

Pre-Trial Civil Practice

Spring 2020

Prof. S.L. Bishop

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Class Hours: Mon/Wed 3:00-4:25, MLAC 100

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Course Description

This course offers an in-depth study of civil litigation as it proceeds towards trial. Areas of emphasis will include fact and theme development from formation of client-attorney relationship through the discovery process, strategic decision-making at each step of the process, and pre-trial motion practice.

Learning Aims & Outcomes

Attain and demonstrate entry-level knowledge in:

- Case preparation and evaluation
- Development of claims and defenses
- Informal and formal discovery methods
- Taking and defending depositions
- Working with experts
- The fundamentals of pre-trial motion practice

Student Evaluation

There is no final examination in this course. Rather, at the end of the semester, students will be graded Satisfactory or Unsatisfactory based on the following metrics:

- Attendance and professionalism
- Preparation for class sessions
- Good faith participation in discussion and simulation exercises
- Quality of written assignments

These metrics are explained in detail in the sections below.

Law Firms

Students will be assigned to four-person “law firms” and will litigate against each other throughout the semester using a simplified but realistic case. All written assignments will be completed by the firms as a group assignment. At least one member of each firm must bring a laptop to each class session to use for group drafting exercises, note-taking, etc.

Readings

Reading assignments in this course are limited (so easily managed) and important. Students must check the course website regularly for reading assignments and other announcements.

The required texts for this course are:

- Roen & Paulsen, *Civil Litigation: Pretrial Case Development & Discovery* (West 2016)
- A digital or paper copy of the Federal Rules of Civil Procedure.
- A digital or paper copy of the Federal Rules of Evidence.

Workload

The ABA requires that you spend an average of at least six hours per week on work outside of class for this three-credit course. This is in addition to the three hours per week that we spend in class. Thus, over the 13-week semester, students are expected to spend at least 78 hours outside of class engaged in the following activities: study, planning, research, and preparation of workshop assignments, observation and critical reflection in simulated interviews, depositions, and courtroom proceedings, and preparation of assigned client and witness roles.

Attendance

Because this is a skills course, it is not possible to achieve the course objectives without active participation in the discussions and the “hands-on” simulation exercises. Class attendance is mandatory and expected. All absences must be requested in advance (except in a true emergency), and will be excused for necessary reasons only. Similarly, absences to observe a holy day of your faith will be excused if you notify me in advance.

Class attendance is measured solely by the sign-in sheet. It is each student’s responsibility to locate and sign the sheet at the beginning of class. By signing your initials you affirm that you are physically present in class during that class period. It is a serious violation of the Honor Code to falsely indicate that you were present in class, or to assist a classmate in such misrepresentation.

Professionalism & Punctuality

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.

Business attire is not required except for the motion arguments and depositions, which I will remind you about in advance.

Punctuality is part of the professionalism expected of you as future lawyers. Please be in your seat ready to begin class at the scheduled time. Any student arriving more than 10 minutes late for class may not sign the attendance sheet. Similarly, you may not leave class early without prior permission.

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 <http://www.dso.ufl.edu/students.php>

Accommodations

Students needing accommodations for disabilities must register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>) to receive accommodations. Once registered, you will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell), who will then work with me to make sure it is properly implemented. Please follow this procedure as early as possible in the semester.

Course Evaluation

You 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 appropriate feedback is available at <https://gatorevals.aa.ufl.edu/students/>. You will receive an email from GatorEvals when evaluations open; I will allot time in our final class period for you to complete them.

Tentative Course Outline

The following outline is preliminary only and will almost certainly change as the course progresses. Please check the course website for up-to-date reading assignments, detailed instructions on written assignments and exercises, and other course announcements.

Weeks 1-2: Jan. 13-24 Case Development	Roen & Paulsen Chs. 1-2 Assignment: case evaluation memo <u>Note:</u> No class on 1/22 (MLK Day)
Week 3: Jan. 27-31 Introduction to Discovery	Roen & Paulsen Chs. 3-5 FRCP 16, 26(a), (b), (f) Assignment: discovery plan
Week 4: Feb. 3-7 Written Discovery I	Roen & Paulsen Chs. 6-7 FRCP 26(b), 26(g), 33, 34, 36 Assignment: interrogatories; demands for production; requests for admission
Week 5: Feb. 10-14 Written Discovery II	Roen & Paulsen Chs. 7 & 12 FRCP 26(b) Assignment: responses to discovery requests
Week 6: Feb. 17-21 Motion Practice I	Roen & Paulsen Ch. 13 FRCP 26(c)(1), 37 Assignment: notice of motion & motion to compel; memorandum of law in support of motion; affidavit in support of motion
Week 7: Feb. 24-26 Motion Practice II	Assignment: opposition brief and affidavit (Some motion hearings may be held this week)
NO CLASS – SPRING BREAK	
Week 8: Mar. 9-13 Electronic Discovery	Roen & Paulsen Ch. 10 FRCP 26(a)(1)(A)(ii) & (b)(2)(B), 34, 37(e); FRE 1001 (The remainder of the motion hearings will be held this week)
Week 9: Mar. 16-20 Experts	Roen & Paulsen Ch. 9 FRCP 26(a)(2); FRE 702-04 Assignment: expert memo
Week 10: Mar. 23-27 Depositions I	Roen & Paulsen Ch. 8 FRCP 30, 45 Assignment: draft deposition outline (Some depositions may be held this week)
Week 11: Mar. 30-Apr. 3 Depositions II	(Depositions held this week)
Week 12: Apr. 6-10 Misc. Discovery Issues	Roen & Paulsen Ch. 11 FRCP 34, 35
Week 13: Apr. 13-20 Gearing Up for Dispositive Motions & Trial	Roen & Paulsen Chs. 14-15 FRCP 32; FRE 801 Assignment: trial plan