1. **Course Description.** In this seminar, we’ll examine the nature and significance of the class action, a unique procedural device designed to enable courts to provide redress for widespread harms. People and lawyers bring class actions to vindicate rights under securities, antitrust, tort, civil rights, environmental, employment, and consumer protection laws, among others. Seminar discussions will necessarily address the procedural and jurisdictional requirements of the Federal Rule of Civil Procedure 23 and the Class Action Fairness Act of 2005. We will also be concerned, in class and in our research, with the many legal and policy issues raised by class action litigation.

2. **Outside speakers.** Experienced class action practitioners will speak in five class sessions.

3. **Purpose and Objectives of the Course.** By the end of the course, students will be able to describe and apply the most important procedural law (and practical considerations) that govern class actions and class action practice.

4. **Required Knowledge.** 1L Civil Procedure, even if you did not cover class actions.

5. **Assigned Texts.** The assignments are to ROBERT H. KLONOFF, CLASS ACTIONS AND OTHER MULTI-PARTY LITIGATION (4th ed. 2017). The casebook contains the relevant statutes and Federal Rules of Civil Procedure, but you’ll probably want to refer to a rules book, like the supplement from your civil procedure class. I’ve also included a .pdf version of the Rules on the TWEN site, and link in the web links section of the site to a very useful web version of the Rules maintained by Cornell law school.

6. **Outside Reading.** The best quick overview is ROBERT H. KLONOFF, CLASS ACTIONS AND OTHER MULTIPARTY LITIGATION IN A NUTSHELL (4D ED. 2012).

Important resources for practical issues are the MANUAL FOR COMPLEX LITIGATION (FOURTH) (2004) and *Managing Class Action Litigation: A Pocket Guide for Judges*, both published by the Federal Judicial Center. Pdf versions of both in the “Course Materials” section of the TWEN site.

**Other books:**
- MARTIN H. REDISH, WHOLESALE JUSTICE: CONSTITUTIONAL DEMOCRACY AND THE PROBLEM OF THE CLASS ACTION LAWSUIT (2007) [argument that the modern class action is unconstitutional]
- CLARA BINGHAM & LAURA LEEDY GANSLER, CLASS ACTION (2002)

**Articles:**
There are countless articles addressing every conceivable aspect of class actions. Many of the most important ones are listed in the “Table of Secondary Authorities” portion of the casebook.

**Blogs:**
There are also many blogs dealing with class actions. Unfortunately, most are promotional vehicles for class action law firms, but they still may be useful sources of current information. If you google “class action blog,” you’ll see dozens of them.

7. **Research Resources.** Most of your research can be done on Westlaw and Lexis, but you should also be aware of the special relevance of [www.bloomberglaw.com](http://www.bloomberglaw.com), which gives us free access to PACER and court dockets and all the filings in federal litigation. Those of you who want to examine a particular litigation in great detail will want to make use of this service.

8. **TWEN site.** There is a course TWEN site with important course materials.

9. **Instructional Methods.** The classes I conduct will be in a familiar Socratic format, with some lecture and review. The classes with outside speakers will highlight their experience in practice, but will give opportunities for class questions and discussion.

10. **Paper and Grade:** The law school grading policy and mandatory mean and distributions are available at [http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9](http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9) This class adheres to those standards and the following grades and grade point equivalents:

<table>
<thead>
<tr>
<th>Letter Grade</th>
<th>Point Equivalent</th>
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<tbody>
<tr>
<td>A (Excellent)</td>
<td>4.0</td>
</tr>
<tr>
<td>A-</td>
<td>3.67</td>
</tr>
<tr>
<td>B+</td>
<td>3.33</td>
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<tr>
<td>B</td>
<td>3.0</td>
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<tr>
<td>B-</td>
<td>2.67</td>
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<tr>
<td>C+</td>
<td>2.33</td>
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<tr>
<td>C (Satisfactory)</td>
<td>2.0</td>
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<tr>
<td>C-</td>
<td>1.67</td>
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<tr>
<td>D+</td>
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<tr>
<td>D (Poor)</td>
<td>1.0</td>
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<tr>
<td>D-</td>
<td>0.67</td>
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<tr>
<td>E (Failure)</td>
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**Grade Components.** The grade will be based on class participation (25%) and a paper (75%).

**Class participation.** The first component of class participation, (1) class discussion for the first couple of months, will cover the procedural and jurisdictional requirements for class actions. In addition, each student will (2) give a show-and-tell and (3) present his or her research paper.

**Preparation for Class.** Class preparation is required. You should expect to spend an average of about 2 hours preparing for each hour of class. **Please let me know before class if you’re unprepared that day.**

**Discussion:** The class discussion component of the grade (10%) will take account of attendance, preparation, and the frequency and quality of oral participation in class discussion. This is especially important when practitioners speak to the class—everyone needs to take advantage of these opportunities by asking perceptive questions.

**Show and Tell:** Also, each student will give a 5 minute show-and-tell presentation (3%) on some aspect of class action law, practice, politics, or depiction in popular culture. It could focus, for example, on a movie, an op-ed, or a blog post about a supposedly outrageous class action result. Anything goes (and you get full credit) as long as it’s
interesting. We’ll need to move fast to get all of these in in classes 1-4, so let me know right away (even before the class) when you’d like to do yours.

Presentation: The 20-minute presentation component (12%) will be based on an in-class, oral exposition of your paper’s argument. An A presentation will be clear, informative, analytical, and interesting. You may use PowerPoint or handouts.

Paper. The paper (75%) should be 25 pages long, including footnotes. In the paper, you must not only research and describe the law, but also analyze the key issues and develop and sustain an argument. There are two main types of papers that are acceptable:

Traditional: an examination of a current legal issue or doctrine, analyzing the leading and recent decisions and making a legal and policy argument.

Record study: an in-depth analysis of the record in a single class action, using Pacer. There should be an introduction, placing the issues in the class action in context, followed by a detailed discussion of the pleadings, motions, judicial decisions, and appeals in the case. The discussions must be analytical and reflect independent research on the important substantive and procedural issues in the litigation.

I’ve posted an example of each of the types of paper in the Course Materials section of the TWEN site.

I will base the grade on the quality of your research, writing, analysis, and argument, and on the accuracy of your citation form (following A Uniform System of Citation (20th ed. 2016). An A traditional will develop a clear and imaginative argument based on thorough research and analysis, using accurate citation form. An A record study will present the context of the issues and examine the record in detail, explaining the significance of the action of the court and the parties at each stage, clearly and insightfully. It will reflect independent research of the key procedural and substantive issues in the case.

In addition, I will consider timeliness of submissions. Prospectuses, drafts, and final papers must be submitted to me by email or before the dates indicated in the syllabus. The grade for this portion of the course will decline by one letter grade for each week past the deadline that the assignment is submitted.

Also, please review the College honor code, particularly with reference to plagiarism: https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code

11. Absences. Attendance is required. If you’re going to be absent or unprepared for any class, let me know ahead of time, preferably by email. If you have more than 1 unexcused absence, your grade may suffer.

12. Classroom Civility. During class, do not connect to a wireless network with any device, unless it’s part of a show-and-tell or presentation.

13. Accommodations. Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.
<table>
<thead>
<tr>
<th>Class</th>
<th>Topic &amp; Casebook Pages</th>
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</table>
| 1 8/16 | **Introduction to Class Action Litigation**  
FED. R. CIV. P. 23 Class Actions  
Introduction (Casebook, pp 1-14; close reading of Rule 23)  
Overview of course plan & expectations  
Overview of course topics:  
*Procedural Contexts:* Conditions for Class Certification—Threshold, 23(b)(2), 23(b)(3); Discovery, Summary Judgment, The Certification Decision, Settlement, Appellate Review, Arbitration  
*Substantive Contexts:* Antitrust, Employment Discrimination, Securities Fraud, Consumer Protection |
| 2 8/23 | **Threshold Requirements**  
*Assignments:*  
**Rule 23(a)** Threshold Certification Requirements  
Implicit Requirements—Ascertaintability (35-37); Representative’s Membership in the Class (54-58)  
Explicit Requirements(1) Numerosity (78-86); (2) Commonality [Dukes] (86-103); (3) Typicality (103-15)  
*Show & Tells, 1-5* |
| 3 8/30 | **Threshold Requirements (cont’d)**  
**Rule 23(a)(4)** Adequacy of Representation (123-38; 147-57)  
**Certification Requirements for Different Types of Class Actions**  
**Rule 23(b)(1)** Classes based on risks of non-class treatment  
(A) incompatible standards for the opponent of the class (159-65)  
(B) harm to class members’ interests (171-82)  
**Rule 23(b)(2)** “Injunction Classes” (190-207)  
*Show & Tells, 6-10* |
| 4 9/6 | **Damage Classes—Rule 23(b)(3)** (211-37; 269-81; 237-51)  
*Show & Tells, 11-15* |
| 5 9/13 | **Discovery and Case Management**  
Guest instructor: Prof. William Hamilton, Exec. Director, UF Law E-Discovery Project  
Guest Practitioner: Jason Gourley, Bodman PLC, Detroit, MI  
*Assignments:* TBA (307-36) |
| 6 9/20 | **Economic Expert Witnesses**  
Guest: James McClave, Info Tech  
*Assignments:* TBA (review 269-81; 281-93) |
| 7 9/27 | **Summary Judgment**  
Guest Practitioner: George L. Paul, White & Case LLP, Washington DC  
*Assignments:* TBA (336-38)  
*Prospectuses Due* |
| 8 10/4 | **Litigating Class Certification**  
**Guest Practitioner:** William V. Reiss, RobinsKaplan LLP, New York, NY  
*Assignments:* TBA, (266-81) |
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<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Details</th>
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<tbody>
<tr>
<td>9</td>
<td>Settlements</td>
<td><strong>Guest Practitioner:</strong> Brent W. Landau, Hausfeld LLP, Philadelphia PA</td>
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<td><strong>Assignments:</strong> TBA, (529-624)</td>
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<td>10</td>
<td>Appellate Review</td>
<td>Assignments: (697-722)</td>
</tr>
<tr>
<td>11</td>
<td>Arbitration</td>
<td><strong>Guest Practitioner:</strong> Joseph M. Sellers, Cohen Milstein Sellers &amp; Toll PLLC, Washington DC</td>
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<td><strong>Guest Professor:</strong> Stephanie Bornstein, UF Law</td>
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<td><strong>Assignments:</strong> TBA (675-96)</td>
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<td>12</td>
<td>Presentations</td>
<td>1-5</td>
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<td>13</td>
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<td>6--10</td>
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<td>14</td>
<td>Presentations</td>
<td>11-15</td>
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<tr>
<td>11/27</td>
<td>Final Papers Due</td>
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