

Civil Pre-Trial Practice

Spring 2021

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Class Hours: Mon/Wed 5-6:25PM, HH-180 (overflow in HH 382)

GENERAL INFORMATION

This course offers an in-depth study of civil litigation as it proceeds towards trial. We will cover fact and theme development, the discovery process—including written requests and responses, negotiations, motion practice, and depositions—and strategic decision-making at each step of the process.

Workload

Although this is a pass/fail course, you will not find it any less work than a graded course. You will have 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 time spent in class.

“Law Firms” & Modality

You will be assigned to 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.

We will hold as many class sessions in person as we can, but please note that approximately half the class sessions will be held on Zoom to allow you to work together in your law firms—including the motion arguments and depositions. If you are taking the course in person, you must bring a laptop or tablet to every class so that you can access handouts on Canvas and participate in in-class exercises.

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

Course Website

We will open the course Canvas website via <https://elearning.ufl.edu/> a few days before our first class. **You must check the course website frequently.** All course business will be conducted through Canvas: we 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! We are always happy to meet our students and get to know you better.

Under UF's policies to prevent the spread of Covid-19, we cannot meet with you in person this semester, only via Zoom. You will find the links for each of our office hours on Canvas. If you cannot make our office hours, or if you would prefer to have an individual meeting, we are happy to meet with you at another time—email whichever professor you want to meet with to set that up.

GRADING

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

- Attendance and punctuality.
- Preparation for class sessions.
- Professionalism and good faith participation in discussion and simulation exercises.
- Quality of written assignments.
- Quality of motion arguments and deposition taking and defense.

In exceptional circumstances, we may also award a limited number of "S+" grades.

The metrics that affect your grade are discussed in more detail under "Course Policies," below.

Academic Honesty

All work you submit in this course must be your own. 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 at <https://sccr.dso.ufl.edu/policies/student-honor-code-student-conduct-code/>, which explains in detail what conduct constitutes plagiarism. Ignorance of the rules is not a defense.

COURSE POLICIES

Attendance

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. 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**. Excused absences for those days must be requested and received in advance (except in a true emergency) and will be given for necessary reasons only.

Attendance is measured solely by the sign-in website, using the code we will give out during each class. It is your responsibility to sign in for each class. By signing in, you affirm that you are present for that class period. It is a 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.

Punctuality is part of the professionalism expected of you as future lawyers. You must arrive at school or sign in to Zoom early enough to be ready to begin class at the scheduled time. Arriving or logging in for class more than 10 minutes late counts as an absence. Similarly, you may not leave class early without advance permission.

Zoom Conduct

When attending class on Zoom, you must follow these protocols:

- Sign in at ufl.zoom.us with your UFL ID. If you do not, Zoom will not admit you to the class.
- Use your full first and last name as your Zoom name, and include your pronouns.
- Log in from a quiet, stationary location.
- Absent extenuating circumstances, keep your webcam on. You are welcome to use a Zoom “virtual background,” but it must be neutral and professional. The law school provides several such options here: <https://www.law.ufl.edu/zoom-backgrounds>. Please know it is more than understandable if children, pets, or other household members occasionally pass through.
- Make sure you are well-lit and wearing appropriate clothing.
- Mute your microphone unless you are speaking.
- Use the “Raise Hand” function to ask a question or volunteer an answer.
- You are welcome to use the chat function to, e.g., address tech issues—but keep it professional. Bear in mind that all chats (including the seemingly “private” chats sent to one other user) are recorded.

Technology

As noted above, if you are taking the course in person, you must bring a laptop or tablet to every class so that you can access handouts on Canvas and participate in in-class exercises. Whether in person or on Zoom, you must silence and put away cellphones, smartwatches, and similar items during class.

Attire & Headgear

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

Absent a medical need, you may not wear brimmed hats (e.g., baseball caps) or sunglasses during class. It is already difficult enough for us and your classmates to see your face in a mask or on a small Zoom screen. Religious headcoverings are of course permitted.

SCHOOL & UNIVERSITY POLICIES

On-Campus Policies To Prevent the Spread of Covid-19

The university and law school have put many requirements in place to keep our community safe, including that you must wear a mask and keep six feet away from others at all times during class. **If you do not follow these requirements, we will have you removed from the course.**

You must use and comply with the UF Health screening and contact tracing systems. If you are not allowed to come to campus, you must attend class online unless you are not well enough to do so.

If you are experiencing COVID-19 symptoms, please do not come to campus (or if you are already on campus, please leave immediately), and contact UF Health. If you are well enough to attend class online, you must do so.

Accommodations

We are committed to making this course accessible to all. If you need accommodations for disabilities, the first step is to register with UF's Disability Resource Center (<https://disability.ufl.edu/>). 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 us to make sure we properly implement your accommodations. Please follow this procedure as early as possible in the semester. We cannot grant you any accommodation not reflected in your letter and approved by Dean Mitchell.

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 at <https://gatorevals.aa.ufl.edu/students/>. You will get an email from GatorEvals when the evaluation opens, and we will allot time in one of our final class periods for you to complete it.

Tentative Course Outline

DISCLAIMER: The following outline is preliminary and will very likely change as the course progresses. You must check Canvas for up-to-date reading assignments, detailed instructions on written assignments and exercises, and other course announcements.

Wk.	TOPIC	READING ¹	ASSIGNMENTS (DUE SUNDAY 10PM)
0	Introduction	Syllabus CB Ch. 1	
1	Pre-Complaint Investigation & Evaluation; Pleadings; Intro to Discovery	Case file CB Ch. 2, 4, 5 Sample pleadings FRCP 7(a), 8, 10, 16(a) & (b), 26(d), (f), 38	Case evaluation memo
2	Starting Written Discovery	CB Ch. 7 FRCP 26(a)(1), (b)(1)-(2), (g), 33, 34, 36	Evidence map; interrogatories; demands for production; and requests for admission
3	Responding to Written Discovery	CB Ch. 12 FRCP 26(a)(1) & (b)(5)	Responses and objections to discovery requests; privilege log; and document production
4	Discovery Negotiations & Motion Practice	CB Ch. 13 FRCP 7(b), 11, 26(b)(2)(C), 26(c), 36(a)(6), 37	Motion To Compel
5	Motion Practice; Opposing Motions		Opposition to Motion To Compel
6	Preparing for Motion Hearings and Discovery Conferences		
7	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	Updated evidence map
9	Depositions, ctd.		Deposition outline; client prep outline
10	Depositions, ctd.	[Depositions held during class periods]	Team deposition report; individual reflection
11	Depositions Debrief; Expert Witnesses	CB Ch. 9, 11 FRCP 26, 35 FRE 702-704	Updated evidence map
12	Gearing Up for Dispositive Motions & Trial; Pre-Trial Negotiations and Settlement	CB Ch. 15 FRCP 26(a)(3), 56	Team report re summary judgment, settlement negotiations, and trial prospects
13	Professionalism, Mental Health, Goodbyes		

¹ Readings are from the coursebook ("CB") and Federal Rules of Civil Procedure ("FRCP") and Evidence ("FRE").