

Introduction to Lawyering Skills/Torts  
Law 610-319  
Professor Michael Hayes  
[mjhayes@ubalt.edu](mailto:mjhayes@ubalt.edu)  
410-837-4604  
Room 1113  
Administrative Assistant: Gloria Joy

### **Texts**

1. Dan B. Dobbs, Paul T. Hayden, and Ellen M. Bublick, Torts and Compensation: Personal Accountability and Social Responsibility for Injury, Concise Edition (Seventh Edition, Thompson/West)
2. Richard Neumann, et al., Legal Writing (Third Edition, Aspen)
3. Amy E. Sloan, Basic Legal Research, (Sixth Edition, Aspen)
4. Bluebook: A Uniform System of Citation (20<sup>th</sup> Edition Harvard Law Review)

### **Office Hours for Professor Hayes**

Mondays & Wednesdays, 10:30 am -12:30 pm, or by appointment.

### **Class meeting times & location**

Mondays: 9:00 – 10:15 am  
Mondays and Wednesdays: 1:30 – 4:15 pm

Room assignments will be posted on myUB. Please check the classroom assignment the week class begins because room assignments may change before the semester begins.

### **Student Assistants**

Teaching Assistants for ILS: Adrienne Blake, Alexis Holiday

Law Scholar for Torts: Katrina Smith

### **Course Description**

ILS/Torts integrates rigorous instruction in legal analysis, research, and writing with the substantive law of torts to give beginning law students an opportunity to combine skills and doctrine the way lawyers must in the practice of law. The course is taught by full-time, tenured and tenure-track legal writing professionals in sections of 20-25 students with one-on-one conferences. Students will learn the law of imposed liability for personal, property, and economic harm, through case analysis and rule synthesis, print and online legal research, and legal writing projects. Doctrinal topics will include negligence (including professional malpractice); strict liability (including products liability) and intentional torts; causation and elements of damages; and affirmative defenses and limitations of duties

including: assumption of the risk, contributory negligence, comparative negligence, and limited liability of property owners. Legal analysis, research, and writing skills will be developed through course-work that includes critical case reading, analysis and briefing; common law principles and processes; factual analogy and distinction; rule synthesis and application; objective/predictive writing (office memo); case law and statutory research, print and electronic; citation form; and professional norms and ethics.

## **Learning Outcomes**

At the end of this class students who successfully complete the course will be competent at:

1. Articulating tort doctrine and policy;
2. Conducting effective legal research of court decisions, statutes, and commonly-used secondary sources;
3. Applying tort legal rules to a variety of factual scenarios;
4. Producing formal and informal written legal analysis of a client's problem; and
5. Orally communicating legal analysis of a client's problem.

## **Professionalism and Course Expectations**

I expect you to display professionalism in this class. This includes arriving on time, attending all classes, being prepared for class, and behaving respectfully. The American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete, per week, for each credit earned. 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.

**1) Seating & Arrivals/Departures to the Classroom:** Over the years, I have sometimes received complaints from students that classmates who come to class five or more minutes late are extremely disruptive. I think these complaints are legitimate, and therefore urge all students to come to class on time. If disruption by late-arriving students becomes a problem, I reserve the right to establish a policy barring students from attending class sessions to which they arrive late by 10 minutes or more.

Similar issues of course arise with students who leave early from class, or who leave the classroom at times other than any "designated break time," a five-minute break that will be taken some time during the Monday and Wednesday afternoon class sessions. Again, please try to be as careful and non-disruptive as possible when leaving your seat during class time.

**2) Attendance policy:** Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to receipt of a grade for the course is conditioned upon a record of attendance satisfactory to the professor. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure)

due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

For this class, which meets more than twice a week, students are permitted a maximum of five absences. My general approach is that I don't differentiate between excused or unexcused absences. If a student reaches five absences (other than for religious holidays, discussed below) I will contact that student to discuss how many absences that student will be permitted for the remainder of the semester.

Religious holidays are handled somewhat differently. If a student exceeds the five allowed absences because of absences due to religious holiday(s), I won't impose the penalties described below, but instead the student will be required to do some kind "makeup work" to compensate for exceeding the allowed number of absences.

If a student exceeds the number of absences that, based on the discussion between professor and student have been established, there will be a grade sanction for exceeding that limit. The grade sanction means a deduction of a step in a grade, such as a deduction from a B+ to a B.

If after imposition of such a grade sanction, the student has an additional absence, I reserve the right to withdraw the student from the course, which would result in a course grade of "FA" referenced above.

I understand that there can be special circumstances, like serious health problems or family issues, that cause frequent absences. That is why I have arranged my attendance policy so that the sanctions are not automatic, but are worked out with the student. But I would emphasize that, whenever possible, this be worked out in advance. I will be more understanding with students who do that than students who bring excuses to me at the end of the semester, or after I have notified them that I intend to impose a grade sanction on them.

I strongly recommend that you attend as many class sessions as you can. In this course, considerable material will be covered only in the lectures and not in the assigned readings. It is likely that much of the material covered exclusively in lecture will be tested on the midterm and final examinations.

2) Calling on students, and student responsibility for assigned material: As mentioned above, all students will be expected to have read the assigned material for each class session. My method for calling on students by name will be that at each class session, I will choose a student name at random, and starting from that name will call on students in that class session in alphabetical order. Then I'll start from a new point at the next class session. I expect to call on 1-3 students by name at Monday morning class sessions, and 3-6 students by name during Monday and Wednesday afternoon class sessions. Also, I will ask for volunteers on more general questions.

## Grading

You will receive two separate grades for this class. Your Torts grade (4 credits) will be based 20% on your performance on the midterm exam and 70% on your performance on the final exam. It will also take into account your performance on assessment activities throughout the semester (worth 10%).

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.

All assignments 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.

## 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/](http://law.ubalt.edu/academics/policiesandprocedures/honor_code/).

### **Title IX Sexual Misconduct and Nondiscrimination Policy**

The 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>.

## **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](mailto:lmetzger@ubalt.edu).

## **Reading, other assignments, and TWEN**

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 Monday mornings.

### Week 1, August 21

*Topics: Introduction to Torts and Lawyering Skills, Introduction to Intentional Torts, Battery, Basic Legal Citation, Citing a Case, Introduction to Legal Research, Researching Cases, 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.***

Monday morning: 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.

Monday afternoon: Dobbs, Chs. 1 & 2; Neumann et al., Chs. 1-3, 5, 6. Sloan, Ch. 5, pp. 91-96; 112-121. Bring to class a hard copy of your brief of Van Camp v. McAfoos. If you have a laptop or tablet, please bring it to class along with your Westlaw and LexisNexis passwords.

Wednesday: Dobbs, pp. 29-39, up to *White v. Muniz*; Neumann et al., 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 Hayes by 8:45 a.m. on Friday, August 25.**

Week 2, August 28

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

Monday morning: Sloan, Ch. 7, pp. 167-73; 184-94.

Monday afternoon: **Research Assignment 1 due in hard copy.** Neumann et al., Chs. 4, 9, 14-15.

Wednesday: Dobbs, Ch. 3, p. 44 (starting at *Baska* excerpt)-p. 53 (stop at § 4); Restatement §16 on TWEN. Bring to class a hard copy of your articulation of the torts rule that is central to the court's decision in *Cullison v. Medley*. Make sure that you put this into your own words – don't quote the court.

**Your draft Issue and Facts sections must be emailed to Professor Hayes by 5 p.m. Sunday, September 3.** Before drafting, please read Neumann et al., Chs. 21-22 and skim the sample memorandum at Appendix A

Week 3, September 4

*Topics: Torts to Property, Defenses to Intentional Torts; Working with Legal Rules.*

No classes Monday; Labor Day.

Wednesday: **Research Assignment 2 due in hard copy; ; Case chart (assigned in class) due in hard copy.** Neumann et al., Chs. 7, 12; Dobbs Ch. 4, p. 53 (starting at §4 – p. 59 (stop at §5) and p. 63-p. 67, up to *Katko*; Maryland Statute on Detention of Persons and Restatement §§ 70 and 80 on TWEN.

Week 4, September 11

*Topics: Defenses to Intentional Torts; Revising Written Documents, The Structure of Legal Analysis, Drafting the Discussion Section and Brief Answer of an Office Memorandum, Citing Statutes, Short Form Citation for Cases & Statutes.*

Monday morning: Citation materials covering short form citation for cases, citing to statutes, and short form citation for statutes.

Monday afternoon: **Pyramid of legal rules to be used in Closed Research Office Memorandum due in hard copy (assigned in class).** Neumann et al., Chs. 8, 10, 16-18, 20.

Wednesday: **Draft CREAC due in hard copy (assigned in class).** Dobbs, Ch. 4, pp. 67-82, up to §2.

### Week 5, September 18

*Topics: Effective Citation and Signal Use, Revisiting the CREAC Paradigm, Drafting the Conclusion Section of an Office Memorandum; Defenses to Intentional Torts, The Duty Element of a Negligence Claim*

Monday morning: 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.**

Monday afternoon: Dobbs, Ch. 4, pp. 82-88 and Ch. 5 pp. 91-100, up to *Creasy; Haney* on TWEN. **Brief Answer due in hard copy.**

Wednesday: **Conclusion section due in hard copy; revision to draft CREAC due in hard copy.** The afternoon session will include a research training presentation. For that, please read Sloan, Ch. 2 and Ch. 4, pp. 43-60. 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.

For the Wednesday afternoon class session, please also read Dobbs, Ch. 5, pp. 100-117, up to *Impson*.

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.

### Week 6, September 25

*Using Signals, Revising Written Work, Revisiting the CREAC Paradigm, Researching Secondary Sources.*

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.

**Closed Research Office Memorandum must be submitted by Sunday, October 1 at 5:00 p.m. via TWEN.**

### Week 7, October 2

*Topics: Citing Secondary Sources, Client Interviewing Revisited, Creating a Research Plan and Research Review; The Breach Element of a Negligence Claim*

Monday morning: Sloan, Chs. 2, 3, and 11. Bring your laptop and Westlaw/Lexis passwords to class.

Monday afternoon: Dobbs, Ch. 5, pp. 117-120 and Ch. 6, p. 121-123, up to §B and p. 126, starting at Note-p. 129; Excerpts from *Halek* and *Lowery* on TWEN; Dobbs, Ch. 6, p. 137, starting at *Carroll Towing* – p. 142, through Note 3.

Wednesday: **Research Assignment 3 due in hard copy.** Dobbs, Ch. 6, p. 147-162, up to §6. Sloan, Chapter 11. Be prepared for a client interview.

#### Week 8, October 9

*Topics: Res Ipsa Loquitur, Cause in Fact; Creating a Research Plan, Selecting Appropriate Authority*

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

Monday afternoon: Dobbs, Ch. 6, pp. 162-175 and Ch. 7, pp. 177-184, up to §B. Neumann et al., Chs. 11, 13. **Research Assignment 4 due in hard copy.** In addition, 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: Dobbs, Ch. 8. Initial source list for Open Research Office Memorandum due. For each source you identify, write one to two sentences explaining why you selected that case.

#### Week 9, October 16

*Topics: Conducting Effective Research, Selecting Appropriate Authority; Cause in Fact, Proximate Cause*

Monday morning: Midterm.

Monday afternoon:: No new readings. Bring your laptop with you to class and make sure you have easy access to your sources for the Open Research Office Memorandum (i.e. in print or saved offline in a folder that is readily accessible). I strongly encourage you to print the most critical cases and have the relevant portions highlighted.

Wednesday: Dobbs, Ch. 7, pp. 177-194, up to *Mohr* and Ch. 8, pp. 203-04, up to *Thompson*; *Berry v. Sugar Notch* on TWEN; p. 204 - p. 223, up to *Marcus*.

#### Week 10, October 23

*Topics: Proximate Cause, The Damages Element; Organizing a Multi-Issue Legal Memorandum*

Monday morning: No class session. Before drafting Section headings and annotated outline for Open Research Office Memorandum, which are due on Wednesday, please read Neumann et al. Ch. 19.

Monday afternoon: Citation and research review.

Wednesday: **Section headings and annotated outline for Open Research Office Memorandum due in hard copy.** Dobbs, Ch. 8, p 225, starting at *Collins* – p. 228, up to *Delaney*, p. 230, starting at *Derdiarian* -p. 238, up to Problem; *Gains Tabb v. ICI Explosives, USA* on TWEN.

Week 11, October 30

*Topics: Drafting a Multi-Issue Legal Memorandum; Defenses to Negligence: Contributory & Comparative Fault, Assumption of the Risk*

Monday morning: Citation quiz.

Monday afternoon: **Umbrella passage for Open Research Office Memorandum due in hard copy.**

Wednesday: Dobbs, Ch. 9, p. 243-246, up to §3 and pp. 252-53 (§B) and p. 265, starting at §6-p. 268, and Dobbs Ch. 10, pp. 269-82. 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 two 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 12, November 6

*Topics: Assumption of the Risk, The Duty Element & Landowner Liability, Medical Malpractice; Revisiting the CREAC Paradigm*

Monday: Small group sessions with your TA (during or in lieu of class time).

Monday afternoon: Dobbs, pp. 318-23 (§3, “The Firefighter’s Rule”); *Poole*, on TWEN; Dobbs, Ch. 12, p. 301, starting at *Gladon* - p. 318, pp. 323-27, up to §6, and pp. 329-342, up to §2.

Wednesday: **Draft of one issue in Open Research Office Memorandum due in hard copy. Your draft must contain one complete CREAC, using at least three cases, to avoid earning an "FA" grade in the ILS class.** In addition to the hard copy that you will bring to class, email Professor Hayes a copy of your draft no later than 9 a.m. Monday morning November 13.

Week 13, November 13

*Topics: Evaluating Written Legal Analysis (editing, reorganizing, and assessing whether additional authority is needed); Duty to Protect and Nonfeasance*

Class will only meet once this week, either Monday morning or Wednesday afternoon (TBD). The reading for that class will be Dobbs, Ch. 12, pp. 435-43, up to *Marquay*, p. 453, starting at *Tarasoff* - p. 458, and pp. 399-410. You will also have a required meeting with Professor Hayes 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 19, at 5:00 p.m. via TWEN.**

Week 14, November 20

*Topics: Vicarious Liability and Emotional Harm Torts (possibly to tested on final exam) and Strict Liability (no assigned readings and not to be tested on the final exam)*

Monday morning: Dobbs, pp. 519-22, up to *Hinman*.

Monday afternoon: Dobbs, Ch. 19, pp. 467-87, up to §3; *Jones v. Clinton*, on TWEN.

Wednesday: No new reading assignment.

Week 15, November 27

*Topic: Wrongful Death*

Monday: Dobbs, Ch. 21, pp. 507-15.