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

Fall 2019
Professor Lindsay

Course Overview
This course integrates instruction in legal analysis, research, and writing with the substantive 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. 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; 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
Monday & Wednesday, 1:30–4:15, in AL 408
Tuesday, 10:30–11:45, in AL 1002
ILS Section Meeting (required): Monday, 1:30–2:20, in AL 408
Law Scholar (highly recommended): Time and location TBA

Required Materials
• Ward Farnsworth & Mark Grady, Torts: Cases and Questions (3rd ed. 2019)
• The Bluebook: A Uniform System of Citation (20th ed. 2015)
• Linda J. Barris, Understanding and Mastering the Bluebook (3rd ed. 2015)
Instructors

**Professor Matthew Lindsay**
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(410) 837-4688
Office Hours: Tuesday, 2:00–4:00, and by appointment

**ILS Teaching Assistants:** Stacey Lounsbury (stacey.lounsbury@ubalt.edu); Jessica Rotondo (jessica.rotondo@ubalt.edu)

**Torts Law Scholars:** Candice Miller (candice.miller@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 conform with 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.

Your **Torts grade** (4 units) will be based on the following three assessment items:

1. A three-hour, limited-source, in-class **Final Examination** will account for *either 100% or 75%* of your final course grade. (See #2, below.) The Final Exam is **cumulative** and can test any of the assigned readings and anything that we have discussed in class. I will distribute practice exam questions throughout the semester.

2. An in-class **Midterm Examination** administered on Wednesday, October 9, will account for *either 25% or 0%* of your final course grade. The Midterm Exam is **redeemable**. This means that if the combined score of your Midterm and Final Examinations is lower than your Final Examination score standing alone, your Midterm score will not count toward your course grade. *For example:* If you receive an 88 on the Midterm and an 80 on the Final, your combined exam score for the course will be an 82 (i.e. the average of the two exam scores, with the Midterm weighted .25 and the Final .75). If you receive a 78, 68, or 58 on the Midterm and an 80 on the Final, your combined exam score for the course will be an 80.

3. **Participation** in class discussion is mandatory. Excellent class participation—regular attendance plus contributions to class discussion that reflect careful preparation—may result in a third-of-a-grade increase (e.g., from a B+ to an A-). Poor class participation—frequent absences and/or lack of informed participation—may result in a third-of-a-grade reduction (e.g., from an A- to a B+).
Your *Introduction to Lawyering Skills* grade (3 units) 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 2 and due Sunday, September 29.

- **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 Tuesday, November 26.

- **Core Grammar for Lawyers Online Exercises** You must test out of or pass each lesson by the date indicated below. The exercises will not be graded, but failure to complete them by the appropriated deadline will be factored into my assessment of your class participation and can negatively affect your course grade. Each “lesson” takes about 30 minutes to complete. You are welcome to complete them in advance of the due dates.
  - CGL Pretest: Fri., Aug. 23 at 10:00 p.m.
  - CGL, Ex. A (Sentence Structure) 1–2: Fri., Aug. 30 at 10:00 p.m.
  - CGL, Ex. A (Sentence Structure) 3–4: Fri., Sept. 6 at 10:00 p.m.
  - CGL, Ex. B (Quotations) 1–2: Fri., Sept. 13 at 10:00 p.m.
  - CGL, Ex. B (Quotations) 3–4: Sun., Sept. 22 at 10:00 p.m.
  - CGL, Ex. D (Verbs and Agreement) 1–2: Fri., Oct. 11 at 10:00 p.m.
  - GCL, Ex. D (Verbs and Agreement) 3–4: Fri., Oct. 18 at 10:00 p.m.
  - GCL, Ex. C (Organizing Complex Ideas) 1–2: Sun., Oct. 27 at 10:00 p.m.
  - GCL, Ex. C (Organizing Complex Ideas) 3–4: Fri., Nov. 1 at 10:00 p.m.

- **Understanding and Mastering the Bluebook Online Interactive Exercises** (MBIE) You will complete a series of online exercises to testing your proficiency in legal citation. These exercises will not be graded, but failure to complete them accurately and by the date indicated below will be factored into my assessment of your class participation and can negatively affect your course grade.
  - MBIE Problem Sets 1–8 (Basic Case Citation): Tues., Sept. 24, at 10:00 p.m.
  - MBIE Problem Sets 35–37 (Quotations; Capitalization; Numbers and Numerals): Thurs., Oct. 3, at 10:00 p.m.
  - MBIE Problem Sets 32–34 (String Cites, Signals, Explanatory Parentheticals): Tues., Oct. 22, at 10:00 p.m.
  - MBIE Problem Sets 25–27 (Secondary Sources): Sun., Nov. 3, at 10:00 p.m.
  - MBIE Problem Sets 14–18 (Enacted Law): Fri., Nov. 15, at 10:00 p.m.
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 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/](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 Keri Hickey, Director of Student Support.

**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](http://www.ubalt.edu/titleix).
Syllabus

The syllabus and other course materials will be posted on the course TWEN website. Please consult the posted syllabus regularly, as I expect to update reading and other assignments throughout the term.

Reading Assignments: I will generally assign ten to twenty pages of reading per class. Sometimes it will be less, and sometimes more. Because the material is often dense and challenging, please allow yourself sufficient time to read it carefully. (As a rough guideline, if I were reading this material for the first time in preparation for class, I would expect to spend, on average, between five and eight minutes per page.) Reading case excerpts “carefully” includes the following:

• Note the key facts of the case. I will often begin our discussion of a case by asking one of you to summarize the facts. This includes both the “background” facts that gave rise to the lawsuit, as well as the legally important facts—often called “material” or “determinative” facts—that bear on the court’s analysis of the legal issue(s) under consideration.

• Identify the legal issue that the case is addressing. Sometimes the court will announce the issue explicitly, but sometimes it will not. If the case excerpt describes the dispositions of the lower (i.e., trial and intermediate appellate) courts that have heard this case, make a note of those. If the case excerpt describes the parties’ legal arguments on appeal, make a note of those, too.

• Identify the rule of law that the court applies in the case. This includes the court’s explanation of what the rule means, and how it applies to different factual situations.

• Identify the holding of the case. What is the court’s legal conclusion, based on how the rule of law applies to the specific facts of this case?

• Understand the court’s reasoning. How does the applicable rule of law apply to the facts? Are there other values or considerations—e.g., fairness, justice, judicial administrability, economic efficiency, public policy, etc.—that inform the court’s analysis?

• Identify the disposition of the case: What did the court do? Affirm the lower court, reverse it, vacate its decision and remand the case for further proceedings?

This Syllabus indicates the order of the readings and designates specific readings for specific dates. Because the pace at which we cover various topics will be influenced by the particular needs of and dynamics within each section, there will probably be times when we fall behind the schedule indicated on the Syllabus. When this happens, I will adjust the reading schedule accordingly and inform the class.

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
UMB = Understanding and Mastering the Bluebook
MBIE = Mastering the Bluebook Online Exercises
t, m, & b = top, middle, and bottom (of the page)
WEEK 1

Mon., 8/19

Introduction to Tort Law
• F & G, Introduction (pp. xxvii–xxxix)

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]

Tues., 8/20

Intentional Torts—Battery
• F & G, pp. 1–11b (Intent and Voluntariness)

Wed., 8/21

Intentional Torts—Battery
• F & G, 17t–21b (Consent)

ILS: 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 Sun., Aug. 25 at 10:00 p.m.

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 Wed., Aug. 28 at 1:00 p.m.

WEEK 2

Mon., 8/26

ILS Section: Introduction to Legal Citation
• The Bluebook, “Introduction” (§§ B1–B21)
• UMB, pp. 3–19t, 26t–28

Intentional Torts—Trespass
• F & G, pp. 26t–34t (Trespass)

Tues., 8/27

Intentional Torts—Conversion and Assault
F & G, pp. 37t–39m, 42b–44b (Conversion); 59b–64t (Assault)
Wed., 8/28

Privileges to Commit Intentional Torts
• F & G, pp. 79–86m (Defense of Person and Property)
• Crabtree v. Dawson [posted on TWEN]

ILS: Introduction to the Office Memorandum
• N & S, chs. 14, 16; Appendix A
• Review sample office memorandum [posted on TWEN]
• ILS Exercise #3: Issue Statement/Brief Answer/Facts—Submit on TWEN by Sun., Sept. 8 at 10:00 p.m.
• Distribute Closed Memo Assignment—Submit on TWEN by Sun., Sept. 29, at 10:00 p.m.

WEEK 3

Mon., 9/2—Labor Day—Class does not meet

Tues., 9/3

Privileges to Commit Intentional Torts
• F & G, pp. 89m–96b (Private Necessity); 97b–99m, 100t–101m (Public Necessity)

Wed., 9/4

Torts: The Negligence Standard
• F & G, pp. 111–122m (The Reasonable Person)

ILS: Structure of Legal Analysis: CREAC
• N & S chs. 17 & 18
• ILS Exercise #4: Email to Law Partner—Submit on TWEN on Sun., Sept. 15, at 10:00 p.m.
• ILS Exercise #5: Outline of Closed Memo—Submit on TWEN by Fri., Sept. 20 at 10:00 p.m.

WEEK 4

Mon., 9/9

ILS Section: Citing Cases
• The Bluebook, ## (cases)
• UMB, pp. 29–50

Torts: The Negligence Standard
• F & G, pp. 122m–128b (The Reasonable Person, continued)
Tues., 9/10

*Torts: The Negligence Standard*

- F & G, 128b-135b; 138b–40m, 142b–45t (Risks and Precautions; the Hand Formula)

Wed., 9/11

*Torts: The Negligence Standard*

- F & G, pp. 146t–151m (Custom); 151m–56t (Medical Malpractice)

**ILS: The Writing Process & Document Design**

- N & S, chs. 11, 12, 13

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**Week 5**

Mon., 9/16

**ILS Section: Citing Cases (continued)**

- UMB, pp. 26–28, 50–63

*Torts: Negligence Per Se*

- F & G, pp.156b–63b, 168b–73b

Tues., 9/17

*Torts: Res Ipsa Loquitur*

- F & G, pp. 174–79b, 184b–86t, 188t–90b (*Res Ipsa Loquitur*)

Wed., 9/18

*Torts: Duties*

- F & G, pp. 195–202b (Affirmative Acts); 205b–209b (Undertakings)

**ILS: Working with Cases**

- N & S, ch. 10

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**Week 6**

Mon., 9/23

**ILS Section: Citing and Quoting Authority; Capitalization; Numbers**

- N & S, ch. 23
- UMB, pp. 131–48

*Torts: Duties (continued)*

- F & G, pp. 211m–16b (Special Relationships); 216b–21t (Third Parties)
Tues., 9/24

**Torts: Duties**
- F & G, pp. 225t–28t (Public Duty Doctrine); 228t–29b, 230m–33t (Owners and Occupiers of Land—Trespassers)

Wed., 9/25

**Torts: Duties**
- F & G, pp. 233t–37t, 238t–40b (Owners and Occupiers of Land—Licensees and Invitees)

ILS: *Writing Effective Prose / Editing Your Own Writing / Policy Arguments*
- N & S, chs. 7, 21, 22

*** Closed Memo Due: Sunday, Sept. 29 at 10:00 p.m. on TWEN***

**WEEK 7**

Mon., 9/30

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

**Torts: Cause in Fact**
- F & G, pp. 271–76t (But-for Causation)

Tues., 10/1

**Torts: Cause in Fact**
- F & G, pp., 290m–94t (Alternative Liability); pp. 300m–304 (Apportionment)

Wed., 10/2

**Torts Catch-up (no new reading)**

**ILS: Introduction to Legal Research**
- Sloan, chs. 3, 8 & 9
- Carefully read the Open Memo Assignment [posted on TWEN]
- **ILS Exercise #6:** Open Memo Case Briefs—Submit on TWEN by Sun., 10/13 at 10:00 p.m.

**WEEK 8**

Mon., 10/7

**ILS Sections: Introduction to Legal Research**
- No new reading

**TORTS MIDTERM EXAM—2:45–4:15**
Tues., 10/8

*Torts: Proximate Causation*

- F & G, pp. 305–18m (Remoteness and Foreseeability)

Wed., 10/9

*Torts: Proximate Causation (continued)*

- F & G, pp. 305–18m (Remoteness and Foreseeability)

**ILS: Researching the Open Memo: Research Planning; Search Terms and Techniques; Selecting Authority**

- Sloan, chs. 4-7
- N & S, ch. 8
- **ILS Exercise #7**: Email to Client on Open Memo Topic—Submit on TWEN Sun., Oct. 20 at 10:00 p.m.
- **ILS Exercise #8**: Outline of Open Memo—Submit on TWEN by Fri., Oct. 25 at 10:00 p.m.

Prior to class on Monday, 10/14, listen to recorded lecture and view slides [TWEN] on:

*Torts: Proximate Causation*

- F & G, pp. 328–36t, 340m–41b (*Palsgraf* and Limitation of Duty)
- **Warr v. JMGM Group** (Md. 2013) (posted on TWEN)

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**WEEK 9**

Mon., 10/14

**ILS Sections: String Cites, Signals, Explanatory Parentheticals**

- UMB, 119–30

*Torts: Proximate Causation*

- F & G, pp. 318m–22b (Intervening Causes)
- **Kiriakos v. Phillips** (Md. 2015) (posted on TWEN)

Tues., 10/15

*Torts: Strict Liability*

- F & G, pp. 343–50t (Animals)
- **Tracey v. Solesky** (Md. 2012) (posted on TWEN)

*Mandatory Research Training with Lexis and Westlaw Reps.—Tues., Oct. 15, 1:30 to 2:45.*
Wed., 10/16

*Torts: Strict Liability for Abnormally Dangerous Activities*

- F & G, pp. 353m–56m, 361m–63b, 368m–70t
- *Toms v. Calvary Assembly of God* (Md. 2016) (posted on TWEN)

*ILS: Organizing a Multi-Issue Legal Memorandum*

- N & S, ch. 19

**WEEK 10**

Mon., 10/21

*ILS Section: Citing Secondary Sources*

- *Bluebook*, Rule B-15 (pp. 22–23)
- UMB, pp. 97–112

*Torts: Strict Liability*

- F & G, pp. 372m–76t, 377t–80b (Respondeat Superior)

Tues., 10/22

*Torts: Products Liability*

- F & G, pp. 391–94b, 397m–405t, 410m–12m (Manufacturing Defects)

Wed., 10/23

*Torts: Products Liability*

- F & G, pp. 412m–21b (Design Defects)

*ILS: Adding Depth to CREAC*

- N & S, ch. 20

**WEEK 11**

Mon., 10/28

*ILS Section: Citing Electronic Sources*

- UMB, pp. 149–59

*Torts: Products Liability*

- F & G, pp. 424b–31m, 435t–42b (Defective Instructions and Warnings)

Tues., 10/29

*Torts: Damages*

- F & G, pp. 443–46m, 451m–56t (Lost Earnings)
Wed., 10/30

**Torts: Damages**
- 462t–65t, 469m–71t, 473t–75t (Pain and Suffering)

**ILS: Quoting and Citing Authority**
- Review N & S, ch. 23
- **ILS Exercise #9.** Critique of Partner’s Draft Open Memo—Email your critique to your partner and submit on TWEN by Sun., Nov. 10, at 10:00 p.m.

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**WEEK 12**

Mon., 11/4

**ILS Section: Citators; Open Memo Workshop**
- Sloan, ch. 10

**Torts: Damages**
- F & G, pp. 475–485m, 487t–89t (Punitive Damages)

Tues., 11/5

**Torts: Defenses**
- F & G, pp. 493–504t, 506m–507m (Contribution and Comparative Negligence)
- **Coleman v. Soccer Assoc. of Columbia** (Md. 2013) (posted on TWEN)

Wed., 11/6

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

**Draft of Open Memo Due Thursday, Nov. 7 at 10:00 p.m. on TWEN **

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**WEEK 13**

We will not meet for regular class this week. (Note, however, that your ILS 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 Friday, Sunday, November 10, at 10:00 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 Monday, Nov. 11, Tuesday, Nov. 12, and Wednesday, Nov. 13. A sign-up sheet will be posted on TWEN.
Mon., 11/11

**ILS Section: Researching and Citing Statutes**
- Sloan, ch. 11
- UMB, pp. 65–82

**WEEK 14**

Mon., 11/18

*Torts: Defenses*
- F & G, pp. 508–513m, 514b–15m (Express Assumption of Risk)

Tues., 11/19

*Defenses*
- F & G, pp. 515m–19m, 520b–23m (Primary Assumption of Risk)

Wed., 11/20

*Torts Catch-Up / Exam Review*
- No new reading

**WEEK 15**

Mon., 11/25

*Torts Exam Review / All-Purpose Q & A / Closing Thoughts*
- No new reading

*** Final Draft of Open Memo due Tuesday, Nov. 26 at 10:00 p.m. on TWEN ***