg will jointly conduct two training sessions on online legal research—the first beginning at 12:00, the second beginning at 1:00—in AL 202.

***Issue Statement & Facts Section due 9/11 at 8:00 p.m. on TWEN.***

Week 5— Outline of Closed Memo Due Monday, 9/14 at 8:00 p.m. on TWEN.

Tues., 9/15

Res Ipsa Loquitur [ML]
• F & G, pp. 192-198t, 204b-206m, 208m-212m, 213b-214b (Res Ipsa Loquitur)

Paragraphs and Effective Style / Discussion of Closed Memo Outlines
• N & S, chs. 20, 21, 22
**Wed., 9/16**

* Duties
  * F & G, pp. 217-223m, 224m-225m (Affirmative Acts); 229b-233t (Undertakings)

**Thurs., 9/17**

*Torts Catch-Up (if necessary)*
* No new reading.

**TA Section: Effective Legal Writing**
* Exercises

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**Week 6—Draft of Closed Memo due Monday, 9/21 at 5:00 p.m. on TWEN**

**Tues., 9/22**

*Duties (continued) [ML]*
* F & G, pp. 236-237, 239, 241b-45b, 251-255 (Special Relationships; Public Duty Doctrine)

*Policy Arguments / Hierarchy of Authority*
* N & S, chs. 7 & 8

**Wed., 9/23**

*Duties*
* F & G, pp. 255-257t, 261m-269m (Owners and Occupiers of Land)

**Thurs., 9/24**

*Cause in Fact*
* F & G, pp. 307-309b, 311t-312b (But-for Causation); 317-324t, 329b-330b, 332 (Loss of Chance)

**TA Section: Legal Citation Workshop—Part II**
* Review *The Bluebook*, pp. 1-24
* Legal Citation Exercises

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**Week 7: Conferences with Professor Lindsay**

We will operate with a reduced class schedule this week so that each of you, with a partner, can attend a conference with Professor Lindsay to discuss your draft of the closed memo. Please arrive at the conference having read and critiqued your partner’s draft, and with an agenda of topics—specific questions, sections or issues that are giving you trouble, etc.—that you would like to discuss. A sign-up sheet will be posted on TWEN.
Wed., 9/30

*Cause in Fact (continued)*
- F & G, pp.; 332b-350 (Alternative Liability)

Thurs., 10/1

*Proximate Causation*
- F & G, pp. 351-365b (Remoteness and Foreseeability)

*TA Section: Advanced Legal Citation Workshop*

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**Week 8**— Closed Memos due Monday, October 5 at 9:00 p.m. on TWEN

Tues., 10/6

*Proximate Causation*
- F & G, pp. 351-365b (Remoteness and Foreseeability, continued); 368-373t (Intervening Causes)
- *Warr v. JMGM Group* (Md. 2013) (posted on TWEN)

*Distribute Open Memo Assignment*

Wed., 10/7

*Introduction to Legal Research*
- Sloan, chs. 1 & 3
- Carefully read Open Memo Assignment
- Assign Client Email—Due Monday, October 19, at 8:00 p.m. on TWEN.

Thurs., 10/8

*Proximate Causation*
- F & G, pp. 378-87t, 392t-393 (*Palsgraf* and Limitation of Duty)

*Midterm Exam Q & A*

*TA Section: CEAC for Torts Exams: The Issue Spotter as Mini-Memo*
- Review select past exams
Week 9

Tues., 10/13

Researching your Open Memo—Research Librarian Joanne Colvin
  • Sloan, chs. 4–8

Torts Catch-up (if necessary)
  • No new reading

Wed., 10/14—MIDTERM EXAM

Thurs., 10/15

Strict Liability for Abnormally Dangerous Activities
  • F & G, pp. 416-425t, 426t-428b

TA Section: The Research Process, Part I—Efficient and Effective Searches
  • Review Sloan, chs. 4 & 5

Week 10—Client Email due Monday, October 19, at 8:00 on TWEN

Tues., 10/20

Strict Liability
  • F & G, pp. 395-402m (Animals)
  • Tracey v. Solesky (Md. 2012) (posted on TWEN)

Adding Depth to CREAC
  • N & S, chs. 17, 18

Discuss Client Email

Wed., 10/21

Strict Liability
  • F & G, pp. 433-438t, 440m-445b (Respondeat Superior)
  • Barclay v. Briscoe (Md. 2011) (posted on TWEN)

Thurs., 10/22

Products Liability
  • F & G, pp. 456-470m, 477-479b (Manufacturing Defects)

TA Section: The Research Process, Part II—Managing Legal Research
  • Review Sloan, chs. 6 & 7
Week 11—Outlines of the Open Memo due Monday, 10/26 at 8:00 p.m. on TWEN.

Tues., 10/27

Products Liability
• F & G, pp. 479b-490m (Design Defects); pp. 499b-502m, 506b-508t, 509b-515 (Warning Defects)

Wed., 10/28

Damages
• F & G, pp. 517-520m, 526b-531m, 533-536m (Lost Earnings)

Thurs., 10/29

Damages
• 538t-541m, 545b-552t (Pain and Suffering)

Discuss Open Memo Outlines

TA Section: Effective Legal Writing—Part II

Week 12

Tues., 11/3

Damages
• F & G, pp. 552-565b (Punitive Damages)

Quoting and Citing Authority
• N & S, chs. 23, 24

Wed., 11/4

Defenses [ML]
• F & G, pp. 571-573t, 574m-581b, 585m-586b (Contributory and Comparative Negligence)
• Coleman v. Soccer Assoc. of Columbia (Md. 2013) (posted on TWEN)

Thurs., 11/5

Introduction to the Maryland Court System—Norman Smith, Esq.

Torts Catch-up (if necessary)
• No new reading

***Draft of Open Memo due Friday, 11/6 at 9:00 a.m. on TWEN***
**Week 13**

We will not meet for regular class this week. Instead, each of you, with your partner, will attend a conference with Professor Lindsay to discuss your draft open memo. Please deliver your critique to your partner the day before your conference, and come to the conference with an agenda of topics—specific questions, sections or issues that are giving you trouble, etc.—that you would like to discuss. I will schedule conferences throughout the day on Tuesday, Nov. 10, Wednesday, Nov. 11, and Thursday, Nov. 12. A sign-up sheet will be posted on TWEN.

**Thurs., 11/12**

*TA Section: Revising your Open Memo*

**Week 14**

**Tues., 11/17**

*Defenses*

- F & G, pp. 587-593b, 595b-596b (Express Assumption of Risk)

**Wed., 11/18**

*Defenses*

- F & G, pp. 596b-600b; 602m-603b (Primary Assumption of Risk)

**Thurs., 11/19**

*Torts Catch-Up / Exam Review / All-Purpose Q & A / Closing Thoughts*

- No new reading

*** Open Memo due Monday, 11/23 at 9:00 a.m. on TWEN***