

Torts

(Law 608—419)

Spring 2018
Professor Lindsay

Course Information

This course provides an introduction to the law of torts. “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. We will examine 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.

Class Meetings

Monday & Wednesday, 5:45–7:35 p.m. in AL 602

Instructor

Professor Matthew Lindsay
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(410) 837-4688
Office Hours: Tuesday, 4:00-6:00, and by appointment

Required Materials

- Ward Farnsworth & Mark Grady, Torts: Cases and Questions (2nd ed. 2009)
- Supplemental readings will be posted on TWEN.

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 policy rationales for legal rules and deploy those rationales in legal analysis;
- Read and analyze legal cases accurately and efficiently, and identify the various component parts of those cases;
- Construct persuasive legal arguments.

Course Website

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

Grades

The distribution of grades will reflect the Law School's 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. 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.

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. Arriving late to class can be 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 to 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.

Academic Integrity: Students must 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.

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

Week 1

Wed., 1/17

Introduction to Tort Law

- F & G, Introduction (pp. xxxv-xlvi)

Week 2

Mon., 1/22

Intentional Torts—Battery

- F & G, pp. 1-11m (Intent and Voluntariness); 19-24t; 25t-27b (Consent to Battery)

Wed., 1/24

Intentional Torts

- F & G, 29-37m (Trespass)

Week 3

Mon., 1/29

Intentional Torts

- F & G, pp. 40b-43m; 46b-48b (Conversion); 64b-69m (Assault)

Privileges to Commit Intentional Torts

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

Wed., 1/31

Privileges to Commit Intentional Torts

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

Week 4

Mon., 2/5

The Negligence Standard

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

Wed., 2/7

The Negligence Standard (continued)

- F & G, 140t-146t; 151-52b; 155t-157b (Risks and Precautions; the Hand Formula and Law & Economics)

Week 5

Mon., 2/12

The Negligence Standard (continued)

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

Wed., 2/14

Negligence Per Se

- F & G, pp.170b-178m, 184b-191m

Week 6

Mon., 2/19

Res Ipsa Loquitur

- F & G, pp. 192-198t, 204b-206m; 207m-212m

Wed., 2/21

Duties

- F & G, pp. 217-225m (Affirmative Acts); 229b-234t (Undertakings); 236-239, 41b-45b (Special Relationships); 251-255 (Public Duty)

Week 7

Mon., 2/26

Duties

- F & G, pp. 255-257b, 258b-59t, 260b-269m (Owners and Occupiers of Land)

Wed., 2/28

Cause in Fact

- F & G, pp. 307-312b (But-for Causation); pp. 332b-335b (Alternative Liability); 345-50 (Joint and Several Liability)

Week 8

Mon., 3/5: Catch up and review; no new reading.

Wed., 3/7: MIDTERM EXAM

Week 9

Mon., 3/12

Proximate Causation

- F & G, pp. 351-65b (Remoteness and Foreseeability)

Wed., 3/14

Proximate Causation

- F & G, pp. 351-65b (Remoteness and Foreseeability)

Spring Break: No class on Mon., 3/12 or Wed., 3/14

Week 10

Mon., 3/26

Palsgraf and the Limitation of Duty

- 378-86m, 389t-90b, 392t-393
- Warr v. JMGM Group (Md. 2013) (posted on TWEN)
- Kiriakos v. Phillips (Md. 2015) (posted on TWEN)

Wed., 3/28

Strict Liability

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

Week 11

Mon., 4/2

Strict Liability

- F & G, pp. 406b-410b; 416-19t, 426t-428b (Abnormally Dangerous Activities)
- Toms v. Calvary Assembly of God (Md. 2016) (presented on TWEN)

Wed., 4/4

Strict Liability

- F & G, pp. 433-438t, 441b-445b (Respondeat Superior)

Week 12

Mon., 4/9

Products Liability

- F & G, pp. 456-70m; 477-479b (Manufacturing Defects)

Wed., 4/11

Products Liability

- F & G, pp. 479b-490m (Design Defects); 494b-502m; 506b-515 (Warning Defects)

Week 13

Mon., 4/16

Defamation

- F & G, pp. 613-15b (Introduction); 659-67t (Public Figures); Waicker v. Scranton Times (Md. App. 1997) (posted on TWEN); 676-83m (Private Figures)

Wed, 4/18

Damages

- F & G, pp. 517-520m; 526b-531m, 533-36m (Lost Earnings); 538t-541m, 545b-552t (Pain and Suffering); 552-65b (Punitive Damages)

Week 14

Mon., 4/23

Defenses

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

Wed., 4/25

Defenses

- F & G, pp. 587-593b, 595b-596b (Express Assumption of Risk); 596b-600b, 602m-603b (Primary Assumption of Risk)

Week 15

Mon., 4/30

Unfinished Business / Exam Review

- No new reading