Torts / Introduction to Lawyering Skills  
(Law 610—319)  

Fall 2013  
Professor Lindsay  

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  

Monday/Wednesday, 1:30-4:15 p.m. in AL 102  
Tuesday, 9:00-10:15 a.m. in AL 402  

Law Scholar Section (highly recommended): Monday, 12:00-12:50  

Instructors  

Professor Matthew Lindsay  
Office: 513  
mlindsay1@ubalt.edu  
(410) 837-4688  
Office Hours: Tuesday, 1:00-3:00, and by appointment  

Norman Smith, Esq.—Writing Specialist  
nlsmith@fisherwinner.com  
Office hours by appointment  

ILS Teaching Assistants: Katie Furlong (kfurlong88@gmail.com); Louise Moss (k.louisemoss@gmail.com); Sarah Grago (smgrago@gmail.com)  

Torts Law Scholar: Morgan Gough (morgan.gough@ubalt.edu)
Lindsay—Torts/ILS (Initial Syllabus)

**Required Materials**

- Ward Farnsworth & Mark Grady, *Torts: Cases and Questions* (2nd ed. 2009)
- The Bluebook: A Uniform System of Citation (19th ed. 2010)

**Attendance**

Please review the UB attendance policy at [http://law.ubalt.edu/template.cfm?page=267](http://law.ubalt.edu/template.cfm?page=267). 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 90-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** (15%) You will complete a variety of research and writing exercises throughout the semester.
- **Closed Research Office Memo** (25%) You will complete a five-to-six-page research memo, which will be assigned during Week 2 and due during Week 8.
- **Open Research Office Memo** (60%) You will research and write a ten-to-twelve-page memo, which will be assigned during Week 8 and due during Week 15.
Syllabus

The syllabus and other course materials will be posted 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
• ML = Matthew Lindsay
• NS = Norman Smith
• “t,” “m” & “b” following a page number refers to the top, middle or bottom of the page

Week 1

Mon., 8/19

*Introduction to Tort Law [ML]*
• F & G, Introduction (pp. xxxv-xlviii)

*Introduction to Legal Writing [ML]*
• N & S, ch. 1

Tues., 8/20

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

Wed., 8/21

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

*Judicial Decisions and Case Briefing [ML]*
• N & S, chs. 5 and 6

***Email to Law Partner due Friday, 8/23 at 5:00 p.m. on TWEN***

Week 2

Mon., 8/26

*The Office Memorandum [NS]*
• N & S, chs. 14 & 15; Appendix A

*Intentional Torts [ML]*
• F & G, pp. 29-37t (Trespass); 40-43m, 44m-46t (Conversion); 64b-67m, 68b-69m (Assault)
Tues., 8/27

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

***Email a one-page brief of Katko v. Briney (F & G, pp. 85-88) to your TA before the start of class.***

Wed., 8/28

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

Legal Rules; Rule Synthesis Exercise [ML]
• N & S, chs. 2, 3

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

***Closed Memo Assignment Distributed on Thursday, 8/29 on TWEN***

Week 3

Mon., 9/2:  LABOR DAY—NO CLASS

Tues., 9/3

Case Briefing / Introduction to legal Citation [TAs]
• Discuss case brief of Katko v. Briney
• The Bluebook, pp. 1-24

Wed., 9/4

The Negligence Standard [ML]
• F & G, pp. 121-138b (The Reasonable Person); F & G, 140t-146t (Risks and Precautions; the Hand Formula and Law & Economics)

***Issue Statement and Facts Section due Thursday, 9/5 at 5:00 p.m. on TWEN.***
Week 4

Mon., 9/9

Working with Precedent and Facts / CREAC / Closed Memo Q & A [NS]
• N & S, chs. 9 & 16
• Study the closed memo assignment and read the cases assigned therein before class.

The Negligence Standard (continued) [ML]
• F & G, 151t-152b, 155t-157b (the Hand Formula and Law & Economics, continued)

Tues., 9/10

Review of Model Memo / Legal Citation Workshop [TAs]
• Read model memo posted to TWEN
• Review The Bluebook, pp. 1-24
• Legal Citation Exercises

Wed., 9/11

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

***Outline of Closed Memo Due Thursday, 9/12 at 9:00 a.m. on TWEN.***

Week 5

Mon., 9/16

The Art and Process of Writing / Discussion of Closed Memo Outlines [NS]
• N & S, chs. 11, 12, 13

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

Tues., 9/17

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

Wed., 9/18

Duties [ML]
• F & G, pp. 217-223m, 224m-225m (Affirmative Acts); 229b-233t (Undertakings); 236-237, 239, 241b-45b, 251-255 (Special Relationships; Public Duty Doctrine);

*** Draft of Closed Memo due Thursday, 9/19 at 5:00 p.m. on TWEN***
Week 6: Conferences with Professor Smith

During the 6th or 7th week, each of you, with a partner, will attend a conference with Professor Smith 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.

Mon., 9/23

Duties [ML]
- F & G, pp. 272b-279 (The Privity Limitation)

Policy Arguments / Hierarchy of Authority [ML]
- N & S, chs. 7 & 8

Tues., 9/24

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

Wed., 9/25

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

Week 7: Conferences with Professor Smith (continued)

Mon., 9/30

Cause in Fact, continued [ML]
- F & G, pp.; 332b-344 (Alternative Liability)

Midterm Exam Q & A [ML]

Tues., 10/1

CEAC for Torts Exams: The Issue Spotter as Mini-Memo [TAs]
- Review select past exams

Wed., 10/2: MIDTERM EXAM
**Week 8**

**Mon., 10/7**

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

**Tues., 10/8**

*Proximate Causation* [ML]
- F & G, pp. 351-365b (Remoteness and Foreseeability, continued); 368-373t (Intervening Causes)

**Wed., 10/9**

*Torts Catch-up (if necessary)* [ML]
- No new reading

***Closed Memos due Friday, October 11 at 5:00 p.m. on TWEN***

***Open Memo Assignment Distributed on Friday, 10/11, on TWEN***

**Week 9**

**Mon., 10/14**

*Lexis Training* (Elizabeth Ferrick)

*Proximate Causation* [ML]
- F & G, pp. 378-87t, 389t-390b, 392t-393 (*Palsgraf* and Limitation of Duty)

**Tues., 10/15**

*Westlaw Training* (John Lim)

*Adding Depth to CREAC* [ML]
- N & S, chs. 17, 18
- Assign Client Email and “Walk-and-Talk”

**Wed., 10/16**

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

*Open Memo Q & A / Research Strategies* [ML]

***Client Email due Friday, October 18, at 5:00 on TWEN***
Week 10

Mon., 10/21

Paragraphs and Effective Style [NS]
• N & S, chs. 20, 21, 22

“Walk-and-Talk” (Part I) [NS]

Strict Liability [ML]
• F & G, pp. 416-425t, 426t-428b (Abnormally Dangerous Activities)

Tues., 10/22

Researching the Open Memo [TAs]

Wed., 10/23

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

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

***Outlines of the Open Memo due Thursday, 10/24 at 5:00 p.m. on TWEN.***

Week 11

Mon., 10/28

“Walk-and-Talk” (Part II) [NS]

Products Liability [ML]
• F & G, pp. 479b-490m (Design Defects)

Tues., 10/29

Products Liability [ML]
• F & G, pp. 499b-502m, 506b-508t, 509b-515 (Warning Defects)
Wed., 10/30

**Damages** [ML]
- F & G, pp. 517 (Intro.), 526b-531m (Lost Earnings); 538t-541m, 549b-552t (Pain and Suffering)

**Open Memo Outlines / Quoting and Citing Authority** [ML]
- N & S, chs. 23, 24
- Discuss Open Memo outlines.

**Week 12**

Mon., 11/4

*Introduction to the Maryland Court System* [NS]

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

Tues., 11/5

*Advanced Legal Citation Workshop* [TAs]

Wed., 11/6:

**Defenses** [ML]
- F & G, pp. 571-573t, 574m-581b, 585m-586b (Contributory and Comparative Negligence)

*** Draft of Open Memo due Thursday, 11/7 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 me to discuss your draft open memo. Please exchange critiques with 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. 12, Wednesday, Nov. 13, and Thursday, Nov. 14. A sign-up sheet will be posted on TWEN.

Tues., 11/12:

*Fine-Tuning your Open Memo* [TAs]
**Week 14**

**Mon., 11/18**

*Defenses [ML]*

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

**Tues., 11/19:**

*Defenses [ML]*

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

**Wed., 11/20:**

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

- No new reading

**Week 15**

**Mon., 11/25:**

*Torts Catch-Up (if needed)*

*** Open Memo due Monday, 11/25 at 9:00 a.m. on TWEN***