

Introduction to Lawyering Skills/Torts  
Law 610-339  
Professor Nancy Modesitt  
[nmodesitt@ubalt.edu](mailto:nmodesitt@ubalt.edu)  
410-837-1902  
Room 507  
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 Modesitt**

Mondays & Wednesdays, 11:45-12:45, or by appointment.

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

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

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: Ashley Simmons, James Beslity

Law Scholar for Torts: Caitlin Rayhart

### **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 approximately 30 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, immunity, 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 in commonly-used secondary sources as well as statutes and cases;
3. Applying tort law to new 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. If you are not prepared for a class, please let me know by sending an email before class that day.

The American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work 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.

## **Grading**

You will receive two separate grades for this class. Your Torts grade (4 credits) will be based primarily on your performance on a final exam. It will also take into account your performance on assessment activities throughout the semester (worth 10%). We will discuss in class whether your Torts grade will also include performance on a midterm examination.

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.

**Attendance**

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the 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) as illustrated below 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 absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

Regular Semester Hours		
Credit Hours	Meetings Per Week	
	1	2
2	2 absences	5 absences
3	2 absences	5 absences
4	--	5 absences

**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. In addition, you will receive instructions via email on additional material that will explain the basics of legal citation as well as case citation a few days before classes start.

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, Ch. 3, pp. 29-46; 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 Modesitt by 8:45 a.m. on Friday, August 25.**

### Week 2, August 28

*Topics: Assault, False Imprisonment, Torts to Property, 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, pp. 46-59 (stop at § 5). 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 Modesitt 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: Defenses to Intentional Torts; Working with Legal Rules.*

No classes Monday; Labor Day.

Wednesday: **Research Assignment 2 due in hard copy.** Dobbs Ch. 4, pp. 63-75; Neumann et al., Chs. 7, 12. **Case chart (assigned in class) due in hard copy.**

### Week 4, September 11

*Topics: Defenses to Intentional Torts, The Duty Element of a Negligence Claim; 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. 75-88.

Week 5, September 18

*Topics: Effective Citation and Signal Use, Revisiting the CREAC Paradigm, Drafting the Conclusion Section of an Office Memorandum, 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. 5 pp. 91-107; **Brief Answer due in hard copy.**

Wednesday: Dobbs, Ch. 5, pp. 108-120. **Conclusion section due in hard copy; revision to draft CREAC due in hard copy.** 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.

In addition to meeting with me this week, you will attend a research training session during our Monday morning session. Before you attend this session 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.

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

Week 7, October 2

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

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

Monday afternoon: Dobbs, Ch. 6, pp. 121-146.

Wednesday: **Research Assignment 3 due in hard copy.** Dobbs, Ch. 6, pp. 147-175. Sloan, Chapter 11. Be prepared for a client interview.

#### Week 8, October 9

*Topics: Cause in Fact, Actual Harm, Proximate Cause, 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. 7. 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: Contributory & Comparative Fault, Conducting Effective Research, Selecting Appropriate Authority*

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. 9, pp. 243-260, 265-268. 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 10, October 23

*Topics: Assumption of the Risk, Statutes of Limitation, Revisiting the Duty Element, Organizing a Multi-Issue Legal Memorandum*

Monday morning: Citation and research review.

Monday afternoon: **Section headings and annotated outline for Open Research Office Memorandum due in hard copy**; before drafting, read Neumann et al. Ch. 19. Dobbs, Ch. 10.

Wednesday: Dobbs, Ch. 11, pp. 283-292, Dobbs, Ch. 12.

Week 11, October 30

*Topics: Medical Malpractice and Informed Consent, Nonfeasance, Duty to Protect, Drafting a Multi-Issue Legal Memorandum*

Monday morning: Citation quiz.

Monday afternoon: **Umbrella passage for Open Research Office Memorandum due in hard copy**. Dobbs, Ch. 13, pp. 329-355.

Wednesday: Dobbs, Chs. 16, 18.

Week 12, November 6

*Topics: Vicarious Liability, Revisiting the CREAC Paradigm*

Monday morning: Small group sessions with your TA (scheduled during class time).

Monday afternoon: Dobbs, p. 517, Ch. 22

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, in order to attend this class.** In addition to the hard copy that you will bring to class, email Professor Modesitt a copy of your draft no later than 9 a.m. Monday morning.

Week 13, November 13

*Topics: Emotional Distress Claims, Evaluating Written Legal Analysis (editing, reorganizing, and assessing whether additional authority is needed)*

Class will only meet once this week, either Monday afternoon or Wednesday (TBD). The reading for that class will be Dobbs, Ch. 19, pp. 467-490. You will also have a required meeting with Professor Modesitt 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

*Topic: Products Liability*

Monday morning: No new readings.

Monday afternoon: Dobbs, Ch. 23. Dobbs, 24, pp. 563-589.

Wednesday afternoon: Dobbs, Ch. 24, pp. 589-610.

Week 15, November 27

Monday afternoon: No new readings.