

Pre-Trial Civil Practice

Spring 2022

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Class Hours: Mon/Wed 4:30-5:55PM, HH 345

Office Hours: Tue 3-4PM (drop-in) & Weds 2-3PM (individual)

GENERAL INFORMATION

This course is designed for students who are planning to become civil litigators after graduation. More than 95% of civil cases settle before trial, so most of your legal practice will be “pre-trial” practice. The course therefore offers in-depth study and training in civil litigation up until trial, with the aim of making you practice-ready. We will cover fact and theme development, pleadings, the discovery process—including written requests and responses, motion practice, and depositions—settlement negotiation, and strategic decision-making at each step of the process.

Workload

Although this course is graded Satisfactory/Unsatisfactory, the workload is no less than in any graded course, including near-weekly written assignments. As for any three-credit course, the ABA requires that you spend an average of at least six hours per week on work for this course, in addition to class time.

Required Texts

1. Roen & Paulsen, *Civil Litigation: Pretrial Case Development & Discovery* (1st or 2d ed.)
2. An up to date digital or paper copy of the Federal Rules of Civil Procedure.
3. An up to date digital or paper copy of the Federal Rules of Evidence.
4. Supplemental materials and case file posted on the course Canvas website.

Learning Aims & Outcomes

By the end of the course, you should be able to:

- Evaluate a new case
- Prepare claims and defenses
- Write and respond to discovery requests
- Prepare, respond to, and argue discovery motions
- Take and defend depositions
- Work with experts
- Prepare for dispositive motions and trial
- Negotiate a settlement

Course Website

I will open the course Canvas website a few days before our first class. **You must check the course website frequently.** All course business will be conducted through Canvas: I will post all Zoom links, reading assignments, supplemental readings, class slides, and course announcements there; you will turn in all your written work there; and you can sign up for office hours slots there.

Office Hours

Please come to office hours! I am always happy to meet my students and get to know you better. I will hold a drop-in office hour on Tuesdays at 3-4PM, and an hour for individual appointments on Wednesdays at 2-3PM. You must sign up for individual appointments in advance via Canvas. If your whole team wants to meet with me privately, just have one of you book the appointment slot. If you cannot make it to these office hours, we can meet at another time—email me to set that up.

GRADING

There will be no final exam in this course. Rather, at the end of the semester, I will award you a grade of Satisfactory or Unsatisfactory based on the following metrics:

- Professionalism, preparation, and good faith participation in discussions and simulations.
- Effort and quality of written assignments.
- Effort and quality of performance in hands-on exercises, including motion arguments, deposition taking and defense, and negotiations.

I may also award a limited number of “S+” grades.

“Law Firms” & Good Faith Participation

You will be assigned to three- or four-person “law firms” and will litigate against each other throughout the semester using a simplified but realistic case file. You will complete most written assignments in your firm as a group assignment.

Though you will be working in a team, you must pull your weight within your team. If I find that you are relying on your team to do (or redo) your work for you, I will assign you individual make-up work or, in extreme cases, have you removed from the course.

Professionalism

This course presents a valuable opportunity to practice professionalism and to begin to create and explore your own professional identity. In the “hands-on” exercise portions of the course you are expected to behave as, and to treat your colleagues and counterparts as, practicing lawyers.

As a future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. I encourage you to speak thoughtfully, listen carefully, and commit to examining your own values and assumptions. All students have the right to be treated with respect by their instructors and classmates. As part of my commitment to teaching and serving the diverse UF Law community, I have signed the UF Law Anti-Racism Resolution.

Academic Honesty

All work you submit in this course must be your own (or your team's, as applicable). Academic honesty and integrity are fundamental values of the UF community. You must be sure that you understand the UF Student Honor Code set out [here](#), which explains in detail what conduct constitutes plagiarism. Ignorance of the rules is not a defense.

COURSE, SCHOOL, & UNIVERSITY POLICIES

Policies To Prevent the Spread of Covid-19

The UF Student Health Center offers Covid-19 vaccines to students at no charge. **The law school strongly encourages all students to become vaccinated and get a booster shot if you have not already done so.** If you need an excused absence to get your vaccine or booster or to recover from post-shot symptoms, I will happily grant one.

At the time of drafting this syllabus, you are encouraged but not required to wear a mask while indoors at the law school, including throughout the entirety of class. As the Covid-19 pandemic develops, requirements may change. It is your responsibility to stay up to date with any requirements and to follow them conscientiously. If you refuse to do so, I will have you removed from the course.

If you have been exposed to Covid-19 or are experiencing Covid-like symptoms, please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are permitted to return to campus.

Attendance & Punctuality

This is a skills course. You cannot achieve the course objectives without attending class and actively participating in the discussions and simulation exercises. Moreover, skipping classes in this course often creates more work for your teammates. Thus, you may take a maximum of three absences through the semester—but **you may not take an unexcused absence on key dates for your team, such as your deposition days or motion hearing days.** For those days, you must request and receive the excused absence in advance (except in a true emergency), and I will grant one for necessary reasons only.

Attendance is measured solely by signing in at the beginning of class. It is your responsibility to make sure you sign in. By signing in, you affirm that you were present during the entirety of that class period. It is a serious violation of the Honor Code to falsely indicate that you were present in class or to help a classmate misrepresent their attendance.

Punctuality is part of the professionalism expected of you as future lawyers. Please be in your seat and ready to begin class at the scheduled time. Arriving more than 10 minutes late or leaving class early without my prior permission will count as an absence.

Technology

You must bring a laptop or tablet to every class so that you can access handouts on Canvas, participate in in-class exercises, and work on assignments with your teammates. Please silence and put away cellphones, smartwatches, and similar devices before class begins.

Attire

Business attire is required only for the motion arguments and depositions, which I will remind you about in advance.

Preferred Names & Pronouns

I would like to use your preferred name and the pronouns that reflect your identity. I use the Canvas display names to create my course roster. Please make sure that your Canvas display name reflects your preferred name and correct pronouns if possible; or, if Canvas will not display your information correctly, please e-mail me and let me know how you'd like to be addressed in class.

Accommodations

I am committed to making this course accessible to all. Reasonable accommodations ensure equal opportunity for students with disabilities. If you need accommodations, the first step is to register with UF's [Disability Resource Center](#). The Center will issue a letter setting out the accommodations you are entitled to, which you must present to Dean Mitchell, the Assistant Dean for Student Affairs. Dean Mitchell will then work with me to make sure I properly implement your accommodations. Please follow this procedure as early as possible in the semester. **Please understand that I cannot grant you any accommodation not reflected in a letter and approved by Dean Mitchell.**

Recording Classes

Under state law, you may record video or audio of class lectures only for the following narrow purposes: (1) for your sole, 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. Recording for any other purpose is prohibited. Moreover, you may not publish, share, or transmit any part of your personal recording to anyone else—including to another student in the course—without my written permission. If you do so without my written consent you may be subject to civil liability, as well as to discipline under the UF Student Honor Code and Student Conduct Code.

Course Evaluations

At the end of the semester, you will be asked to provide professional and respectful feedback about this course through an anonymous online evaluation. You can find guidance on how to give appropriate feedback [here](#). You will get an email from GatorEvals when the evaluation opens, and I will allot time in one of our final class periods for you to complete it.

Tentative Course Outline

The following table is designed to give you a sense of the course's coverage and workload. **This outline is only tentative; you must check Canvas regularly for your assignments and deadlines.**

All readings are from the coursebook ("CB") and the and Federal Rules of Civil Procedure ("FRCP") and Evidence ("FRE") unless otherwise indicated.

| Wk. | TOPIC | READING | ASSIGNMENTS (DUE SUNDAY 10PM) |
|---------------------|--|---|--|
| 0.5 | Introduction | Syllabus CB Ch. 1 | |
| 1 | Pre-Complaint Investigation & Evaluation; Pleadings | CB Ch. 2, 4, 5 Sample pleadings FRCP 7(a), 8, 10 Initial case file | Basic complaint (individual assignment) |
| 2 | Case Development & Intro to Discovery | CB Ch. 4 & 5 FRCP 16(a) & (b), 26(d), (f), 38 | Case evaluation memo; first version of evidence map |
| 3 | Serving Written Discovery | Case file pleadings and initial disclosures CB Ch. 7 FRCP 26(a)(1), (b)(1)-(2), (g), 33, 34, 36 | Evidence map; interrogatories; demands for production; and requests for admission |
| 4 | Responding to Written Discovery | CB Ch. 12 FRCP 26(a)(1) & (b)(5) | Responses and objections to discovery requests; privilege log; and document production |
| 5 | Discovery Disputes & Motion Practice | CB Ch. 13 FRCP 7(b), 11, 26(b)(2)(C), 26(c), 36(a)(6), 37 | Motion To Compel |
| 6 | Opposing Motions | | Opposition to Motion To Compel |
| SPRING BREAK | | | |
| 7 | Hearing Prep; Motion Hearings | [Motion hearings held during class periods] | Team hearing report; individual reflection |
| 8 | Hearings Debrief; Intro to Depositions | CB Ch. 8 FRCP 30, 32 | Second version of evidence map; notice of deposition |
| 9 | Depositions, ctd. | | Deposition outline; client prep outline |
| 10 | Depositions, ctd. | [Depositions held during class periods] | Team deposition report; individual reflection |
| 11 | Professionalism & Implicit Bias; Working with Expert Witnesses | CB Ch. 9, 11 FRCP 26, 35 FRE 702-704 | Third and final version of evidence map |
| 12 | Dispositive Motions, Pre-Trial Negotiations, and Settlement | CB Ch. 15 FRCP 26(a)(3), 56 | Team report re summary judgment, settlement negotiations, and trial prospects |
| 13 | Case Debrief, Career Discussion, & Goodbyes | | |

