**UNIVERSITY OF FLORIDA FREDRIC G. LEVIN COLLEGE OF LAW**

**COLLABORATIVE LAW SYLLABUS**

**SPRING 2021**

**ADJUNCT PROFESSIOR ROBERT J. MERLIN**

Robert J. Merlin, Esquire

95 Merrick Way

Suite 420

Coral Gables, Florida 33134

305-448-1555 (O)

305-322-5138 (C)

rmerlin@merlinlaw.com

**COURSE DESCRIPTION**

Collaborative Law focuses on identifying the interests of all parties in a legal dispute and helping them to work toward a resolution reached by mutual decision rather than by litigation. This skills course is designed both to familiarize students with the theoretical underpinnings and train them in the practical application of Collaborative Practice principles.

The course will introduce students to the concept and practice of Collaborative Law, a non-adversarial means of resolving disputes, most often used in the family law context. Collaborative Practice is typically a multi-disciplinary process which seeks to help parties settle legal matters in a dignified manner, with respect for all of the participants, using constructive communication methods with the active participation of the parties to the dispute. Because family law is the area in which most Collaborative lawyering has occurred, this course will focus on the Collaborative divorce, touching briefly on the other legal contexts in which Collaborative Practice may be useful. Students are expected to attend class, to read the assigned materials in advance of class, to complete assignments in a timely manner and to be prepared to participate in class activities and discussions.

**Class Number:** 27691

**Section:** R3ME

**Credit Hours:** 2

**Class Times:** Mondays 8:00 am – 10:00 am

**Class Dates:** Monday, January 25, 2021 – Monday, April 19, 2021

**Office Hours:** Please call my office, 305-448-1555, to schedule an appointment or text or call my cell 305-322-5138 to speak with me.

**Format:** Online

**Canvas:** Please make sure that you can access the Canvas site for this course, where I will post the class materials and announcements.

**Attendance**: Class attendance is mandatory. If you miss more than four classes for any reason, you may be rendered ineligible to receive credit for the course. You are expected to arrive on time for each class. If you arrive late, it is your responsibility to see me after class to make sure I have marked you as being late rather than absent. I do not distinguish between excused and unexcused absences, but simply allow you four absences for whatever reason, with the following exceptions: (a) According to UF policy, “students, upon prior notification to their instructors, shall be excused from class to observe a religious holy day of their faith.” (b) “Absences from class for court-imposed legal obligations (e.g., jury duty or subpoena) must be excused.” Such excused absences for a religious holy day or a court-imposed legal obligation shall not count toward the four permitted absences.

**Required Readings**:

Collaborative Law, Third Edition, by Pauline H. Tesler, Esquire, published by the American Bar Association Section of Family Law ISBN 978-1-63425-470-0

Uniform Collaborative Law Rules and Uniform Collaborative Law Act:

<https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=515a6ede-25c2-1ab5-740e-0a8f0dfd3b18&forceDialog=0>

Florida Statutes Sections 61.55-61.58:

<http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0061/0061PartIIIContentsIndex.html&StatuteYear=2020&Title=%2D%3E2020%2D%3EChapter%2061%2D%3EPart%20III>

Florida Family Law Rule of Procedure 12.745:

<https://www-media.floridabar.org/uploads/2019/08/Family-Law-Rules-of-Procedure-08-2019.pdf>

Florida Bar Rule of Professional Conduct 4-1.19:

<https://www-media.floridabar.org/uploads/2020/09/Ch-4-2021_03-SEP-RRTFB-9-3-2020.pdf>

International Academy of Collaborative Professionals Standards an Ethics:

<https://www.collaborativepractice.com/sites/default/files/IACP%20Standards%20and%20Ethics%202018.pdf>

**Recommended Readings**:

“The Collaborative Law Process Act: The Future is Now,” Robert J. Merlin, Esquire, The Florida Bar Journal, April 2017, <https://www.floridabar.org/the-florida-bar-journal/the-collaborative-law-process-act-the-future-is-now>

“The Collaborative Law Process Rules: This is How We Do It,” Robert J. Merlin, Esquire, The Florida Bar Journal, April 2018, <https://www.floridabar.org/the-florida-bar-journal/the-collaborative-law-process-rules-this-is-how-we-do-it>

“Collaborative Law Movement Is Gaining In Popularity,” The Florida Bar News, December 23, 2020, <https://www.floridabar.org/the-florida-bar-news/collaborative-law-movement-is-gaining-in-popularity>

“Collaborative Law Handbook,” Forrest S. Mosten

**Class Participation:** You are encouraged to prepare for each of our classes, including the first class. You will benefit from your preparation for the classes and your participation in our classroom discussions. You are encouraged to ask questions. My philosophy is that if you have a question, there is a reasonable chance that someone else in the class will have the same question. I do not mind being interrupted with a question. If I do not think it is an appropriate time to answer the question, I will let you know. Please remind me either before the end of the class or after the class if I did not answer your question. You should expect to be randomly called upon to answer my questions. I encourage you to think about what you have read to prepare for a class. Questioning how and why something is done will enable you to better understand the Collaborative Process. I do not expect you to answer all of my questions correctly, but I expect you to ask well-thought out questions and to actively participate in our discussions. Given that this will be a virtual class, it is easy to be distracted during the class. Not paying attention to what is being discussed during our classes will negatively affect your grade. While it may go without saying, you must use your video camera at all times during our classes, unless you let me know that you have an emergency. Your grade may be lowered if you do not have your camera on during our classes. Please do not leave the class for anything without communicating with me first. You should not leave the class except in extenuating circumstances. We will have a ten (10) minute break between the first and second hours of each class.

**Final Exam:** There will be no final exam in this class.

**Grading Policy:**

Your grade will be based upon your participation in the classroom and your class assignments, with 50% of your grade being based upon your class participation and 50% being based upon your class assignments. Per law school policy, this class will be graded on a curve. UF recognizes the following grades, in accordance with the grading policy available at: <http://www.law.ufl.edu/students/policies.shtml#9>:

Grade Points

A (excellent) 4.0 C- 1.67

A- 3.67 D+ 1.33

B+ 3.33 D 1.0

B 3.00 D- 0.67

B- 2.67 E (failure) 0.00

C+ 2.33

C (Satisfactory) 2.0

**American Bar Association Out-of-Class Hours Requirement:** ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. This Collaborative Law class will be two (2) hours in the classroom each week, so you should expect to spend at least four (4) hours of preparation work each week outside of the classroom.

**Accommodations for Students with Disabilities:** Students requesting accommodation should register with the UF Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) and provide appropriate required documentation. Once registered, students will receive an accommodation letter, which should be presented to the UF Law Office of Student Affairs when requesting accommodation. This procedure should be followed as early as possible in the semester. Law students with disabilities can also contact the Levin College of Law Office of Student Affairs for assistance on these matters in 164 Holland Hall, 273-0620, [www.law.ufl.edu/students/](http://www.law.ufl.edu/students/).

**UF Law Honor Code:** Students are bound by the UF Law Honor Code, which can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

**University Policy on Academic Misconduct:** UF students are bound by The Honor Pledge, which states: “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.” The Honor Code (<https://sccr.dso.ufl.edu/students/student-conduct-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilities academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor.

**Recording of Class Discussions:** Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online.  Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

**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 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 the evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://gatorevals.aa.ufl.edu/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

**Covid Policies**

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

* You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
* This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
* Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* Be mindful of how to properly enter and exit the classroom.  Practice physical distancing to the extent possible when entering and exiting the classroom.
* If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), 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 able to return to campus.  <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.
* Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work.<https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>.”

**Class Schedule and Topics:**

While the topics to be covered in the classes are subject to change and additional materials can be introduced during a class, this is what you can expect to be discussed during each class. I will try to leave time for questions and answers at the end of each class:

January 25, 2021

 Introduction to Family Law

 Introduction to dispute resolution methods available in Family Law matters

 Discussion of problems with existing Family Law system

 Introduction to Collaborative Process

**Class assignment: Prepare a summary of your experience in divorces. The experience can be the result of your, a close relative’s or a friend’s marriage being dissolved.**

February 1, 2021

 Discussion of topics covered in prior class and homework

Introduction to Collaborative Process (continued)

 History of Collaborative Process

 Different models of Collaborative Process

 Benefits of Collaborative Process

 Objections to Collaborative Process

February 8, 2021

 Discussion of topics covered in prior class and homework

 Uniform Collaborative Law Rules and Act

 Florida Collaborative Process Act

 Florida Collaborative Rule of Procedure

 Florida Collaborative Rule of Professional Conduct

 ABA Model Rules of Professional Conduct

 International Academy of Collaborative Professionals Standards and Ethics

February 15, 2021

 Discussion of topics covered in prior class and homework

 Organization of a Collaborative matter

 Rolls of Collaborative Team members

 Collaborative professional team building

 Pre-brief and debrief meetings

February 22, 2021

 Discussion of topics covered in prior class and homework

 Collaborative Participation Agreement

Introducing Collaborative Process to clients

 Conducting initial consultation with client

 Retainer Agreement – limited scope representation

March 1, 2021

 Discussion of topics covered in prior class and homework

 Lana M. Stern, PhD – roll of the Mental Health Professional/Facilitator/Coach

 Intimate Partner Violence and Collaborative Process

 Roll play with Facilitator

March 8, 2021

 Discussion of topics covered in prior class and homework

 Marta Alfonso, Esquire, CPA - roll of the Financial Professional

 Roll play with Financial Professional

March 15, 2021

 Discussion of topics covered in prior class and homework

 Introduction of fact pattern

 Preparing a client for first Collaborative meeting

March 22, 2021

 Discussion of topics covered in prior class and homework

 Roll play initial joint meeting

 Preparation of minutes of joint meeting

 Communications between Team members between joint meetings

March 29, 2021

 Discussion of topics covered in prior class and homework

 Discussion of issues anticipated for second joint meeting

Roll play second joint meeting

 Debriefs of joint meeting with client and Team members

April 5, 2021

 Discussion of topics covered in prior class and homework

 Exercise on Interest Based Negotiations

April 12, 2021

 Discussion of topics covered in prior class and homework

 Preparation of Collaborative Marital Settlement Agreement

 Preparation of Petition for Dissolution of Marriage

 Preparation of Final Judgment of Dissolution of Marriage

April 19, 2021

 Discussion of topics covered in prior class and homework

 Debrief of Collaborative Process and classes

**Course Learning Objectives**:

At the end of this course, students should be able to:

1. Explain the dispute resolution options available in family law matters, including the benefits and drawbacks of each option;
2. Explain the Collaborative Process, including:
3. The participants and the roll of each, including the parties and professionals;
4. The structure of how the Collaborative Process works;
5. The documents required to be used and other documents typically used in the Collaborative Process;
6. The organization of the meetings and communications in the Collaborative Process;
7. How the Collaborative Process concludes or is terminated and the consequences of each; and
8. The rules applicable to the Collaborative Process
9. Conduct an initial interview with a potential client, including explaining the process choices for handling a family law matter;
10. Begin the Collaborative Process, including creating the Collaborative team, preparing relevant documents, preparing the client for the first joint meeting and conducting the first joint meeting;
11. Explain the various steps in the Collaborative Process between the first joint meeting and the signing of a settlement agreement;
12. Facilitate and participate in multiple joint Collaborative meetings, including understanding and playing the different rolls in such meetings;
13. Recognize and de-escalate potential conflicts during the Collaborative Process;
14. Prepare documents relevant to the Collaborative Process, including minutes of meetings, partial agreements and a final settlement agreement;
15. Prepare the documents needed to obtain court approval of a Collaborative Settlement Agreement;
16. Understand the ethics rules that apply to the Collaborative Process.

**Disclaimer**: This syllabus represents my current plans and objectives for this Collaborative Law class. As we go through the semester, those plans may change depending on a variety of circumstances. The goal will be for such changes to enhance the student’s learning experience. Such changes, which will be clearly communicated to the class, are not unusual and should be expected.