

UNIVERSITY OF FLORIDA
COLLEGE OF LAW
COMPLEX CIVIL LITIGATION
FALL 2018

COURSE SYLLABUS

Why Should I Take This Course?

Complex civil litigation shapes today's body politic. Complex civil litigation challenges governmental actions and law; complex civil litigation vindicates human and civil rights; complex civil litigation remedies collective wrongs, mass torts, and violations of statutory rights. Complex litigation involves employment rights, consumer rights, political rights, financial rights, constitutional rights, and environment rights. Complex litigation structures our everyday life.



BP Oil Spill

In this course you will enter the formative debates over what has been called “public litigation” and explore the dynamics of cases involving important social issues, numerous parties, and significant financial resources and explore the

parameters, edges, and reach of public litigation. You will unpack the dynamics of complex litigation that lurks below the immediate threshold of virtually every case. How will you steer your litigation cases and navigate the shoals, safe harbors, and rewards of complex civil litigation. This course is your guide to this exciting world from the perspectives of plaintiffs and defendants.

Who Is Your Professor?



I joined the UF Law faculty as a time full Legal Skills Professor in 2017 after 30+ years of practicing complex civil litigation with Holland & Knight in Miami (1983 – 2000) and Tampa (2000 – 2010) and Quarles & Brady (2010 – 2016) in Tampa. Prior to leaving the practice of law, I served as a UF adjunct professor for 10 years and established the UF E-Discovery Project and the UF Law E-Discovery Conference, now in its 7th year.

Here are a few links where you can learn more about me.

<https://www.law.ufl.edu/faculty/william-hamilton>
<https://www.law.ufl.edu/areas-of-study/institutes/icair>
<https://www.linkedin.com/in/williamfhamilton>
<http://www.quarles.com/william-bill-hamilton/>

I have a son who just finished earning his BA in mathematics at the University of West Florida and is commissioned as an Army officer. I have another son studying nursing in Tampa. I'm very pleased that my daughter is a junior at UF studying criminal justice.



How Can I Contact You?

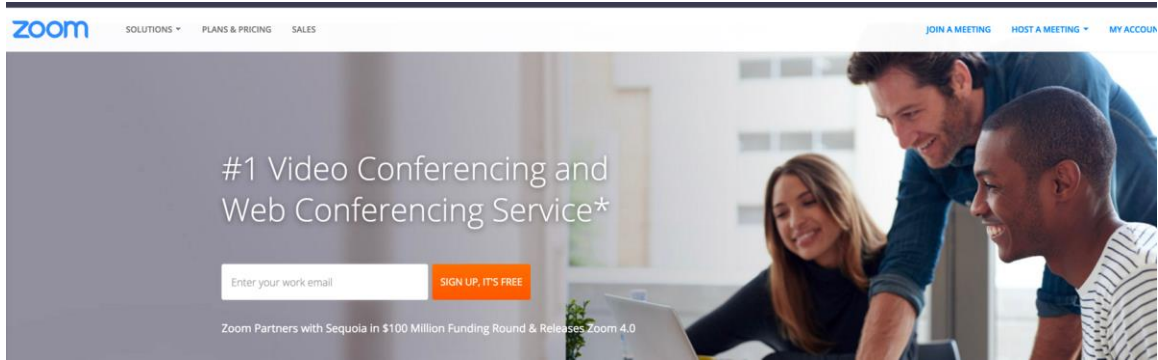
I like to hear from students by email, phone, or text. Please let me know if you have something to share with me – an inspiration, a new thought, a frustration, or concern. Let's have a coffee together in the new commons.



Email	Telephone	Text	Office
hamiltonw@law.ufl.edu	480.993.8777	480.993.8777	342 Holland: Tuesdays 1-3

Zoom	SKYPE
https://zoom.us/j/5410389684	william.hamilton.1120

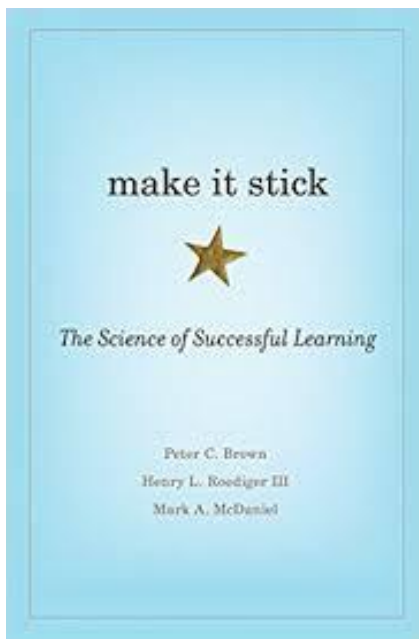
Zoom is one of my favorite communication tools. We can have a face-to-face conference any time (even on tablets and smartphones). It is as simple as Facebook.



How Can I Do Well in this Course? It's Simple!

You will want to be engaged in this class. This is not a pure lecture-based course. At the beginning of each class, I will present the class with a problem that you will work on with your classmates based on what you have gleaned from the readings. Then we go over your suggested solutions together in class. Finally, I may summarize the lesson and outline the key take-aways. We will have 3 scheduled multiple choice "low stakes" check-up quizzes designed to help you absorb and remember the course materials.

My teaching practices are reflected in [*Make It Stick: The Science of Successful Learning*](#) by Peter C. Brown.



How Will I be Graded?

Here is how I will determine your final grade.

Grade points:

1. Final examination: 200 points

There will be a 3-hour take-home, open-book examination composed of 4 questions and fact patterns. The final exam may be taken at any time during the finals period. There are no “breaks” or timeouts” after you start the examination. The Student Honor Code applies.

The final examination will be graded on the following rubric:

- (1) 20%: Identification of the issues presented by the scenario
- (2) 20%: Analysis of the issues presented by the scenario
- (3) 20%: Application of case law to the issues presented by the scenario
- (4) 20%: Resolution of the issues presented by the scenario
- (5) 20%: Felicity, conciseness, and richness of the written expression

2. Three Check-up Quizzes: 20 points each quiz (total quiz points: 60)

There will be 3- short check-up quizzes spaced evenly through the semester. The goal of the check-up quizzes is to help cement the course basic principles and to provide a quick glance at your comprehension. The quizzes are 20 minutes in length and composed of multiple choices questions. We will discuss each quiz in class after its completion.

2. Class Attendance and Participation: 10 points each class (total class points: 140)

The purpose of class participation is to attain a depth of understanding through probing responses and answers. Each class is worth 10 points. Class participation will be evaluated on the following rubric:

- (1) Asking and answering questions that illuminate the issues,
- (2) Asking and answering questions that enrich the class dialogue and advance the classes understanding of the issues,
- (3) Participating in the class dialogue and discussions,

- (4) Participation team debates and mock exercises.
- (5) Demonstrating class preparation.

You may miss two classes without loss of any points.

Is this Course Graded on a Curve?

This course is graded on a curve. Fortunately, it is **not** a classic bell curve!

I am provided a curved grade range by the Registrar and my class grade average must be within that range. In past semesters my grade point average has been around 3.25.

Please keep in mind that your scores earned on individual quizzes and class attendance may not predict your final grade in the class, especially when combined with the score earned on the final examination. Early course grades (where the average class grade is frequently higher than curve requirements) should not create an expectation of a similar final grade.

Are Laptops Permitted in the Classroom?

You may use laptops in class to take notes. I will turn my phone off when I come to class. Please do the same. Please restrict the use of your laptop to taking notes, and not visiting social media websites, texting, or emailing. Do not abuse this privilege. I expect your attention in class. Nothing life changing will happen while you are offline in class.

What Notes Should I Take in Class?

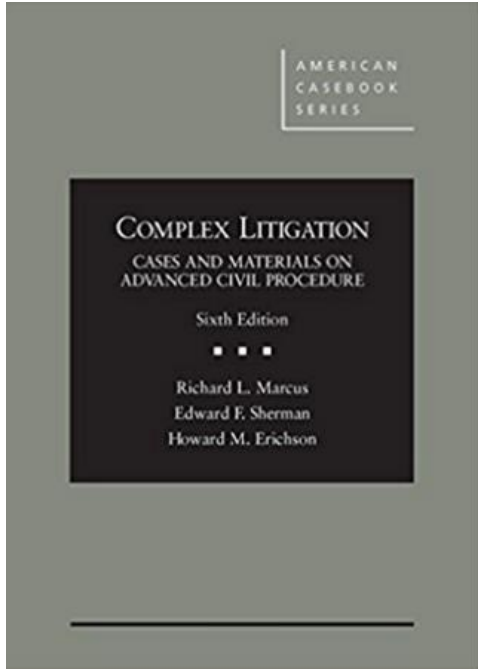
I recommended that you do not take word-for-word literal notes. This is not a court reporting class! Instead, think about what is happening in class and record the key ideas. [Actually handwriting your notes is better for you than typing notes. Check out this article: **Note-Taking: Writing vs. Typing Notes**. <https://studyskills.com/students/note-taking/>].

What is our assigned text?

Our principal text will be the casebook:

Complex Litigation: Cases and Materials on Advanced Civil Procedure, 6th

Edition, Marcus, Sherman, & Erichson, West Academic Publications (2015)



However, we will be referring the following free resources as well:

Manual For Complex Litigation, Fourth, Federal Judicial Center 2004,
<https://public.resource.org/scribd/8763868.pdf>.

Coordinating Multijurisdiction Litigation, A Pocket Guide for Judges, Federal Judicial Center and National Center for State Courts, 2013,
<http://ncsc.contentdm.oclc.org/cdm/ref/collection/civil/id/116>.

Judicial Panel on Multidistrict Litigation website,
<http://www.jpml.uscourts.gov/>

What Will We Be Doing Each Week?

The course's Canvas webpage includes our weekly topic, readings, resources, recorded lectures, assignments, and other reference materials. The Canvas web page is our "official" course home.

How Much Reading Will I Have?

Law schools are accredited by the American Bar Association. The ABA requires courses to have readings exceeding 15 pages, but not more than 30 pages, per credit hour. This means for our two-hour course, you will have at least 30 reading pages per week.

Here is the outline of what we will cover in each module:

Module 1: Why Would We Ever Want Litigation to Vindicate Broad Social Goods? Complex Civil Litigation as Public Litigation: An Overview

After completion of this module you will be able to:

- Understand the social policies of “public litigation”
- Understand the tension between public good v. private gains endemic to complex litigation
- Assess management issues associated with complex litigation

Reading: Complex Litigation, Markus et al., pp. 1-14

Module 2: Why Would A Plaintiff Want to Bring Claims Against Different Parties in the Same Litigation?

After completion of this module you will be able to:

- Understand the requirements of permissive party Joinder
- Understand the requirements of compulsory party Joinder
- Articulate multiparty litigation joinder strategies

Reading: Complex Litigation, Markus et al., pp. 15 – 57

Module 3: Why and How Would Anyone want to Become Part of an Ongoing Litigation?

After completion of this module you will be able to:

- Assess the benefits and risks of case intervention
- Determine when intervention if a viable strategy and weigh

other potential strategies.

Reading: Complex Litigation, Markus et al., pp. 57 - 85

Module 4: How Should We Handle Lawsuits in Different Jurisdictions Involving Similar or Identical Parties and Similar or Identical Issues?

After completion of this module you will be able to:

- Understand the Rules framework for consolidation of cases within a jurisdiction and across jurisdictions
- Assess the benefits and risks of consolidation
- Develop strategies of seeking and resisting consolidation.

Complex Litigation, Markus et al., pp. 87 – 93; 100 -109; 112 -123

Module 5: Should Cases from Around the Nation be Consolidated into a Single Case before One Judge?

After completion of this module you will be able to:

- Understand the role of the multidistrict panel
- Assess the factors bearing on the transfer decision
- Invoking and utilizing powers of the transferee court

Complex Litigation, Markus et al., pp. 128 – 158

Module 6: Can the Multidistrict Court Preserve the Rights of all the Parties And Still Get Fair Results?

After completion of this module you will be able to:

- Evaluate the twin goals of efficiency and fairness in MDL proceeding
- Assess whether public policy should bear on MDL proceedings
- Manage coordination between dual federal state proceedings through abstention, stays, and injunctions

Complex Litigation, Markus et al., pp. 158 - 197

Module 7: How Can We Handle Legal Wrongs Not Worth Litigating Individually?

After completion of this module you will be able to:

- Understand the class action elements and the rationale for class actions
- Assess and implement an appropriate class definition and establish numerosity

Complex Litigation, Markus et al., pp. 199 – 236

Module 8: Should Some Cases Be Excluded from Class Treatment?

After completion of this module you will be able to:

- Identify the commonality requirements of class certification
- Defend and challenge the adequacy of class representation

Complex Litigation, Markus et al., pp. 236 – 266

Module 9: What Class Action Remedies are Available?

After completion of this module you will be able to:

- Understand Injunctive relief and when injunctive relief is appropriate and the correct strategic choice
- When to seek declaratory relief and its benefits

Complex Litigation, Markus et al., pp. 266 – 299

Module 10: How Can Different Plaintiffs Have the Same Claims?

After completion of this module you will be able to:

- Identify and test predominating common question
- Understanding the use and creation of subclasses seeking

different forms for relief

Complex Litigation, Markus et al., pp. 299 – 348

Module 11: Once a Class Action Starts Can It Be Settled Short of Full litigation?

After completion of this module you will be able to:

- Understand the settlement negotiation process
- Articulate the elements of a settlement
- Implement the conditional settlement process
- Avoid the challenges to a conditional settlement

Complex Litigation, Markus et al., pp. 362 – 383

Module 12: How Can Courts Manage All the Conflicting Claims and Interests? What if I Want to go it Alone?

After completion of this module you will be able to:

- Direct class action motion practice, hearings, and experts
- Understand the scope of class action subject matter jurisdiction
- Utilize the Class Action Fairness Act to either advance or restrict class certification
- Manage class notices, opt-out, and class communications

Complex Litigation, Markus et al., pp. 383 – 399; 412- 427; 454 -460

Module 13: Who Says A Class Action Settlement is Fair?

After completion of this module you will be able to:

- Understand the basic principles of fairness in class action approvals, objectors, and fairness hearings
- Handle settlement funds distribution and negotiations
- Determine appropriate fees and costs for class counsel

Complex Litigation, Markus et al., pp. 607 - 639

Module 14: What Happens When Not Everyone is Happy with a Proposed Settlement?

After completion of this module you will be able to:

- Determine settlement subclasses and relief
- Implement or resist settlement objectors

Complex Litigation, Markus et al., pp. 639 -657

Weekly reading assignments may be supplemented to include new and important case law, events, and public policy debates. The syllabus may be adjusted to reflect class progress and interests. I will work hard to keep your reading assignments within 40 pages per week. I invite you to provide me feedback on the intensity of the course. The course homepage on canvas is <https://ufl.instructure.com/courses/353877>.

IMPORTANT UNIVERSITY AND LAW SCHOOL POLICY STATEMENTS

Accommodations for students with disabilities

Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations. Accommodation for the final examination will be handled by the Dean of Students without involvement of the instructor.

UF Law grading policies

<u>Letter Grade</u>	<u>Point Equivalent</u>

<u>A (Excellent)</u>	<u>4.0</u>
<u>A-</u>	<u>3.67</u>
<u>B+</u>	<u>3.33</u>
<u>B</u>	<u>3.0</u>
<u>B-</u>	<u>2.67</u>
<u>C+</u>	<u>2.33</u>
<u>C (Satisfactory)</u>	<u>2.0</u>
<u>C-</u>	<u>1.67</u>
<u>D+</u>	<u>1.33</u>
<u>D (Poor)</u>	<u>1.0</u>
<u>D-</u>	<u>0.67</u>
<u>E (Failure)</u>	<u>0.0</u>

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

Student Course Evaluations

Students can provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will receive notice of the specific times when they are open. Summary results of

these assessments are available to students at <https://evaluations.ufl.edu/results/>

Academic misconduct:

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Getting technical help with Canvas:

For issues with technical difficulties for E-learning in Canvas, please contact the UF Help Desk at:

- Learning-support@ufl.edu
- (352) 392-HELP - select option 2
- <https://lss.at.ufl.edu/help.shtml>

Other resources are available at <http://www.distance.ufl.edu/getting-help> for:

- Counseling and Wellness resources
- Disability resources
- Resources for handling student concerns and complaints
- Library Help Desk support

Should you have any complaints with your experience in this course please visit <http://www.distance.ufl.edu/student-complaints> to submit a complaint.

Disclaimer: *This syllabus represents the current course plans and objectives. As the semester proceeds, these plans may be changed to enhance the class learning experience. Such changes, communicated clearly, are not unusual and should be expected.*