

TORTS SYLLABUS

Professor Lande
W and F at 10:00-11:50, Room 1106

Course: LAW 608/339C
Fall 2021

Required Text: Little, Lidsky & Lande, "Torts: Theory And Practice" (Fourth Edition 2014) (LexisNexis). (ISBN: 978-1-6304-3011-5 (casebook) 978-1-6304-3010-8 (loose-leaf); 978-0-271-7767-9 (eBook) (I have 7 extra copies of the textbook that I would be happy to lend for the semester. Contact me at rlande@ubalt.edu, or my administrative assistant, Deborah Thompson, in room 1112, for a copy.)

Course Description: The Law School's catalog describes Torts as: "The Law of imposed liability for personal, property and economic harm; negligence (including professional malpractice), strict liability (including products liability) and intentional torts; causation and elements of damages; affirmative defenses and limitation of duties including: assumption of the risk, contributory negligence, comparative negligence, immunity, limited liability of property owners."

Course Website: This course will have a TWEN page through Westlaw. You will receive your specific class assignments and other information via weekly TWEN E Mails, and you should check your TWEN E Mail for new material before each class. Your assignments also will be posted on the TWEN site's calendar section. The site also will include this syllabus and other material. Sign up for the course TWEN site as soon as possible – well before classes start.

Professor Lande will attempt to record every Torts class on Panopto. They will be in a Panopto folder listed under Law 608/339C.

For the First Class: Read textbook pages 1-13 as background, and carefully study Stanley v. Powell, pp 13-16, which we'll analyze together the first day of class using the Socratic method. I'll send Problem 1 via TWEN. Please bring Problem 1 with you to the first class (we'll do the problem during the second class). For the second class also study Heaven v. Pender, pages 38-41.

The assigned material should be studied in the order below unless the instructor specifies a change in material or a change in the sequence of the material.

Pages in Little, Lidsky & Lande

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|-----|---------------------------------------|--|
| I. | Introduction and Preliminary Concepts | 1-16, and download Problem 1 |
| II. | Negligence | |
| | A. Duty | |
| | 1. General principles | 38-41; 73-77, 46-53;
Problem A, pp. 37-38;
183-88; 65-68; 127-31 |
| | 2. Emotional harm | 135-38; 143-53 |

3.	Owners and occupiers of land	153-80
4.	Rescuers	216-26
5.	Wrongful death & survival	238-39; 247-49
6.	Harm to unborn children	227-37
7.	Wrongful birth and wrongful life	249-56
		Handout: Negotiation Problem
B.	Breach	
1.	General principles	Problem B, p. 78-80; 90-93; 269-74; 83-90
2.	Cost/Benefit analysis	93-102; Handout; 53-56; 283-87; problem A, p. 265
3.	Breach of statute; Custom	309-19; Problem B, pp. 308-09
4.	Res ipsa loquitur	292-98; 784-86; 339-45; 394-401
5.	Modified Standards	326-32, 335-38; 347-51; 355-58
C.	Causation	376-77; 410-14; 103-07; 370-75; 377-93
D.	Defenses	
1.	General principles; Contributory negligence; Assumption of risk;	443-59; 461-66
2.	Comparative negligence	466-78
3.	Immunities	481-87; 493-500, 506-07
E.	Remedies	509-12; 514-27; 536-37; 857-59; 867-72; 880-84; 894-95
III.	Intentional Torts	
A.	General Standards	Problems, p. 613-15; 615-19; 632-33; 641-42; 673; 620-26; 650-54; 657-59
B.	Defenses	674-92

IV. Common Law Strict Liability	706-13
V. Product Liability	757-60; 780-86; 793-97; 812-820; 799-807

Student Learning Outcomes

By the end of the Torts course successful students will be able to:

1. Analyze complex cases on three levels simultaneously:
 - A. By improving their ability to read carefully by focusing on key facts,
 - B. By developing their skill of identifying and understanding relevant legal principles, and
 - C. By enhancing their ability to understand Tort issues in light of larger principles.
2. Analyze complex factual situations and spot the relevant Tort claims and likely defenses.
3. Clearly state the Tort law and principles affecting these issues.
4. Provide all the legal elements of these claims and likely defenses.
5. Construct arguments that analyze the facts in light of these laws and principles.
6. Present relevant policy arguments for all sides of the controversy.
7. Evaluate the merits of competing arguments, including possible defenses.
8. Vigorously represent a client on any side of the controversy.

Course Expectations, including Attendance and Preparation

The ABA, the Law School, and I require regular and punctual attendance. It is an Honor Code violation for a student to misrepresent their attendance or that of another student. A student whose unexcused absences exceed 3 classes or whose total absences, excused and unexcused, exceed 5 classes may be compelled to withdraw from the course. Repeated tardiness, other absence from class for part of a period, and/or inattention may be included in the calculation.

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 to spend approximately 4 hours of preparation for each 90 minute class, and additional time is required for review and for preparation for examinations. In addition, it is recommended that each student spend about thirty minutes reviewing that day's material as close to class time as possible.

Each student is expected to study all of the assigned material and consistently to be prepared to discuss it during each class. This means that the student has learned the material and is ready to refine his or her understanding of its underlying policy concerns, analytical framework and nuances, and to help the class analyze and understand the material. For students not prepared, the class may not have much meaning.

On those rare occasions when a student is not prepared for class discussion, he or she should give a note so stating to the instructor before class. The instructor will not call on these students. If a student does this infrequently, no subtraction from that student's grade will be made. As noted above, however, if a student often is unprepared for class discussion his or her grade may be lowered one level.

This system of notes to excuse a student from daily participation does not apply to the assigned negotiation exercise. Students must perform the assigned negotiation exercise by the applicable deadlines or their overall Torts grade will be lowered by a full letter grade.

Grades

Course grades primarily will be based upon the final exam. There also will be a midterm exam. My plan is to give the midterm exam on Oct. 8 and to count it as 15% of the course grade. If this changes I will of course let you know.

In addition, students will be assigned problems, cases, a negotiation exercise, and other material to prepare, and will be called upon. Class participation that is exceptionally thoughtful and non-domineering can raise a student's grade as much as one level (i.e., from a B to a B+). Quality, not quantity, counts. Voluntary class participation that does not contribute to the discussion will not, however, cause a grade to be lowered. If a student often is unprepared for class discussions, or repeatedly is tardy or talks to neighbors during class, the instructor may lower his or her grade by one level. A student who is prepared but does not do well on the assigned problems, cases or negotiation exercise will not be penalized.

Office Hours and Contact Information

Professor Lande will be available after class (but not before class) and by phone, Zoom and E Mail. Subject to meetings of the faculty and its committees, Professor Lande's office hours in room 1106 of the Angelos Law Center (telephone: 410-837-4538; e-mail "rlande@ubalt.edu") will be on Wednesdays and Fridays from 3:00 to 4:30 p.m. There will be a sign up sheet on the door of room 1106. Other times are available by appointment. Or just stop by room 1106: if I am there you are most welcome to meet with me.

Administrative Matters

- Seating:* Students should decide where they want to sit for the second class. Students should sit at the seat they picked their second class for the remainder of the course.
- Laptop use:* Students are encouraged to take notes by hand, not by PC or laptop. Students may not use their laptop for anything not related to the Torts course. Prohibited activity includes reading or sending E Mails, testing, tweeting, playing games, surfing the Web, blogging, and IMing. Doing any of this can distract students near you or in back of you and is forbidden.
- Cell phone:* Turn off your cell phones and other personal electronic devices before class starts. You will be embarrassed if your cell phone goes off in class. Students may not send or receive text messages, E mails, or tweets, or use an iPod or similar device during class.
- Class rules:* Students may not speak in class unless recognized. Moreover, students may not be recognized or may be interrupted by the instructor if time is short. The instructor apologizes in advance for these situations and urges these students to see him immediately after class or during office hours.

Students may not talk with each other or read outside hard copy or electronic material during class. This is distracting and discourteous. The no talking policy will be strictly enforced.

Class will start and finish promptly.

Forms of address:

Students presumptively will be addressed as Mr. or Ms. Please inform me in advance if there is a specific way you prefer to be addressed.

Recording Class As noted, I will attempt to record every class and post them on Panopto. There could be times when you have to miss class for religious or other nondiscretionary reasons. Subject to the caveat that I cannot change or waive the law school's attendance policies in any way, if you do miss class, after you view that class's recording, E Mail this information to me and I will give you full credit for being present in class that day. And you will get more out of the class than you would from just reading a classmate's notes. If you know you have to miss class, as a backup (because sometimes things go wrong when I attempt to record class on Panopto) you might ask a friend to record the class.

Class Cancellation

If the instructor must cancel a class, a notice will be sent to students via TWEN 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 presume that classes are running on the normal schedule.

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/.

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 Keri Hickey, Director of Law Student Support, at 410-837-4414 or khickey@ubalt.edu

Faculty are required to record classes for the purposes of accommodating a disability, for students who cannot attend or so students who wish to review may have access to the full class content. All recordings are for the sole use of the class and may not be reproduced by students for any other purpose. Faculty cannot reproduce students' voices or images from the class for any other purpose without additional student consent. All such recordings are protected by a UB login process based on where they are posted.

Course Evaluations: It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

Additional Reference Material

Dobbs, The Law of Torts
Restatement (Second and Third) of Torts
Gilbert & Gilbert, "Maryland Tort Law Handbook"