

Pre-Trial Civil Practice
University of Florida Levin College of Law
FALL 2023 SYLLABUS – LAW 6930/CLASS #23867 – 3 CREDITS

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CLASS MEETING TIME: Tuesdays & Thursdays 4:30 to 5:55 pm

CLASS LOCATION: Holland Hall 345

OFFICE HOURS: Wednesdays, 1:00pm to 3:00pm

Please come to office hours! I am always happy to meet my students and get to know you better. If you cannot make it to these office hours, we can meet at another time—email me to set that up.

If you have questions regarding the course or a specific assignment, please feel free to email me. I try to respond to emails quickly.

REQUIRED READING MATERIALS:

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.

COURSE DESCRIPTION AND OBJECTIVES:

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

This course complies with ABA Standard 310. ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. We will spend approximately 3 hours in class each week, requiring at least **6 hours of preparation** outside of class including reading the assigned materials, completing writing assignments, preparing for simulations, and conferring with the other members of your law firm and opposing counsel.

Please note that 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 time spent in class.

STUDENT LEARNING OUTCOMES:

At the end of this course, students 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
- ✓ Negotiate a settlement

COURSE EXPECTATIONS AND GRADING EVALUATION:

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 and good faith participation in discussion and simulation exercises.
- Quality of written assignments.
- Quality of performance in hands-on exercises, including motion arguments, deposition taking and defense, and negotiations.
- Preparation for class sessions.
- Attendance and punctuality (see policies below).

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

“LAW FIRMS” & GOOD FAITH PARTICIPATION

You will be assigned to two-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.

CLASS ATTENDANCE POLICY:

This is a skills course. Attendance in class is required by both the ABA and the Law School. 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 two absences through the semester

– but **you may not take an unexcused absence on key dates for your team, such as your deposition days or your motion hearing days.** For those days, you must request and receive the excused absence at least a week in advance (except in the instance of a true emergency), and I will grant one for necessary reasons only.

Attendance will be taken at each class meeting. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course. The law school's policy on attendance can be found [here](#).

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. If you are using electronics to do anything not directly related to this class, I will penalize you. I may revisit or revise this policy as needed.

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.

UF LEVIN COLLEGE OF LAW STANDARD SYLLABUS POLICIES:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

POLICIES TO PREVENT THE SPREAD OF SICKNESS

If you are sick, out of respect for your colleagues, please do not come to class. Please notify me of your condition and I will provide you with a Zoom link so that you can attend class remotely. You will not be marked absent if you must attend class via Zoom because you are sick. If you insist on coming to class sick, please consider wearing a mask to prevent the spread of germs and illness.

TENTATIVE COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS

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.** Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change.

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

COURSE SCHEDULE**Week 1**

Reading for the week: Syllabus, Ch. 1

Class 1: 8/22 Topic: Intro to Class

Class 2: 8/24 Asynchronous class. Assignments will be posted on Canvas.

Week 2

Reading for the week: Ch. 2; FRCP 7(a), 8, 10; your client's case file

Class 3: 8/29 Topic: Pre-Complaint Investigation & Evaluation

Class 4: 8/31 Topic: Pleadings

Plaintiffs must serve Complaint by Saturday, September 2, at 11:59pm.

Defendants must serve Answer by Monday, September 3, at 11:59pm.

Week 3

Reading for the week: Ch. 4 & 5; FRCP 16(a), 16(b), 26(d); 26(f), 38

Class 5: 9/5 Topic: Case Development & Intro to Discovery

Class 6: 9/7 Topic: Case Development & Intro to Discovery (cont'd)

Case evaluation memo and first version of evidence map due to ME Sunday, September 10, at 11:59pm.

Week 4

Reading for the week: Ch. 7; FRCP 26(a)(1), 26(b)(1)-(2), 26(g), 33, 34, 36

Class 7: 9/12 Topic: Serving Written Discovery

Class 8: 9/14 Topic: Serving Written Discovery (cont'd)

Serve interrogatories, requests for production, and requests for admissions by Sunday, September 17, at 11:59pm.

Week 5

Reading for the week: Ch. 12; FRCP 26(a)(1) & 26(b)(5)

Class 9: 9/19 Topic: Responding to Written Discovery

Class 10: 9/21 Topic: Responding to Written Discovery (cont'd)

Serve responses and objections interrogatories, requests for production, and requests for admissions by Sunday, September 24, at 11:59pm.

Week 6

Reading for the week: Ch. 13; FRCP 7(b), 11, 26(b)(2)(C), 26(c), 36(a)(6), 37

Class 11: 9/26 Topic: Discovery Disputes & Motion Practice

Class 12: 9/28 Topic: Discovery Disputes & Motion Practice (cont'd)

Serve motions to compel discovery by Sunday, October 1, at 11:59pm.

Week 7

Class 13 10/3 Topic: Opposing Motions

Class 14: 10/5 Topic: Opposing Motions (cont'd)

Serve responses to motions to compel discovery by Sunday, October 8, at 11:59pm.

Week 8

Class 15: 10/10 Topic: Hearing Prep

Class 16: 10/12 Activity: Hearings on Motions to Compel (Dress professionally!)

Team hearing report and individual reflection due to ME by Sunday, October 15, at 11:59pm.

Week 9

Reading for the week: Ch. 8; FRCP 30, 32

Class 17: 10/17 Topic: Hearings Debrief

Class 18: 10/19 Topic: Intro to Depositions

Second version of evidence due to ME by Sunday, October 22, at 11:59pm.

Week 10

Class 19 10/24 Topic: Depositions (cont'd)

Class 20: 10/26 Topic: Depositions (cont'd)

Week 11

Class 21: 10/31 Activity: Plaintiff's Depositions (Dress professionally!)

Class 22: 11/2 Activity: Defendants' Depositions (Dress professionally!)

Team deposition report and individual reflection due to ME by November 5, at 11:59pm.

Week 12

Reading for the week: Ch. 9, 11; FRCP 26 & 35; FRE 702-704

Class 23: 11/7 Topic: Professionalism & Working with Expert Witnesses

Class 24: 11/9 Topic: Pre-Trial Negotiations & Settlement

Final version of evidence map and mediation statement due to ME by Sunday, October 1, at 11:59pm.

Week 13

Reading for the week: Ch. 15; FRCP 26(a)(3) & 56

Class 25: 11/14 Activity: Mediations (Dress professionally!)

Class 26: 11/16 Topic: Last class! Debrief the mediations & discuss trial prospects.