

Introduction to Lawyering Skills/Torts
Law 610-329B
Professor Nancy Modesitt
nmodesitt@ubalt.edu
410-837-1902
Room 507
Administrative Assistant: Deborah Pinkham

Texts you must purchase

1. Dan B. Dobbs, Paul T. Hayden, and Ellen M. Bublick, Torts and Compensation: Personal Accountability and Social Responsibility for Injury, Concise Edition (Eighth Edition, Thompson/West) ISBN: 9781640200173
2. Christine Coughlin, Joan Malmud Rocklin, and Sandy Patrick, A Lawyer Writes: A Practical Guide to Legal Analysis (Third Edition, Carolina Academic Press) ISBN: 9781531008765
3. Bluebook: A Uniform System of Citation (21st Edition, Harvard Law Review) ISBN: 9780578666150

Texts you will receive (do NOT purchase)

1. Core Grammar for Lawyers
2. Researching the Law
3. The Bluebook Uncovered: A Practical Guide to Mastering Legal Citation

Please make sure that you purchase the correct edition of each text. If you do not have the correct version, you will struggle to match the readings to the syllabus, some cases will not be the ones we are using, and it will add unnecessary stress to your first year.

Office Hours for Professor Modesitt

Wednesdays, noon - 1 or by appointment.

Class meeting times & location

TA session (mandatory) Wednesdays: 9 – 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: Samantha Laulis & Chelsea Zortman

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 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, 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 on the following:

1. Midterm - 30%
2. Final exam - 65%
3. Other assignments - 5%

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 assignments, including writing, research, and citation assignments – 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 Sakai.** 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/.

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>.

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.

Disability Policy

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University's facilities, please contact Ms. Keri Hickey, Director of Student Support in the Law School's Office of Academic Affairs, at khickey@ubalt.edu or the University's Office of Disability and Access Services at das@ubalt.edu.

Reading, other assignments, and Sakai

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 Sakai. Changes to the syllabus will also be announced in class and/or posted on Sakai. You must use Sakai for this class.

You must bring to class all texts from which you were assigned reading for that day.

Zoom and Panopto

Under ABA Guidelines, up to 1/3 of your course may be conducted via distance learning (e.g., through recorded lectures located on Panopto, over Zoom, etc.). There may be classes conducted over Zoom and some classes may be recorded using Panopto. If a class is to be conducted via Zoom, you will be notified in advance. All class 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. Students may mute their microphone or turn off their camera if they do not consent to be recorded, but this may mean they need to find additional ways to participate in the class discussion. Students may be required to turn on their cameras and participate in graded class activities. In addition, students who turn off their camera and do not remain present for the class session may be subject to the Honor Code for misrepresenting attendance.

Week 1, August 23

Topics: Introduction to Torts and Lawyering Skills, Introduction to Intentional Torts, Battery, Introduction to the Legal System, Introduction to Legal Research, Email Correspondence, Understanding the Components of a Case, Case Briefing, Identifying and Articulating Legal Rules.

Monday: Dobbs, Chs. 1 & 2; Coughlin, Ch. 1, Ch. 3 pp. 45-59 only. Bring to class a hard copy of your brief of *Van Camp v. McAfoos*. Complete the diagnostic test in Core Grammar. Based on your performance on the diagnostic, you will be required to complete additional work in Core Grammar. These assignments will be identified after the diagnostic.

Wednesday:

No later than 9 am today, email Professor Modesitt 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.

TA session: Sloan, Chs. 1-4, as well as *Manikhi v. Mass Transit Administration* (this is an edited case located in our online course page). You must bring a hard copy of your case brief of *Manikhi* with you to class; if you do not have it, you will not be admitted. If you have a laptop or tablet, please bring it to class.

Afternoon session: Dobbs, Ch. 3, pp. 27-44; Coughlin, Ch. 18, pp. 307-319 (stop before Part IV).

Your email analysis (assigned in class) must be sent to Professor Modesitt by 10:15 a.m. on Friday, August 27.

Week 2, August 30

Topics: Assault, False Imprisonment, Torts to Property, The Structure of Office Memoranda, Introduction to Client Interviewing, Drafting an Effective Fact Section and Question Presented, Organizing Legal Authority

Monday: Coughlin, Chs. 4, 6, 13 (pp. 229-240 only) & Ch. 14.

Wednesday:

TA session: Coughlin, Ch. 5. Read and brief the three additional cases posted on the course website. Bring the briefs in hard copy to class; if you do not have all three cases briefed, you cannot attend class.

Afternoon session: Dobbs, Ch. 3, pp. 44-60. 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 Question Presented and Facts sections of the Closed Research Office Memorandum must be emailed to Professor Modesitt by 10:15 am on Friday, September 3. Before drafting, please read the Question Presented and Facts portions of the Memoranda located in Appendices B & C of your writing text to see an example of good work and an example of less effective work.

Week 3, September 6

Topics: Working with Legal Rules; The Structure of Legal Analysis; Drafting the Discussion Section of an Office Memorandum; Legal Citations

Monday: **No classes due to Labor Day holiday.**

Wednesday:

TA session: Make sure that you have all four cases for the Closed Research Office Memorandum available for this class. Read Anthon, Chs. 2, 3, & 9 and do the exercises at the end of each chapter. The exercises are set up on Sakai as quizzes in the Research Module Three- please complete them on Sakai. The exercises must be completed by 9:00 am today.

Afternoon session: Coughlin, Chs. 7, 8, and Ch. 12, pp. 211-220 only. **The material in Chapters 7 & 8 of Coughlin are some of the most important readings all semester.** I recommend that after you read them, you look at the sample good Memorandum in Appendix B to see how the skills explained in the chapters work in a concrete context. You can contrast that Memorandum with the one in Appendix C to see what works and what doesn't. **Case chart due in hard copy.**

Week 4, September 13

Topics: Defenses to Intentional Torts, The Duty Element of a Negligence Claim, Drafting the Brief Answer of an Office Memorandum, Using Signals and Cases in Legal Documents, Drafting the Conclusion Section of an Office Memorandum

Monday: **Draft section of legal analysis must be emailed to Professor Modesitt by 9 am.** Dobbs, Ch. 4, pp. 61-75 (stop at §2); Coughlin, Ch. 13, review pp. 229-230 and read pp. 241-244.

Wednesday:

TA session: Class today is optionally asynchronous. Your task is to complete the research portion of Research Module 2: Read Sloan, Ch. 6-8, watch the video presentation "Secondary Sources," read TMLL Guide to Legal Research pp. 1-8, read the UB Law Library Research Guide: Secondary Sources, and complete the Research Module 2 assignment. You do NOT need to do the citation readings or exercises at this time. I recommend that you do the work except the research module assignment before class. During class time, you can elect to do the research module assignment in the classroom, where TAs can assist you and/or answer questions live. Alternatively, you can do the entire set of work on your own and not attend class in person. Either way, the assignment must be completed by noon on September 17.

Afternoon session: Dobbs, remainder of Ch. 4; Coughlin, Ch. 15. **Brief Answer due in hard copy.**

Week 5, September 20

Topics: Revising Written Documents, The Breach Element of a Negligence Claim

Monday: Dobbs, Ch. 5 pp. 91-108 (stop before section 3); Coughlin, Chs. 9-10. **Conclusion section due in hard copy.**

Wednesday:

TA session: Read Anthon, Ch. 4, and do the exercises in it (located on Sakai in Research Module 4) The exercises must be completed by 9:00 am today. In lieu of class time this week, you will meet individually with your TA to discuss your draft of the Discussion

section of the Closed Research Office Memorandum. Your TA will contact you to let you know when and where these meetings will take place.

Afternoon session: Dobbs, Ch. 5, pp. 108-120; Coughlin, Ch. 16.

Week 6, September 27

Revising Written Work, Revisiting the CREAC Paradigm, Researching Cases and Statutes

This week you will meet individually with me to continue your work on your Closed Research Office Memorandum. You must have a complete draft prepared for this meeting as well as a list of questions for us to discuss. Meetings will occur on Monday and Wednesday and will be conducted by Zoom. You must email me your draft no later than midnight the night before your meeting.

During this week, you must also work on completing your outline for Torts. The midterm is in Week 7.

The TA session will be optional this week. If you are struggling with the memo and/or the research work, the TAs will be available during the regular TA session time to assist you. They will let you know where they will be (one will be in the classroom and the other will be in a different location).

Closed Research Office Memorandum must be submitted by Sunday, October 3, at 5:00 p.m.

Week 7, October 4

Topics: Breach of Duty, Client Interviewing Revisited, Developing Research Skills

Monday: Dobbs, Ch. 6, pp. 121-145.

Wednesday:

TA session: Complete the work on citation that is listed in Research Module 2. The exercises must be completed by 9 p.m. on Tuesday, October 5. Bring to class one good secondary source that helped you understand the law that will be involved in the Open Research Office Memorandum along with a short explanation (two to three sentences) explaining why you selected that source. If you do not have the explanation in hard copy, you will not be admitted to class. Bring your laptop to class and make sure that you have access to Westlaw and Lexis.

Afternoon session: Dobbs, Ch. 6, pp. 149-176. Client interview. Review Coughlin, Ch. 4.

On Friday, October 8, from 3:00-4:15 you will have a midterm in Torts. It will cover all material up to but not including Chapter 6 of Dobbs. The midterm will be closed book.

Week 8, October 11

Topics: Factual Cause, Legally Cognizable Harm, Proximate Cause, Researching Cases, Selecting Appropriate Authority

Monday: Dobbs, Ch. 7.

Wednesday:

TA session: Before class, complete the research portion of Research Module 3 (read Sloan, Chs. 9 & 10, watch the videos on researching cases and citators, and complete the research assignment at the end of Research Module 3). This work should take approximately 2 hours to complete. If you have not completed the assignment, you may not attend class. Bring your laptop to class and be ready to do research for the Open Research Office Memorandum.

Afternoon session: Dobbs, Ch. 8.

Week 9, October 18

Topics: Organizing the Discussion Portion of an Office Memorandum, Contributory and Comparative Fault, Assumed Risk, Conducting Effective Research

Monday: **By 9 am today, email Professor Modesitt a list of the five best sources that you anticipate using in your Open Research Office Memorandum. For each source, write out one to two sentences explaining why you picked it/how you intend to use it.** As you do this, you should consider what you learned in Coughlin, Ch. 4. **Before you create this list, review Coughlin, Ch. 5 and organize your primary source materials according to one of the methods listed in Section I of the chapter (Step 1: Organize your research).**

Also, read Coughlin, Ch. 12, pp. 220-27 (it may help to review the first part of Ch. 12 as well). Bring your laptop with you to class and make sure you have (1) 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); and (2) access to whatever document you created to organize your research. I strongly encourage you to print the most critical cases and have the relevant portions highlighted.

Wednesday:

TA session: Today is an asynchronous class with an optional in-person session to obtain assistance from the TAs. You must complete all of Research Module 4, including all the citation exercises and the research assignment, by October 21 at 9 pm. You may elect to do

all the work on your own, or you may do the readings and videos on your own, and do some or all of the exercises and research assignment during the TA session. Your TAs will be there to help answer any questions you may have and provide assistance.

Afternoon session: **Section headings and annotated outline for Open Research Office Memorandum due in hard copy;** Dobbs, Ch. 9.

Week 10, October 25

Topics: Statutes of Limitations, Assumed Risk, Revisiting the Duty Element, Landowner Liability

Monday: Dobbs, Ch. 10; Dobbs, Ch. 11, pp. 293-304.

Wednesday:

TA session: Today is an asynchronous class with an optional in-person session to obtain assistance from the TAs. You must complete all of Research Module 5, including all the citation exercises and the research assignment, by October 27 at 9 pm. You may elect to do all the work on your own, or you may do the readings and videos on your own, and do some or all of the exercises and research assignment during the TA session. Your TAs will be there to help answer any questions you may have and provide assistance.

Afternoon session: **Umbrella passage for Open Research Office Memorandum due in hard copy.** Before drafting this, you may want to review Coughlin, Ch. 12. Dobbs, Ch. 12.

Week 11, November 1

Topics: Medical Malpractice and Informed Consent, Nonfeasance, Duty to Protect

Monday: Dobbs, Ch. 13; Ch. 15, pp. 375-390 (stop at §3).

Wednesday:

TA session: In lieu of the TA session this week, you will meet individually with your TA. You must complete a draft of one section of your Discussion section for your Open Research Office Memorandum before this meeting. Your draft must contain one complete CRAC/CREAC, using at least three cases. This draft must be emailed to your TA at least 24 hours before your meeting. The TAs will provide you with information about when these meetings will be.

Afternoon session: Dobbs, Chs. 16, 18.

Week 12, November 8

Topics: Revisiting the CREAC Paradigm, Emotional Distress Claims, Vicarious Liability

Monday: Draft of a second section of the Discussion section for the 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.**

Wednesday:

TA session: No mandatory TA session this week. The 225 minutes you would normally spend preparing and attending this class must be used in working on the Open Research Office Memorandum. If you have questions or need assistance, the TAs will be available to answer questions and assist you during the class time (they will let you know where they will be).

Afternoon session: Dobbs, Ch. 19; Ch. 22, pp. 531-546 only.

Week 13, November 15

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

Monday:

No regular class. Instead, you will also have a required meeting with Professor Modesitt to discuss your Open Research Office Memorandum at some point during the week. These meetings will take place via Zoom. **Your complete draft of the entire Open Research Office Memorandum must be emailed to Professor Modesitt at least 24 hours in advance** of the meeting, along with a list of questions you'd like to discuss.

Wednesday:

TA session: Bring your draft Open Research Office Memorandum with you to class, along with your Bluebook and any questions you have about the Memorandum. You must have a hard copy of your entire Open Research Office Memorandum with you to attend class.

Afternoon session:

No session today; meetings with Prof. Modesitt instead.

Open Research Office Memorandum must be submitted by Sunday, November 21, at 5:00 p.m.

Week 14, November 22

Topic: Strict Liability, Products Liability

Monday: Dobbs, Ch. 23; Dobbs, 24, pp. 575-588.

Wednesday:

TA session: Preparing for exams.

Afternoon session: No class.

Week 15, November 29

Monday: Remainder of Ch. 24.