

UNIVERSITY OF FLORIDA
LEVIN COLLEGE OF LAW

ELECTRONIC DISCOVERY
COURSE 6930 CLASS # 215787 3-CREDITS

COURSE SYLLABUS
SPRING 2019

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, Investigations, and Evidence
Fall Semester 2019

Class time: M, T, Wed. 1:30 – 2:25 PM, Room 355C Holland Hall

Office Hours: Tuesdays, 3:00 PM – 4:00 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 a principal form of evidence and often determines case outcomes. This course will provide you with a working knowledge of the principal e-discovery issues encountered in litigation and investigations and the legal framework required to analyze and to resolve the multitude of e-discovery issues. This course will also introduce you to a variety of industry-standard electronic discovery tools. Attention will also be paid to the use of electronically stored information in motions, hearings, and trials.

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

This course does not require any advanced or specialized computer knowledge. The course will cover some very basic computer and computer network operations. As with any course, there will be some new vocabulary. 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 commit to learning a new “technical vocabulary” and understanding some basic technology concepts and computer operations 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 the basics of how a computer works. Few people really know this--amaze your friends!

Will I Need to Master Complicated E-Discovery Software?

Contemporary e-discovery software is easy to use. It is no more complicated than Word or PowerPoint. Becoming familiar with the 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 when you leave law school.

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 several 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 exercises and 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 a rich source of information that would win cases for my clients. Before 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 an 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/icaire>
<https://www.linkedin.com/in/williamfhamilton>
<http://www.quarles.com/william-bill-hamilton/>

I am married to Cynthia Tejcek. Cindy graduated from Loyola University in Chicago with a BS in mathematics. She also holds an MBA from Kellogg School of Management at Northwestern University. We meet when she was the chief

information officer of the American Bar Association. Yes, we are big Cubs baseball fans and also Tampa Bay Rays fans.



We have a son who earned a 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 who is an RN at Lakeland Memorial Hospital in the Emergency Department.



And, I'm very pleased that our daughter recently graduated from UF. Go Gators!

How Can You Contact Me?

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

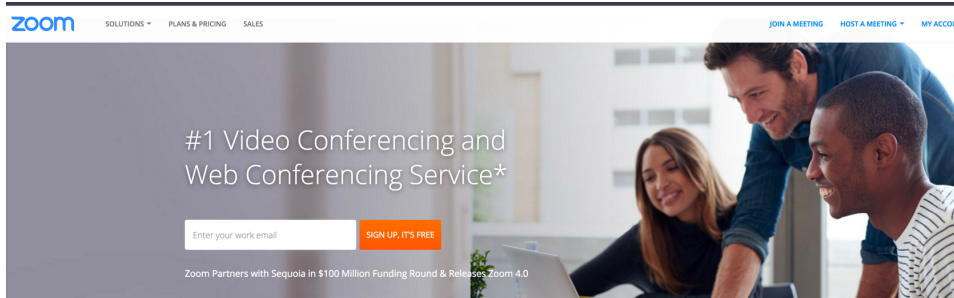
Email	Telephone	Text	Office
hamiltonw@law.ufl.edu	480.993.8777	480.993.8777	342 Holland: Tuesdays 1-3

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.



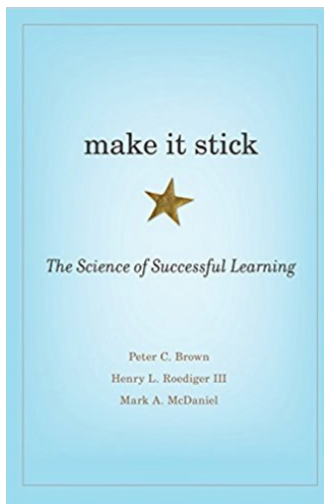
Zoom is one of my favorite video conferencing tools. We can have a face-to-face video conference any time (even on tablets and smartphones). It is as simple as Facebook. You don't need to come to my office.

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



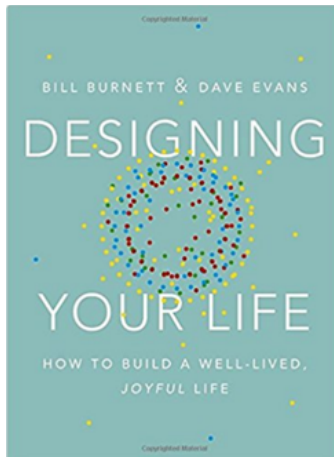
Teaching Philosophy and Instructional Methods: This course has a practical orientation. You will learn the Federal and Florida Rules of Civil procedure governing electronic discovery and read cases. But the emphasis of the course is on solving the practical electronic discovery problems. You will learn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

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. 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.

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. This is because most students do well on the early check-up quizzes and the assignments and exercises are usually completed properly for full points.

Is this Course Graded on a Curve?

This course is graded on a 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: 500 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: 200 points (5 points per class).

Class attendance and participation are 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 class' understanding of e-discovery issues,
- (3) Participating in class dialogue.

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. I will provide class attendance for a missed class if I receive advance notice and a reasonable basis for missing the class.

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. Exercises and Assignments: 320 points.

- Data Encoding and Decoding Exercise -20

- Data Mapping Exercise -20
- Hashing and Metadata Exercise -20
- Harvester Collection Exercise -30
- Social Media Collection Exercise -20
- Logikcull Project Creation and Processing Exercise -30
- Relativity Search and Training Exercises -60
- Logikcull Search Exercise -30
- Relativity Document Review Exercise -60
- Logikcull Document Production Exercise -30

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. During class do not visit social media websites, do not text, and do not email. Keep your web 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. 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 an 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%. Absent a good excuse, I will not accept an assignment more than a week late, and you will earn zero points for the assignment.

Assigned Text:

LexisNexis Practice Guide Florida E-Discovery and Evidence, Artigliere and Hamilton(2019)

<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 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 an 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). 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>.

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>.

Online Course Evaluation:

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 professionally and respectfully 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>

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.*