

UNIVERSITY OF FLORIDA
LEVIN COLLEGE OF LAW

ELECTRONIC DISCOVERY
COURSE 6930 SECTION 091E 2-CREDITS

COURSE SYLLABUS
FALL

The exabytes of digital information streaming about us today are rich rivers of evidence that will help us find the truth and move us to do justice more swiftly, more economically and more honorably than ever before. It will require every litigator to master new skills and tools, and alter the approaches and attitudes we bring to the adversarial process. We must reinvent ourselves to master modern evidence or be content with a justice system that best serves the well-heeled and the corrupt. The path to justice is paved with competent evidence and trod by counsel competent in its use.

-Craig Ball, www.craigball.com



Course Name: Electronic Discovery
Fall Semester 2018

Class time: Mondays 1:00 – 2:40 PM, Room 355C

Office Hours: Tuesdays, 1:00 PM – 3:00 PM, or by appointment. I am also available for video conferences using Zoom outside my “brick and mortar” office hours. Just send me an email.

Why You Should Take This Course: Electronic Discovery is a major litigation activity. Digital information is the principal form of documentary evidence determining case outcomes. This course will provide you with a working knowledge of the principal e-discovery issues encountered in litigation and the legal framework required to analyze and to resolve these e-discovery issues. This course will also introduce you to a variety of industry standard electronic discovery tools.

I’m not a Computer Geek. Is This Course Over My Head?

This course does not require any specialized computer knowledge. The course will cover some very basic computer and computer network operations. If it is any comfort, I hold a master’s degree in European philosophy, which is just about the opposite of engineered computer circuits.

Will I Need to Become an Expert in Technology?

The short answer is “No.” However, you will need to make a commitment to learn a new “technical vocabulary” and understanding some basic technology concepts so you can knowledgeably “walk the walk” while “talking the talk.” This will not be difficult, and this course will provide all you will need. I think you will find it fun to understand how a computer works. Few people really know this--amaze your friends!

Will I Need to Master Complicated E-Discovery Software?

Electronically stored information is binary data, a collection of off and on circuits that are encoded and decoded to perform computations. Think of a billion infinitesimally small flashlights sending signals by going on and off inside your computer. We need software to understand and handle these digital signals and light the pixels on the screen to create an image that we can “see.” For example, you cannot “see” or edit a Word document without a computer and word processing software. Similarly, we need software to do electronic discovery. Contemporary e-discovery software is easy to use. Getting familiar with a few e-discovery tools that we will use in this course will help you understand the

challenges of electronic discovery and how the law has evolved. Familiarity with e-discovery software will give you a practice jump start.

How Much Reading and Work will This Course Require?

The American Bar Association requires two hours of outside work for each hour of class. This course involves a number of activities in addition to reading cases and articles. I have endeavored to make sure that the total time demanded by this course does not exceed the ABA requirements. I have reduced the normal 30 pages of reading per week when there are additional assignments.

Who Is Your Professor?



I joined the UF Law faculty as a time full Legal Skills Professor after 30 years practicing complex civil litigation with Holland & Knight in Miami (1983 – 2000) and Tampa (2000 – 2010) and with Quarles & Brady in Tampa (2010 – 2016). Electronic discovery changed my career when I realized it was the new, rich, contemporary source of information that would win cases for my clients. Prior to leaving the practice of law, I was a UF adjunct professor for 10 years and established the UF E-Discovery Project and the UF Law E-Discovery Conference.

While I consider myself a “native” Floridian having spent my entire adult life in Florida, I am originally from Philadelphia. (Yes, you will hear my Philadelphia accent still). I earned my undergraduate degree from Lehigh University in Bethlehem, Pennsylvania, and a MA in philosophy from Washington University in St. Louis, Mo. I graduated from UF Law in 1983.

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 am married to Cynthia Tejcek. Cindy graduated from Loyola in Chicago with a BS in mathematics. She holds an MBA from Kellogg. We meet when she was the chief information officer of the ABA. Yes, we are big Cubs baseball fans.



We have a son who just finished earning his BA in mathematics at the University of West Florida and is now commissioned as an Army officer at Ft. Stewart, GA.



We have another son studying nursing in Tampa at Hillsborough County Community College.



And, I'm very pleased that our daughter is a senior at UF studying criminology. Go Gators!

How Can You Contact Me?

I want to hear from you. Send me an email, call, or text.

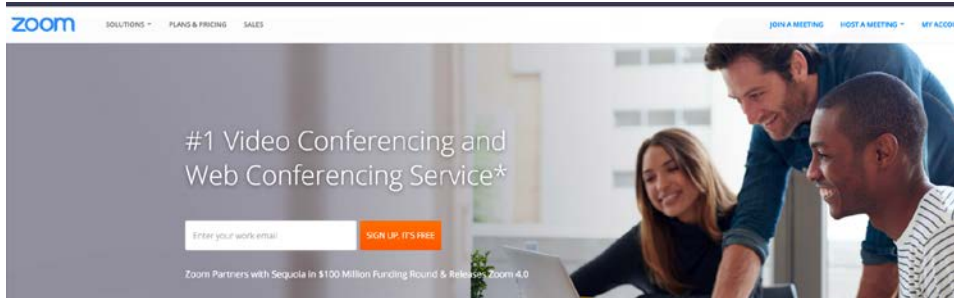
Email	Telephone	Text	Office
hamiltonw@law.ufl.edu	480.993.8777	480.993.8777	342 Holland: Tuesdays 1-3

Please let me know if you have something to share with me – an inspiration, a new thought, a frustration, or concern. Let have coffee together in the commons.



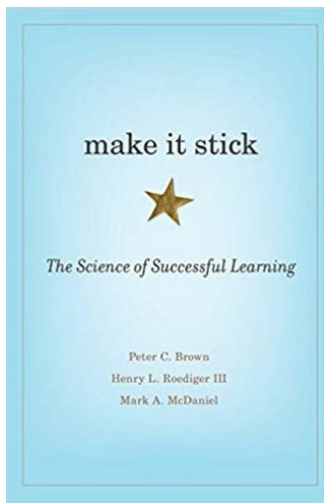
Zoom is one of my favorite video conferencing tools. We can have a face-to-face video conference any time (even on tablets and smartphones). It is as simple as Facebook. You don't need to come to my office.

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

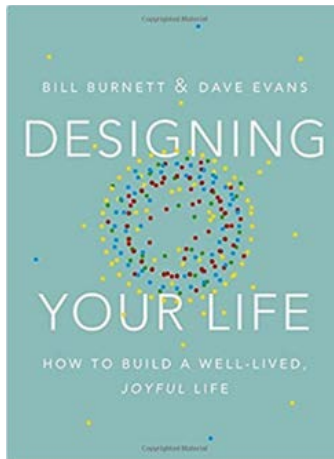


Teaching Philosophy and Instructional Methods: This course has a practical orientation. You will learn the Federal and Florida Rules of Civil procedure governing electronic discovery and read cases. But the emphasis of the course is on solving the practical electronic discovery problems. You will learn to act like an e-discovery lawyer in this class. We will have lots of class discussions, practical exercises, and periodic low stakes quizzes.

You may wish to review literature on experiential learning. My teaching philosophy is in large part captured in ***Make It Stick: The Science of Successful Learning*** by Peter C. Brown.



This course is designed to introduce you to a variety of career paths involving e-discovery skills. I recommend the book ***“Designing Your Life: How to Build a Well-Lived Joyful Life,”*** by Burnett and Evans, Alfred A. Knopf (2016), for helpful strategies to find career directions that will work for you.



You are expected to attend all the class sessions. Each week students will be asked to read certain basic cases and text materials. Approximately every four weeks there will be an in-class 20-minute spot quiz to give you and me some feedback on how we are doing.

You will also complete assignments using [Harvester](#), [Logikcull](#) and [Relativity](#) e-discovery software. These are very popular contemporary software tools.

Examination and Grading Policy: The total points that may be earned in the class are 1090. While the course grade distribution usually reflects the usual structure of A = 100 – 90%, B = 89% - 80%, etc., you should keep in mind that your final grade will reflect your class rank. For example, a numerical grade average of 92% earned on various exercises and assignment during the course may not translate the final grade of A- when combined with the score earned on the final examination. Early assignment scores should not establish an expectation of a similar final grade.

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.

Course points may be earned as follows:

1. Final examination: 550 points.

There will be a 3-hour “take-home” open book examination composed of 3-4 fact patterns. The final exam may be taken at any time during the finals period. The student Honor Code applies. The 3-hour examination will be graded on the

following rubric:

- (1) Identification of e-discovery issues presented by the scenario,
- (2) Analysis of the e-discovery issues presented by the scenario,
- (3) Application of case law and civil procedure rules to the issues presented by the scenario,
- (4) Resolution of the issues presented by the scenario,
- (5) Felicity, conciseness, and richness of the written expression.

The examination will be administered by the Registrar's office using ExamSoft. The examination will include materials and topics discussed in class in addition to the readings. Each of the scenarios on the final examination will ask you to adopt a role such as retained plaintiff or defense counsel, magistrate judge, or client and respond to the factual pattern from that perspective. I will provide you example questions from previous final examinations.

2. Class Attendance and Participation: 140 points (14 points per class).

Class attendance and participation is expected. Each class is worth 10 points. Class participation will be evaluated on the following rubric:

- (1) Asking and answering questions that illuminate e-discovery 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,
- (4) Demonstrating class preparation.

If you cannot attend a class for a personal or professional reason, please notify in advance in advance as a professional courtesy. I recognize that you may have legitimate and compelling personal and professional requirements that may cause a class absence. Each student has two "free" excused absences. After two absences, you will lose class attendance points for each class missed.

3. Low Stakes Check-Ups: 120 points.

There will be three 20-minute "check-ups" that will consist of multiple choice, true/false, and matching or short answer questions. Each of the checkups will be worth 40 points. The check-ups are designed to give you feedback and a reality check on how well you understand the course materials presented so far and to provide feedback to me on what course areas and topics may need additional coverage

4. Harvester Exercise: 30 points.

You will do a legally defensible data collection using the [Harvester e-discovery software](#). Harvester is available on the University Apps page. Directions will be provided.

5. Logikcull Exercises: 100 points.

We will have series of Logikcull exercises during the semester that involve basic data processing, search, review and production.

6. Relativity Exercises: 100 points.

We will have a series of Relativity exercises during the semester that involve advanced search analytics and artificial intelligence.

7. Follow the University of Florida Levin College of Law E-Discovery Project on social media: 30 points.

The UF Law E-Discovery Project operates a Facebook page, Twitter feed, and YouTube channel. You are required to follow these social media sites for the duration of the course to keep up with contemporary e-discovery industry activities bearing on class materials and lessons and providing additional richness and context. **Students may use existing social media accounts or set up social media accounts for the course using a new Google address.**

8. Watch the movie The Decade of Discovery. 30 points.

You will be required to watch the 1-hour movie *The Decade of Discovery* and file a certification that you diligently watched the movie.

Are Smartphones and Laptops Permitted in the Classroom?

You may use digital devices in class only 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. Do not visit social media websites, texting, or emailing. Keep your browser closed to avoid temptation. 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](#). Beyond that, it is a good legal skill. You will need to learn to take good witness interview notes, deposition notes, and trial notes. A computer will not always be available or good to use.

What Happens if I am Late Turning in an Assignment?

Every assignment is on Canvas. Canvas provides three dates for each assignment: a date when the assignment is open, a date when the assignment is due, and a date when the assignment is closed. Each assignment opens at 9:00 Monday of the week it is due. All assignments are due the following Friday at 5:00 PM. The assignment, however, stays open on Canvas for two additional weeks after the due date. If the assignment is turned in during the first week after the due date, the available points on the assignment are reduced by 10%. If the assignment is turned in during the second week after the due date, an additional 10% of the available points become unavailable. For example, if the assignment is worth 30 points and you turn it in two weeks late, you can only earn a maximum 24 points on the assignment. Absent extraordinary circumstances I will not accept an assignment more than two weeks late, and you will earn zero points for the assignment.

Assigned Text:

Electronic Discovery and Digital Evidence, Scheindlin and Capra, West Publishing, **Third Edition, 2015**

Recommended Secondary Resources:

LexisNexis Practice Guide Florida E-Discovery and Evidence, Artigliere and Hamilton

<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=prod14330392>. (**free online access for UF students**).

Project Management in Electronic Discovery, M. Quartararo (2016)
Available at <https://www.edpmadvisory.com/resources/> or
on Amazon
https://www.amazon.com/dp/B01I5T0XNG/ref=dp-kindle-redirect?_encoding=UTF8&btkr=1

Weekly Class Objectives, Schedule, and Assignments:

The specific weekly lesson, objectives, reading materials, assignments, and exercises are on the [course's Canvas page](#).

I reserve the right to make reasonable adjustments and modifications to the weekly schedule as required by the pace and progress of the class.

Statement related to accommodations for students with disabilities

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Information on UF Law grading policies

<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.0	C+	2.33	D-	0.67
A-	3.67	C (Satisfactory)	2.00	E (Failure)	0.0
B+	3.33	C-	1.67		
B (Good)	3.00	D+	1.33		
B-	2.67	D (Poor)	1.00		

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

Student Course Evaluations

You 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 you will

receive notice of the specific times when they are open. Summary results of these assessments are available to you at <https://evaluations.ufl.edu/results/>

University policy on academic misconduct:

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

Getting help:

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

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.*