

**BASIC CIVIL LITIGATION WORKSHOP  
(TRANSITIONING FROM LAW STUDENT TO CIVIL LITIGATION ASSOCIATE)  
UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW  
SPRING 2023**

**INSTRUCTOR INFORMATION**

The primary instructors will be Judge Paul C. Huck and Steve N. Zack. Other instructors are experienced trial lawyers and judges who will participate as guest lecturers throughout the course.

Judge Paul C. Huck is a Senior U.S. District Court Judge for the Southern District of Florida. Before joining the judiciary, Judge Huck spent over thirty-five years in private practice as a civil trial lawyer. He has taught litigation skills and professional responsibility as an adjunct professor at the University of Miami School of Law for the past forty years. He received a B.A. from the University of Florida and a J.D. from the University of Florida Law School with honors. Judge Huck is also a member of Florida Blue Key, was a member of the *Florida Law Review*, and has received the Distinguished Service Award from the law school.

Steve N. Zack is a Managing Partner at Boies Schiller Flexner LLP in its Miami office. He served as the first Hispanic President of the American Bar Association, and he was also the youngest President of the Florida Bar. Steve has been a civil litigator for over thirty-five years and has been involved in many high-profile legal disputes, including representing Vice President Al Gore in the trial of *Bush v. Gore*. He is also a Fellow of the International Academy of Trial Lawyers. Steve received a B.A. from the University of Florida and a J.D. from the University of Florida Law School. He was the President of Florida Blue Key and has received the Distinguished Alumni Award from the university.

A complete list of the faculty is attached below.

**INSTRUCTORS' CONTACT INFORMATION**

Office Location: Courtroom 13-2, U.S. District Courthouse, 400 North Miami Avenue, Miami, Florida

Telephone Number: (305) 523-5520

Email Addresses: [huck@flsd.uscourts.gov](mailto:huck@flsd.uscourts.gov), [szack@bsfllp.com](mailto:szack@bsfllp.com)

**MEETING TIME AND LOCATION**

This course will start on Monday, January 9, 2023, and end on Thursday, January 12, 2023. The class hours will be 8:30am to 4:30pm, and the class will meet in Courtroom 13-2 of the U.S. District Courthouse, 400 North Miami Avenue, Miami, Florida.<sup>1</sup> Students will also have the opportunity to attend lunch sessions and informal after-hours meetings with experienced trial

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<sup>1</sup> Current District Court protocol requires that face masks be worn at all times.

lawyers and judges to discuss professionalism, ethics, and what civil trial firms and judges expect of new trial lawyers.

This one-credit course will be limited to twenty students.

### **OFFICE HOURS**

Office hours are available by appointment upon request.

### **COURSE DESCRIPTION**

This is a nuts-and-bolts one-credit course designed by experienced trial lawyers, judges, and recent graduates to provide aspiring litigation lawyers with the basic, practical tools necessary to be productive and contributing members of a law firm's civil litigation team. While students will gain an understanding of the lifecycle of a civil case, this course will focus on the components a new law firm associate is most likely to need. Students will receive opportunities to practice and receive feedback from experienced professionals on assignments mirroring those with which they are likely to be tasked during their first few years of civil litigation. After taking this course, students should be able to effectively support more experienced attorneys in their law firm from day one and add value to the firm's legal representation.

This course is not designed as a substitute for the Pre-Trial Practice or Trial Practice courses, but rather to supplement those courses by providing an opportunity for focused, hands-on training and learning essential for a new litigator. While not prerequisites of this course, it is recommended that students take either the Pre-Trial Practice or Trial Practice courses. However, students are required to have successfully completed the Evidence course to enroll in this course.

Students will observe actual court proceedings, as time permits.

Each day includes lunch during which a panel of judges, litigation partners or associates will discuss related topics of interest with the students. In addition, students will join the faculty for two informal, after-hours gatherings at law offices, which gatherings are optional, though strongly recommended.

Principles of professionalism and ethics will be integrated into the discussion of substantive topics. In addition to the four days of classes in Miami, judges and experienced trial lawyers will meet monthly with the students for informal, non-mandatory group discussions on relevant litigation topics, including, among others, professionalism, ethics, career development, life-career balance, Florida bar resources, and generally what it takes to develop into a successful new trial lawyer. These discussions will meet in the evening for approximately one hour either on campus or by Zoom.

### **STUDENT LEARNING OUTCOMES**

After completing this course, students should be able to:

- Understand and perform what is expected of a new associate in a civil-practice trial law firm;
- Effectively communicate with partners, clients, witnesses, opposing counsel, and judges;
- Understand the lifecycle of a civil case, including initial contact with potential clients, fact investigation, pretrial discovery, pretrial and trial preparation, and posttrial motions;
- Understand what constitutes a strong legal brief and persuasively argue motions to dismiss, motions for summary judgment, motions for preliminary injunction, and discovery motions;
- Understand the strategy of and utilization of both written discovery and depositions; and
- Understand professional, ethical and civility requirements in the practice of law.

### **ATTENDANCE**

Attendance is mandatory. Given that this course meets for only four days, students are required to be in attendance each day. Students are expected to timely arrive to class.

### **ASSIGNMENTS**

Students will be required to complete two types of assignments for this course: (i) required readings and (ii) preparation for and participation in workshops focused on developing skills necessary for new civil litigators. Required reading tailored to the given topic will be provided in advance of each scheduled class meeting. Workshops provide students with the opportunity to first discuss and then practice litigation skills in the presence of experienced trial lawyers, who will critique student performances and provide feedback to strengthen and hone foundational skills. Some workshops will require advance preparation, while others will have time built-in for students to prepare. Workshop exercises will include, among others, preparing for and taking a deposition and preparing for and participating in a mock oral argument.

### **LAPTOP AND RECORDING POLICY**

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

### **FINAL EXAM**

Any topic discussed during class may be tested on the final exam. The final exam will take place on January 27, 2023, at the law school.

### **GRADING**

This is a pass-fail course. To determine a student’s grade, the final exam will constitute 50%, class participation will constitute 25%, and workshop exercise performances will constitute 25% of the student’s grade.

### **ACADEMIC HONESTY**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <https://sccr.dso.ufl.edu/policies/student-honor-code-student-conduct-code/>.

### **POLICY RELATED TO MAKE-UP EXAMS**

The law school policy on delay in taking exams can be found at: <http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form>

### **STATEMENT RELATED TO ACCOMODATIONS FOR STUDENTS WITH DISABILITIES**

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). 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.

### **ONLINE COURSE EVALUATION PROCESS**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at

<https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

## **CLASS PREPARATION**

Copies of the required and optional reading materials, except the reading materials that include listed webpages, will be distributed to the students well before class begins. The reading materials that include listed webpages are publicly available.

## **COURSE OUTLINE**

Prior to the commencement of class, the students will be divided into teams of two. Each team will be assigned an experienced civil trial lawyer or judge, who will act as the team's "law firm partner" and mentor during the course.

The teams will prepare for and take a deposition and will prepare for and deliver oral arguments for an assigned motion based on the materials provided before class begins.

## **Pre-Class Assignments and Reading**

### Required Reading List:

- Modern Trial Advocacy: Analysis & Practice
  - Chapter One: Trial Basics; Chapter Two: Case Analysis and Storytelling
- Some Friendly Random Advice on Federal Court Advocacy
- Some Friendly Random Advice to 1L Gators
- Southern District of Florida Local Rule 7.1(a)(3)
- Top 10 Tips for Transitioning from Law Student to Lawyer
- Thomas Mauet & David Marcus, Chapter VII: Motions 345–54, Pretrial (2015)
- Bryan A. Garner, *Make Motions More Powerful by Writing Openers that Focus on 'Deep Issues,'* ABA J. (Apr. 1, 2017)  
[https://www.abajournal.com/magazine/article/litigation\\_deep\\_issue\\_motions](https://www.abajournal.com/magazine/article/litigation_deep_issue_motions)

### Optional Reading List:

- Morten Lund, *Pearls of Wisdom*, Nat. Jurist (2014)
- Stanley Sporkin, *The Inside Scoop: From the Bench*, 27 Litigation 3 (2001)
- *Mediation in Florida*, Florida Courts (Oct. 22, 2018),  
<https://www.flcourts.org/Resources-Services/Alternative-Dispute-Resolution/Mediation-in-Florida>
- Daily Business Review article on virtual mediation

## **Day One: Course Introduction and Commencement of a Civil Case**

Breakfast Reception and Orientation: 8:30am–9:15am in Courtroom 13-2

Topics Discussed:

- Course syllabus and course expectations
- Navigating the role of a new lawyer
- Pre-suit investigation, including preliminary matters such as forum selection, applicable law, federal jurisdiction, and managing deadlines
- The client’s expectations
- Setting up case files
- Organizing and planning for a potential civil trial
- The importance of facts in civil litigation and learning how to gather and develop facts
- Analyzing and selecting potential remedies
- Conducting early legal research
- Drafting the complaint and answer
- Local rules and judges’ procedures
- The importance of a firm’s previous work product
- Billing
- Working with paralegals and other staff
- Alternative Dispute Resolution
- Federal jurisdiction, removal, and remand
- Impact of bankruptcy
- The fine art of listening
- Some Friendly Random Advice on Federal Advocacy
- Strategic planning—looking and planning ahead

Lunch: Conversation with Litigation Associates

## **Day Two: Strategy and Use of Written Discovery and Depositions**

Required Reading List:

- Selections from 2019 Florida Handbook on Civil Discovery Practice, <https://www.floridatls.org/wp-content/uploads/2019/04/ADA-2019-Florida-Handbook-on-Civil-Discovery-Practice.pdf>
  - Chapter 1: Discovery Standard and Expectations
  - Chapter 3: Electronic Discovery
  - Chapter 4: Written Discovery Practice
  - Chapter 5: Proper Conduct of Depositions
- Faisal Akhter, *Best Practices to Master Your First Deposition*, ABA J. (Aug. 29, 2019), <https://www.americanbar.org/groups/litigation/committees/jiop/articles/2019/summer2019-best-practices-first-deposition/>
- Appropriate Objections Handout

Optional Reading List:

- Examples of Judges' Discovery Procedures
- Examples of Written Discovery
- William Matthewman, *Towards a New Paradigm for E-Discovery in Civil Litigation: A Judicial Perspective*, 71 FLA. L. REV. 1261 (2019), <http://www.floridalawreview.com/2020/towards-a-new-paradigm-for-e-discovery-in-civil-litigation-a-judicial-perspective/>
- Selections from 2019 Florida Handbook on Civil Discovery Practice, <https://www.floridatls.org/wp-content/uploads/2019/04/ADA-2019-Florida-Handbook-on-Civil-Discovery-Practice.pdf>
  - Chapter 8: Work-Product Protection, Trade Secrets, and Other Privileges; Motions for Protective Order; Motions to Compel
  - Appendix 1-2: Breaking the Addiction to Boilerplate Discovery Disputes
  - Students are encouraged, but not required, to peruse the handbook and become familiar with the topics in the handbook
- Richard Tabura, *Tips for Drafting Your Initial Set of Written Discovery*, ABA J. (Mar. 30, 2019), <https://www.americanbar.org/groups/litigation/committees/mass-torts/practice/2019/tips-for-drafting-your-initial-set-of-written-discovery/>

#### Topics Discussed:

- Creating a case chronology/timeline
- Timing of written discovery
- Effective use of interrogatories, requests for production, and requests for admissions
- Responding to discovery requests
- Responding to deficient discovery responses
- Communicating with clients and opposing counsel about discovery
- Electronic discovery
- Preventing discovery spoilage
- Timing of depositions
- Selecting deponents
- Noticing depositions
- Preparing to take depositions
- Preparing clients for depositions
- Taking depositions
- Defending depositions
- Handling electronic exhibits during depositions
- Virtual litigation best practices
- Conducting Zoom depositions and being a “helpful tech nerd” to a law firm partner
- Dealing with difficult opposing counsel
- Comparing the role of federal magistrate judges and state judges in discovery disputes
- Visual presentations

- Cross-examination 101
- Overcoming fear
- Working with litigation staff

Assignment One:

- Preparing clients for depositions and taking depositions
- The deposition materials will be provided to the students before class

Lunch: Conversation with State Court Judges

Observe and analyze State Court motion calendar

Tour/Conference at Law Office

### **Day Three: Strategy for Motion Practice and Drafting Motions**

Required Reading List:

- Materials for Deposition Workshop Exercise
- Materials for Mock Oral Argument Exercise

Topics Discussed:

- Communicating effectively with clients and opposing counsel
- The significance of pretrial motions, such as motions to dismiss, motions for summary judgment, and motions for an extension of time
- Preparing for a motion hearing
- The difference between hearings in state and federal court
- Preparing for an evidentiary hearing
- Dealing with judges

Assignment Two:

- Each team will be responsible for arguing either a motion or a response to a motion based on the Briefing Packets they received for Pre-Class Reading. The students will be required to research the arguments made in the motions or responses. During class, the students will orally argue their motion in front of the course instructors.

Lunch: Conversation with Litigation Partners

Workshop Exercise One:

- Preparing for and taking a deposition
- Critique

Reception at Courthouse following class

### **Day Four: Trial Preparation and Professionalism**



Required Reading List:

- Southern District of Florida Local Rule 16.1(e)
- Michael G. Tanner, *Revisiting Professionalism Standards: There's No Better Time Than the Present*, 95 Fla. Bar J. 4 (2021), <https://www.floridabar.org/the-florida-bar-journal/revisiting-professionalism-standards-theres-no-better-time-than-the-present/>
- Sanction order in *Lee v. American Eagle Airlines*, No. 97-CV-0722 (S.D. Fla. 2000)
- Two sanction orders in *Johnson v. Ocaris Management Group Inc*, 18-CV-24586 (S.D. Fla. 2019)
- Daily Business Review article on ethical violation

Optional Reading List:

- Florida Standard Jury Instructions, <https://www.floridabar.org/rules/florida-standard-jury-instructions/>
- Thomas R. French, *K.I.S.S. in the Courtroom*, Trial Magazine (1992)

Topics Discussed:

- Settlement offers
- Mediation/arbitration
- Conducting trial preparation
- Order of proof
- Pretrial stipulations
- Telling your story
- Developing the theme and theory of the case
- Selecting and preparing visual aids, exhibits, and timelines for trial
- Trial book
- Opening statements and closing arguments
- Jury instructions
- Post-trial motions, such as a motion for judgment as a matter of law, a motion for new trial, and a motion for attorneys' fees
- Comparing state and federal court practice
- Practical advice about how to become a successful new lawyer
- Florida Bar resources available to young lawyers
- Professionalism

Lunch: Conversation with Federal Judges

Workshop Exercise Two:

- Oral argument on a motion
- Critique

Concluding remarks