

The University of Baltimore Law School
TORTS
LAW 610-319B

Instructor:

Professor Jennifer K. Mitchell

Office: 1108

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Office Hours: By Appointment (in person or virtual)

Torts Law Scholar: Christina Charikofsky (christina.charikofsky@ubalt.edu)

Administrative Assistant: Tiffany Ralph (tralph@ubalt.edu) 410-837-4561. You should contact Ms. Ralph if you have problems using Qwickly for attendance or if you have an emergency and need to contact Prof. Mitchell.

Class Meeting Times & Locations

Wednesday and Friday, 9:00—11:45am in ____

Course Policies

I. *Course Overview*

“Torts” refers to the body of law governing responsibility and compensation for various harms. 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; the calculation of “damages” (i.e., compensation); and affirmative defenses such as assumption of risk, contributory negligence, comparative negligence, and qualified governmental immunity.

Student Learning Outcomes: At the conclusion of this course, students will be equipped to 1) identify and define a broad range of torts claims; and 2) demonstrate substantive knowledge of tort law.

Course Expectations: 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 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. [See ABA Standard 310.](#)

II. Required Textbooks and Course Materials

- Dan B. Dobbs, Paul T. Hayden, and Ellen M. Bublick, Torts and Compensation: Personal Accountability and Social Responsibility for Injury, Concise Edition (Ninth Edition, Thompson/West) ISBN: 9781684675913

Note: additional supplemental readings may be assigned throughout the semester.

III. School of Law and Class Policies

Academic Integrity: Students are obligated to refrain from conduct that they know or 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/. All work product must conform to the School of Law Honor Code.

Artificial Intelligence (AI) Use Policy: AI-generated submissions are not permitted and will be treated as plagiarism. Students are not allowed to use advanced automated tools (artificial intelligence or machine learning tools such as ChatGPT or Dall-E 2) on assignments in this course. Faculty reserve the right to use Artificial Intelligence (AI) detection software to find instances of AI-generated writing in student submissions. Students who use AI software to compose assignments will face disciplinary action up to and including revocation of credit for the assignment, and other sanctions as described for plagiarism in the university's academic honesty policy.

Attendance: Class attendance is mandatory. Class attendance is a critical component of the learning process and reflects professional responsibility. Research demonstrates that students who regularly attend class are more likely to succeed. Additionally, the American Bar Association accreditation standards mandate that a law school adopt, publish, and adhere to a policy for regular class attendance for all students. In alignment with this policy, regular and punctual class attendance is a condition of receiving credit in all courses at the University of Baltimore's School of Law.

Modality

For a student to be considered present, their attendance must be consistent with the modality of the specific class meeting. For example, if a class meeting is in-person, a student must attend in-person to be considered present. If a class meeting is virtual, a student must attend virtually to be considered present.

Student Attendance Requirements

As detailed in the chart below, the number of absences a student may accrue is determined by the total number of times a course is scheduled to meet throughout the semester.

Number of scheduled meetings	Number of absences
Fall and spring semesters, 2 or more meetings per week	4
Fall and spring semesters, 1 meeting per week	2
Summer semester	2

A student whose accrued absences exceed the limits above will be withdrawn from the course with a grade of FA (failure due to excessive absence) unless the Associate Dean for Academic Affairs extends the limit, up to the following maximums: (1) in the fall and spring semesters, up to 4 additional absences for a course scheduled to meet 2 or more times per week; (2) in the fall and spring semesters, up to 2 additional absences for a course scheduled to meet once per week; (3) in the summer semester, up to 1 additional absence. A student whose accrued absences exceed the extended limit will be withdrawn from the course with a grade of FA.

A student who anticipates accruing excessive absences may be eligible for a Leave of Absence and should contact the Dean of Students to discuss available options.

Basis for Extensions

The Associate Dean for Academic Affairs can extend the number of absences a student may accrue based on a student's religious observance or extraordinary individual circumstances. Extraordinary individual circumstances include, but are not limited to, the following: bereavement (as defined in the [University of Baltimore Student Bereavement Policy](#)), significant physical or mental health incidents, and attendance at activities required for academic credit, such as clinic court appearances and moot court competitions.

Minor illnesses, doctor's appointments, traffic, practice rounds for student competitions, personal events, and professional events (including those sponsored by the law school) are examples of circumstances that do not qualify as extraordinary individual circumstances.

A student must provide documentation for extraordinary individual circumstances upon request and must provide advance notice to the Faculty Member whenever possible.

Attendance Tracking Procedures

To keep attendance, this class will use attendance software called **Qwickly**. Qwickly is hosted in Canvas, UB's official learning management system and requires students to check-in using a pin number generated at the start of class. To check-in for class using a pin number, you must log into the Canvas site for the course via myUB or at <https://ubalt.instructure.com/courses/3099>. Click "Qwickly Attendance (Law)" on the left side of the navigation bar and enter the pin. Qwickly will automatically email you if you are marked absent for the day. If you believe this email was sent in error, please contact the professor and their administrative assistant immediately.

Course Website: The course webpage on Canvas and will serve as the online portal for relevant course material, including updated versions of the Syllabus, course assignments, and links to supplemental videos. This is also where you will submit most of your completed course assignments. I will use the Canvas email function to communicate important course information. You are responsible for self-enrolling and checking the website regularly for course information

at <https://ubalt.instructure.com/courses/3099>. Note that there is one Canvas page for Torts and one Canvas page for ILS.

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 class early; and **avoiding computer use that is unrelated to the course. There is no cell phone use (including texting) during class; cell phones should not be on your desk or accessible to you during 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. **Your law scholar and teaching assistants are available to further assist you with this course and should be treated with the same respect as you treat the professor.**

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.). Although I do not anticipate pre-recording lectures, if this occurs, I will provide you with recording information and make appropriate changes in the syllabus.

Class Recording Policy: My classes will not be recorded. However, I follow existing law school policies regarding reasonable accommodations due to qualifying disabilities (which may include allowing a student to record the class for instructional purposes only). Any class recordings, audio or video, are for the sole use of that specific class instruction and study and may not be used or reproduced by students for any other purpose. Similarly, students may not capture video, audio, images or chat text from a class without permission from the instructor for use specific to that class instruction and study, and such images may not be used or reproduced by students for any other purpose. Violating these directions is an honor code violation. In addition, 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.

Class Cancellation: If the instructor must cancel a class, notices will be sent to students via UB email. (To comply with ABA 310, classes that are canceled must be made up.)

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: The law school works hard to ensure compliance with the Americans with Disabilities Act (ADA). For detailed information on reasonable accommodations, please [see the student handbook](#). 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 Erin Brady, the Law School's Director of Student Support, at ebrady@ubalt.edu or the University's Office of Disability and Access Services at das@ubalt.edu. *Note that classroom accommodation requests should be submitted 2 weeks before the start of the semester (by August 7, 2023). Exam accommodation requests should be submitted no later than 2 weeks after the start of the semester (by September 5, 2023).*

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>.

General student issues/Mental Health:

For general student issues, students should contact Dean Paul Manrique (pmanrique@ubalt.edu; 410-837-5283). For mental health concerns, students can contact Dean Manrique or Stephen Mogar, the University's Clinical Case Manager (smogar@ubalt.edu ; 410-837-6388). Dean Manrique's office is located in the AL 7th floor Dean's Suite and he welcomes students to walk in. Both Dean Manrique and Mr. Mogar are also able to schedule phone and zoom appointments.

Academic Support:

For questions about academic challenges including preparing for and participating in your classes, reviewing and outlining for exams, and studying for and taking exams, students can contact Prof. Marta Baffy (mbaffy@ubalt.edu; 410-837-6370.). Prof. Baffy's office is located on the 5th floor in Room AL 513.

IV. Grades: You will receive two grades for ILS/Torts—a four-unit grade for Torts and a three-unit grade for Introduction to Lawyering Skills. The distribution of grades will conform to 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 four assessment items:

(1) A three-hour, limited-source, in-class **Final Examination** will account for **either 90% or 70%** of your final course grade. (See #2, below.) The Final Exam is cumulative and can test any of the assigned readings, supplemental recorded lectures, and anything that we have discussed in class.

(2) A 75-minute, limited-source, in-class **Midterm Examination** administered on Thursday October 5 (Week 7), will account for **either 20% or 0%** of your final course grade. The Midterm Exam is **redeemable**. This means that if your Midterm score is lower than your Final Examination score, 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 .2 and the Final .8). 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. (This example assumes away #3, below, in the interest of a simpler illustration.)

(3) Before each class meeting, students will submit their answers to one or more **Reading Questions**. The Reading Questions are intended to help focus your attention on some of the most important issues or concepts in that day's reading assignment. Your answers to the Reading Questions are due 30 minutes before the beginning of class. Reading Questions will be scored on a Credit/No Credit (C/NC) basis. Timely submission and good-faith effort will generally be sufficient to earn Credit. We will address each reading question during our class discussion, but I will not return individual answers. A student who fails to submit an answer before the corresponding class meeting will receive a NC. Late submissions will not be accepted. Reading Questions will count for **10%** of the final course grade. I will drop up to three NC scores in my calculation of your total score.

(4) **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+).

Format. Please follow all submissions instructions provided in class. In addition, unless otherwise specified, use the following format for your submissions:

- File Type: Microsoft Word Document (not .pdf)
- Margins: 1-inch margins on all sides
- Font: Times New Roman 12
- Justification: Left Margin

Syllabus

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

Reading Assignments: I will generally assign ten to twenty pages of Torts 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 addresses. 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?

Reading Questions: Students will submit their answers no later than **30 min before class**.

Reading Questions for each class are located on the class Canvas page.

Week	Topics and Skills	Notes
1 Week of August 21	Introductions to Intentional Torts <ul style="list-style-type: none"> • What is a Tort? • Intent • Battery 	Assignment Due for Class 1 --Read Fall 2023 Syllabus and Course Policies --Read Dobbs Chap 1 and 2 --Complete Reading Questions Assignment Due for Class 2 --Read Dobbs Chap 3 pgs 31-49 --Complete Reading Questions
2	Intentional Torts Cont’d and Defenses	Assignment Due for Class 1

<p>Week of August 28</p>	<ul style="list-style-type: none"> • Assault • False Imprisonment • Trespass • Conversion • Defenses and Privileges 	<p>--Dobbs Chap 3, pp. 50-64 --Complete Reading Questions</p> <p>Assignment Due for Class 2 --Dobbs Chap 4 pgs 65-81 (stop at Sec 2) --Complete Reading Questions</p>
<p>3 Week of September 4</p>	<p>Consent and Intentional Torts, Introduction to Negligence</p> <ul style="list-style-type: none"> • Consent • Negligence—Duty Element • Reasonable Person 	<p>Assignment Due for Class 1: This Class will Meet on Thurs Sept 5 from 8:30-10:15 --Dobbs Chap 4 pgs 81-94 --Complete Reading Questions</p> <p>Assignment Due for Class 2: --Dobbs Chap 5 pgs 97-115 (stop at Sec 3) --Complete Reading Questions</p>
<p>4 Week of September 11</p>	<p>Negligence Duty Cont'd and Breach Elements</p> <ul style="list-style-type: none"> • Duty: Negligence Per Se • Breach of Duty: Risks and Precautions 	<p>Assignment Due for Class 1: --Read Dobbs Chap 5 pgs 115-131 --Complete Reading Questions</p> <p>Assignment Due for Class 2 --Read Dobbs Chap 6 pgs 133-158 (stop at Sec 4) --Complete Reading Questions</p>
<p>5 Week of Sept 18</p>	<p>Negligence Breach Cont'd</p> <ul style="list-style-type: none"> • Multiple parties • Opportunity to Cure • Role of Industry Custom • Res Ipsa Loquitor 	<p>Assignment for Class 1 --Read Dobbs Chap 6 pgs 159-171 (stop at Sec 7) --Complete Reading Questions</p> <p>Assignment Due for Class 2: --Read Dobbs Chap 6 pgs 172-188 --Complete Reading Questions</p>
<p>6 Week of Sept 25</p>	<p>Negligence Harm and Factual Cause Elements</p> <ul style="list-style-type: none"> • Actual Harm • Causation: But-For Test • Alternative Causation methods • Proving Harm 	<p>Assignment for Class 1 --Read Dobbs Chap 7 pgs 189-203 (Stop at Sec D) --Complete Reading Questions</p> <p>Assignment for Class 2: --Read Dobbs Chap 7 pgs 204-223 --Complete Reading Questions</p>
<p>7 Week of October 2</p>	<p>Midterm and Negligence Proximate Cause Element</p>	<p>Assignment for Class 1 --Catch up and review for Midterm, no new reading</p> <p>MIDTERM EXAM: Thursday October 5</p> <p>Assignment for Class 2: --Read Dobbs Chap 8 pgs 225-241 (Stop at Sec 2) --Complete Reading Questions</p>
<p>8 Week of October 9</p>	<p>Negligence Proximate Cause Cont'd and Defenses</p> <ul style="list-style-type: none"> • Foreseeability • Intervening Causes • Contributory Negligence 	<p>Assignment for Class 1 --Read Dobbs Chap 8 pgs 241-263 --Complete Reading Questions</p> <p>Assignment Due for Class 2 --Read Dobbs Chap 9 pgs 267-283 (Stop at Sec 5) --Complete Reading Questions</p>

<p>9</p> <p>Week of October 16</p>	<p>Negligence Defenses Cont'd</p> <ul style="list-style-type: none"> • Policy Reasons to Allocate Full Responsibility to Defendant • Exceptions to Contributory Negligence • Assumption of the Risk 	<p>Assignment for Class 1 --Read Dobbs Chap 9 pgs 284-301 --Complete Reading Questions</p> <p>Assignment for Class 2 --Read Dobbs Chap 10 --Complete Reading Questions</p>
<p>10</p> <p>Week of October 23</p>	<p>Negligence Defenses Cont'd and Expanding Duty of Care</p> <ul style="list-style-type: none"> • Defenses not on the merits • Duty of Care for Carriers, Drivers, and Landowners 	<p>Assignment for Class 1 --Read Dobbs Chap 11 --Complete Reading Questions</p> <p>Assignment for Class 2 --Read Dobbs Chap 12 --Complete Reading Questions</p>
<p>11</p> <p>Week of October 30</p>	<p>Negligence Duty of Care Expanded Cont'd and Immunity</p> <ul style="list-style-type: none"> • Healthcare Providers • Informed Consent • Gov't Immunity--Federal 	<p>Assignment for Class 1 --Read Dobbs Chap 13 --Complete Reading Questions</p> <p>Assignment for Class 2 --Read Dobbs Chap 15 pgs 421-440 (Stop at Sec 3) --Complete Reading Questions</p>
<p>12</p> <p>Week of November 6</p>	<p>Negligence Duty of Care Expanded Cont'd</p> <ul style="list-style-type: none"> • Nonfeasance and Exceptions • Duty to Protect 	<p>Assignment for Class 1 --Read Dobbs Chap 16 --Complete Reading Questions</p> <p>Assignment for Class 2 --Read Dobbs Chap 18 --Complete Reading Questions</p>
<p>13</p> <p>Week of November 13</p>	<p>Negligence Emotional Distress Claims and Vicarious Liability</p> <ul style="list-style-type: none"> • Emotional harm • IIED • Negligent IIED • Respondeat Superior (Employer's Liability) 	<p>Assignment for Class 1: --Read Dobbs Chap 19 --Complete Reading Questions</p> <p>Assignment for Class 2: --Read Dobbs Chap 22 --Complete Reading Questions</p>
<p>14</p> <p>Week of November 20</p>	<p>Strict Liability, Product Liability, and THANKSGIVING BREAK</p>	<p>Assignment for Class 1: --Read Dobbs Chap 23 and Chap 24 pgs 651-666 (Stop at Sec 2) --Complete Reading Questions</p> <p>Class 2: CLASSES WILL NOT MEET</p>
<p>15</p> <p>Week of November 27</p>	<p>Damages</p> <ul style="list-style-type: none"> • Compensatory • Punitive 	<p>Assignment for Class 1: Make up Class for Thanksgiving on Tues Nov 28 --Read Dobbs Chap 26 --Complete Reading Questions</p>