Torts / Introduction to Lawyering Skills
(Law 610—329)

Fall 2016
Professor Lindsay

Course Overview

By integrating rigorous instruction in legal analysis, research, and writing with the substantive law of torts, this course gives beginning law students an opportunity to combine skills and doctrine the way that attorneys do in the practice of law. “Torts” refers to the body of law governing responsibility and compensation for various harms that people inflict on one another. Examples include battery, automobile accidents, professional malpractice, products liability and defamation. Among other topics, the course will cover negligence liability (which applies to most “accidental” harms); strict liability (which applies to some types of defective products, some animal attacks, and certain “abnormally dangerous” activities); intentional torts; theories of causation; the calculation of “damages” (i.e. compensation); and affirmative defenses such as assumption of risk, contributory negligence, comparative negligence, and qualified governmental immunity.

In Introduction to Lawyering Skills, students develop analytical, writing, and legal research skills that will provide an essential foundation for future coursework and legal practice. Topics and skills include reading, analyzing and briefing of legal cases; common law principles and processes; developing factual analogies and distinctions; synthesizing and applying legal rules; objective (or “predictive”) legal writing, in the form of office memoranda and other written professional communication; researching case law, statutes, and secondary sources in both print and electronic form; legal citation; and professional norms and ethics.

Class Meetings—Room Assignments are available through MyUB

Tuesday & Thursday, 9:00–11:45
Wednesday, 9:00–10:15 a.m.

TA Section (required): Thursday, 10:45–11:45

Law Scholar Section (highly recommended): Time TBA

Required Materials

- Ward Farnsworth & Mark Grady, Torts: Cases and Questions (2nd ed. 2009)
- Richard K. Neumann, Jr. & Sheila Simon, Legal Writing (3d ed. 2015)
- The Bluebook: A Uniform System of Citation (20th ed. 2015)
Instructors

Professor Matthew Lindsay  
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m Lindsay1@ubalt.edu  
(410) 837-4688  
Office Hours: Wednesday, 1:30–3:30, and by appointment

ILS Teaching Assistants: Tracy Grisez (theresa.grisez@ubalt.edu); Manaia Jespersen (manaia.jespersen@ubalt.edu)

Torts Law Scholars: Lelia Parker (lelia.parker@ubalt.edu); Megan Micco (megan.micco@ubalt.edu)

Course Website

This course has a TWEN page, where I will post updated versions of the course syllabus, assignments, and other course materials; and where you will submit many of your completed course assignments. I will also use the TWEN email function to communicate important course information.

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 (25%); (2) a three-hour in-class Final Exam (75%). 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 the written memos and exercises, but may also be affected by class participation, as described above.

• Research and Writing Exercises (30%) You will complete a variety of research and writing exercises throughout the semester.
• Closed Research Office Memo (20%) You will complete a five-to-seven-page memorandum, which will be assigned during Week 3 and due during Week 7.
• Open Research Office Memo (50%) You will research and write a twelve-to-fifteen-page memorandum, which will be assigned during Week 7 and due during Week 15.
Course Objectives / Learning Outcomes: At the conclusion of this course, students will be equipped to:

- Identify and define a broad range of torts claims;
- Demonstrate substantive knowledge of tort law;
- Apply legal rules to varied factual situations;
- Articulate important policy rationales for legal rules and deploy those rationales in legal analysis;
- Recognize various forms of legal authority and articulate the relationship among them;
- Read and analyze legal cases accurately and efficiently, and identify the various component parts of those cases;
- Identify and explain legal rules;
- Locate relevant legal authority;
- Construct persuasive legal arguments;
- Demonstrate understanding of formal conventions and etiquette for professional written communication;
- Demonstrate mastery of legal citation for cases, statutes, and secondary sources.

School of Law and Class Policies

Attendance: Class attendance is a primary obligation of each student. A student’s right to be enrolled in the course and to take the final examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed number of absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

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. This attendance policy applies to your TA section, which is a required component of ILS. Arriving late to class can be disrupting and distracting for other students. At my discretion, persistent late arrival to class may be counted as an absence, and may factor into your participation grade.

Class Cancellation: If I need cancel a class, notice will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should assume that classes are running on the normal schedule.
Computers: Students are permitted to use laptops for note-taking, and encouraged to use them for exams. However, computer use must be respectful of others, professional, and should not impede your engagement in class. Using your computer in class for purposes other than note-taking and class-related research is highly distracting—to you and, more importantly, to your classmates—and is prohibited. I reserve the right to ban the use of the internet, or to ban laptops entirely, in the event that computer use becomes disruptive.

Professionalism: Because unprofessional and uncivil behavior inhibits learning, I expect your conduct in class to conform to basic norms of professionalism. This includes arriving to class on time and prepared to participate; not leaving the room in the middle of class; turning off your cell phone; and avoiding computer use that is unrelated to class. While I encourage you to voice reasoned disagreement with each other and/or with me, it is essential that you do so with courtesy and respect.

Time Expectations: American Bar Association Standards for Law Schools establish guidelines for the amount of time that students should expect to devote to law classes. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work per week for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

Academic Integrity: Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Disability Policy: If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

Title IX Sexual Misconduct and Nondiscrimination Policy: University of Baltimore’s Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB’s nondiscrimination policies can be found at: http://www.ubalt.edu/titleix.
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.

The Syllabus uses the following abbreviations:

F & G = Farnsworth and Grady, *Torts: Cases and Questions*
N & S = Neumann and Simon, *Legal Writing*
Sloan = Sloan, *Researching the Law*
t, m, & b = top, middle, and bottom (of the page)

WEEK 1

Tues., 8/23

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

*Introduction to Legal Research and Writing*
• N & S, ch. 1
• Sloan, chs. 1 & 2
• Orin Kerr, *How to Read a Legal Opinion* [posted on TWEN]

Wed., 8/24

*Intentional Torts—Battery*
• F & G, pp. 1-11m (Intent and Voluntariness)

Thurs., 8/25

*Intentional Torts—Battery*
• F & G, 19-24t (Consent)

*Introduction to Legal Cases: Professional Communication*
• Review Orin Kerr, *How to Read a Legal Opinion* [posted on TWEN]
• **ILS Exercise #1:** Email to Law Partner—Submit on TWEN by Mon., 8/29 at 10:00 p.m.
Lindsay—Torts/ILS (Initial Syllabus)

WEEK 2

Tues., 8/30

*Intentional Torts—Trespass*

• F & G, pp. 29-37t (Trespass)

*Legal Rules/Judicial Decisions and Case Briefing*

• N & S, chs. 2, 3, 5 & 6
• *ILS Exercise #2*: Brief of *Katko v. Briney*—Submit on TWEN by Thurs., 9/1 at 9:00 a.m.

Wed., 8/31

*Intentional Torts—Conversion and Assault*

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

Thurs., 9/1

*Privileges to Commit Intentional Torts*

• F & G, pp. 85-94 (Defense of Person and Property)

*ILS Section: Introduction to Legal Citation*

• *The Bluebook*, “Introduction” (§§ B1-B21)
• Watch video on Introduction to Citation and Case Names
• Complete homework assignment

WEEK 3

Tues., 9/6

*Privileges to Commit Intentional Torts*

• F & G, pp. 97b-105m (Private Necessity); 106m-108b, 109b-110t (Public Necessity)

*Introduction to the Office Memorandum*

• N & S, chs. 14, 16; Appendix A
• Review sample office memorandum [posted on TWEN]
• *ILS Exercise #3*: Facts Section & Issue Statement—Submit on TWEN by Mon., 9/12 at 10:00 p.m.
• *Distribute Closed Memo Assignment*—Submit on TWEN by Mon., October 3, at 5:00 p.m.
Wed., 9/7

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

Thurs., 9/8

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

ILS Section: Case Citations
• Watch two videos: (a) Components of a Case Citation: Federal Cases; (b) Components of a Case Citation: State Cases
• Complete homework assignment

WEEK 4

Tues., 9/13

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

Structure of Legal Analysis: CREAC
• N & S chs. 17 & 18
• ILS Exercise #4: Email to Law Partner—Submit on TWEN on Mon., Sept. 19, at 10:00 p.m.

Wed., 9/14

The Negligence Standard
• F & G, pp. 158b-168m (Custom and Medical Malpractice)

Thurs., 9/15

Negligence Per Se
• F & G, pp.170b-178m, 184b-191m

ILS Section: Case Citations—Short Form
• Watch video on Short Form Citation for Cases
• Complete homework
WEEK 5

Tues., 9/20

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

The Writing Process
• N & S, chs. 11, 12, 13
• Document Design
• ILS Exercise #5: Outline of Closed Memo—Submit on TWEN by Sun., 9/25 at 10:00 p.m.

Wed., 9/21

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

Thurs., 9/22

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

ILS Section: Using Legal Citations in Documents
• Watch video on using legal citations in documents
• Complete homework

WEEK 6

Tues., 9/27

Duties (continued)
• F & G, pp. 236-237, 239, 241b-246b (Special Relationships); pp. 251-255 (Public Duty Doctrine)

Writing Effective Prose / Editing Your Own Writing / Policy Arguments
• N & S, chs. 7, 21, 22

Wed., 9/28

Duties
• F & G, pp. 255-257b, 258b-259t, 260b-269m (Owners and Occupiers of Land)
Thurs., 9/29

*Cause in Fact*
- F & G, pp. 307-312b (But-for Causation)

*ILS Section: Writing Effective Prose*
- No new reading

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**WEEK 7**

Tues., 10/4

*Cause in Fact*
- F & G, pp.; 332b-335b (Alternative Liability); pp. 345-350 (Joint and Several Liability)

*Introduction to Legal Research—Presentation by Research Librarian Joanne Colvin*
- Sloan, chs. 1, 3, 8 & 9
- Carefully read the Open Memo Assignment [posted on TWEN]

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Wed., 10/5

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

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Thurs., 10/6

*Proximate Causation*
- F & G, pp. 351-365m (Remoteness and Foreseeability, continued); 368-373t (Intervening Causes)
- Warr v. JMGM Group (Md. 2013) (posted on TWEN)
- Kiriakos v. Phillips (Md. 2015) (posted on TWEN)

*ILS Section: CEAC for Torts Exams: The Issue Spotter as Mini-Memo*
- No new reading
Week 8

Tues., 10/11

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

Researching the Open Memo / Selecting Authority
• Research Presentation by Lexis Representative
• Sloan, chs. 4-7
• N & S, ch. 8
• ILS Exercise #6: Open Memo Case Briefs—Submit on TWEN by Mon., 10/17 at 10:00 p.m.

Wed., 10/12

Torts Catch-Up / Midterm Exam Review
• No new reading

Thurs., 10/13:

Midterm Exam

ILS Section will not meet.

Week 9

Tues., 10/18

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

Creating a Research Plan / Search Terms and Techniques
• Review Sloan, chs. 3-6
• ILS Exercise #7: Email to Client on Open Memo Topic—Submit on TWEN Mon., 10/24 at 10 p.m.
• ILS Exercise #8: Outline of Open Memo—Submit on TWEN by Fri., 10/28 at 10:00 p.m.

Wed., 10/19

Strict Liability for Abnormally Dangerous Activities
• F & G, pp. 406b-410b, 416-19t, 426t-428b
• Toms v. Calvary Assembly of God (Md. 2016) [posted on TWEN]
Thurs., 10/20

*Strict Liability*
- F & G, pp. 433-438t, 441b-445b (Respondeat Superior)
- *Barclay v. Briscoe* (Md. 2011) (posted on TWEN)

*ILS Section: Citing Statutes*
- Watch two videos: (a) Citing Statutes; (b) Short Form Citation for Statutes
- Complete homework

WEEK 10

Tues., 10/25

*Products Liability*
- F & G, pp. 456-459m, 462m-470m, 477-479b (Manufacturing Defects)

*Organizing a Multi-Issue Legal Memorandum*
- N & S, ch. 19

Wed., 10/26

*Products Liability*
- F & G, pp. 479b-490m (Deign Defects)

Thurs., 10/27

*Products Liability*
- F & G, pp. 494b-502m, 506b-508t, 509b-515 (Defective Instructions and Warnings)

*ILS Section: Citing Secondary Sources*
- Watch two videos: (a) Introduction to Secondary Sources and Restatements; (b) Citing Books and Treatises
- Complete homework
WEEK 11

Tues., 11/1

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

*Adding Depth to CREAC*
- N & S, ch. 20

Wed., 11/2

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

Thurs., 11/3

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

*ILS Section: Citators; Review of Citation Signals*
- Sloan, ch. 10

WEEK 12

Tues., 11/8

*Defenses*
- F & G, pp. 571-581b, 585m-586b (Contributory and Comparative Negligence)
- Coleman v. Soccer Assoc. of Columbia (Md. 2013) (posted on TWEN)

*Quoting and Citing Authority*
- N & S, chs. 23, 24
- **ILS Exercise #9**: Critique of Partner’s Draft Open Memo—Email your critique to your partner and to Professor Lindsay by Monday, 11/14 at 5:00 p.m.

Wed., 11/9

*Torts Catch-up (if necessary)*
- No new reading
Thurs., 11/10

Defenses
• F & G, pp. 587-590t, 591t-593b, 595b-596b (Express Assumption of Risk)

ILS Section: Open Memo Workshop

*** Draft of Open Memo due Friday, November 11, at 5:00 p.m. on TWEN ***

WEEK 13

We will not meet for regular class this week. (Note, however, that your TA Section will meet.) Each of you, with your partner, will attend a conference with Professor Lindsay to discuss your draft open memo. Please email your critique to your partner and to me by Monday, November 14 at 5:00 p.m., 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. 15, Wednesday, Nov. 16, and Thursday, Nov. 17. A sign-up sheet will be posted on TWEN.

Thurs., 11/17

ILS Section: Revising your Open Memo

WEEK 14

Tues., 11/22

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

Editing and Refining your Prose
• Review N & S, chs. 21, 22

Wed., 11/23

Torts Catch-Up / Exam Review / All-Purpose Q & A / Closing Thoughts
• No new reading

Thurs., 11/24: THANKSGIVING—CLASS WILL NOT MEET
WEEK 15

Tues., 11/29 (if necessary)

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

• No new reading

*** Open Memo due Thursday, December 1, at 9:00 a.m. on TWEN***