UNIVERSITY OF FLORIDA
LEVIN COLLEGE OF LAW

ELECTRONIC DISCOVERY
LAW 6825 CLASS NUMBER 22738
3-CREDITS

COURSE SYLLABUS
SPRING 2024

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
Spring Semester 2024

Class times: Mondays and Wednesdays, 9:00 – 10:25 AM, MLAC 106

***Office Hours and How Can You Contact Me*:**

My office hours are Mondays and Wednesdays from 11:00 – 12:00 PM at HH 376.

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	Holland 376

Please let me know If you have something to share with me – an inspiration, a new thought, a frustration, or a concern.

Zoom is one of my favorite video conferencing tools. We can have a face-to-face video conference at any time (even on tablets and smartphones).

Zoom	SKYPE
https://ufl.zoom.us/j/4591597877	william.hamilton.1120

Why You Should Take This Course:

Electronic discovery is a critical litigation skill. Digital information is a principal form of evidence that often determines case outcomes. An additional goal of this course is to assist students in preparing for the Florida Bar examination.

Course Description:

This course will introduce you to the basic processes and technology of electronic discovery and offer a foundation in the federal and Florida civil procedure rules and federal case law governing the various phases of electronic discovery.

Learning Outcomes:

After successfully completing this course, you will have obtained:

1. A working knowledge of the principal e-discovery issues encountered in litigation
2. A working knowledge of the legal framework required to analyze and resolve many e-discovery issues.
3. A working knowledge of all Electronic Discovery Reference Model phases. www.edrm.net.
5. A working knowledge of the best methods for utilizing electronically stored information for 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. I hold BA and MA degrees in philosophy if it is any comfort.

***Will I Need to Become an Expert in Technology*?**

The short answer is "No." However, you will need to commit to learning a modest 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. The course assumes no prior technical or computer knowledge. It is fun to understand basic computer operations that few people know.

Who Is Your Professor?

I joined UF Law after 30 years of practicing complex civil litigation in state and federal courts with Holland & Knight (Miami and Tampa) and Quarles & Brady (Tampa). I had the privilege of teaching at UF Law as an adjunct professor for ten years before joining the UF Law faculty as a legal skills professor.

I'm originally from Philadelphia and have spent my entire adult life in Florida. I earned a BA in philosophy 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/icair
https://www.linkedin.com/in/williamfhamilton

I am married to Cindy Tejcek. Cindy graduated from Loyola in Chicago with a BS in mathematics. She holds an MBA from Kellogg School of Management at Northwestern University. We met when she was the chief information officer of the American Bar Association.

We have a son who is an Army Amour Cavalry Captain. He graduated from the University of West Florida with a degree in mathematics.

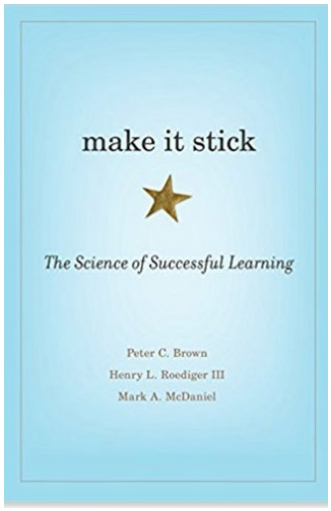
We have another son, an RN at a Seattle hospital Emergency Department.

Our daughter graduated from UF with a major in criminology. She is a sergeant with the Florida Department of Corrections.

Teaching Philosophy and Instructional Methods:

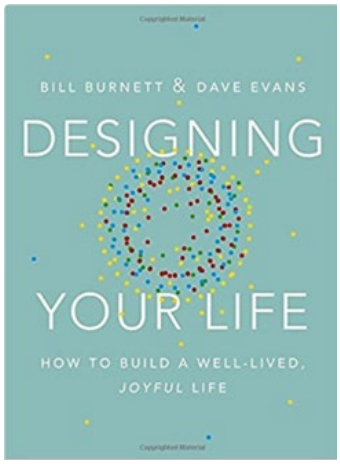
This course has a practical orientation. You will learn the Federal and Florida Rules of Civil Procedure governing electronic discovery and read cases. The emphasis of the course is on solving practical electronic discovery problems. You will learn to act like an e-discovery lawyer in this class.

My teaching philosophy is largely 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.



Attendance:

You are expected to attend all class sessions. Each week, you will be asked to read certain basic cases, statutes, and text material. Approximately every four weeks, there will be a 20-minute low-stakes quiz to give you some feedback on how we are doing. You will take the Quiz at home. If you cannot attend a class, you must email me in advance, and I will provide you with attendance points for that class. An excuse is not required. Do not lose attendance points.

Is this Course Graded on a Curve?

This course is graded on a curve. The Registrar provides me a curved grade range, and my class grade average **must** be within that range.

Course points may be earned as follows:

1. Final examination: 300 points.

There will be a 2-hour, 60-question, multiple-choice proctored final examination. The final examination will require you to analyze factual scenarios, identify the appropriate legal rules, apply the rules, and reach a conclusion. The student Honor Code applies.

The examination will be administered by the Registrar. The examination will include materials and topics discussed in class and the readings.

2. Class Attendance and Participation: 80 points (2 points per class).

Class attendance and participation are expected. Each class is worth 2 points. Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx.

Class participation requires:

(1) Asking and answering questions that illuminate the issues,
(2) Asking and answering questions that enrich the class dialogue and advance the class understanding of the issues,
(3) Participating in the class dialogue and discussions,
(4) Participation in team debates and mock exercises,
(5) Engaging in class activities, exercises, and projects.
(6) Demonstrating class preparation.

Classes will contain numerous individual and group exercises and problems. ***Students attending the class remotely are required to participate in the class and to be "on screen."*** The classes will be recorded, and access will be provided to all students enrolled in the class. You 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.

I recognize that you may have legitimate and compelling personal and professional requirements that may cause a class absence. If you will not attend a class for personal or professional reasons, please notify me in advance as a professional courtesy. I will provide attendance points for students who notify me before an absence. When you have not provided me with advanced notice, attendance points will be provided for missed classes based on compelling circumstances excusing prior notification.

It is important that you are comfortable participating in class discussions and communicating with me on any issues related to the class. Please let me know how you would like to be addressed in class if your name and pronouns are not reflected by your UF-rostered name.

***3. Practice Check-Ups*:**

There will be at least three 20-minute practice in-class announced 10-question

multiple-choice quizzes. Each of the checkups will be worth 10 points. The multiple-choice 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. E-Discovery Software Exercises:

We will have periodic assignments with various electronic discovery tools made available by vendors for student use. These assignments will be graded on a S/U basis. The goal of these exercises will be to expose you to e-discovery software tools. Failure to successfully complete an assignment will result in a 10-point deduction from your total course points.

5. The 11th Annual UF E-Discovery Conference

You will be required to attend two hours of the 11th Annual University of Florida E-Discovery Conference that will be held on February 28th and 29th. There will be no class on Wednesday, February 28, 2024. Attendance at the conference will count as class attendance points.

Class Cancellations

Occasionally, I may have to reschedule a class due to professional demands. If this happens, I may record video lectures for the class to watch or conduct the class remotely via Zoom.

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.

Make-Up Examination, Quiz, and Assignment Policy:

The law school policy on delays and accommodations can be found here.

Assigned Text (specific assignment will be provided from each source);

eDiscovery Assistant, The eDiscovery GPS for Legal Professionals. *https://www.ediscoveryassistant.com/* ***(purchase of $49 student price for the semester through a link provided by the professor)***

LexisNexis Practice Guide Florida E-Discovery and Evidence, Artigliere and Hamilton(2020) 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 (2021) (**modest $20.00 purchase).**

Weekly Class Objectives, Schedule, and Assignments:

The specific weekly lesson, objectives, reading materials, assignments, and exercises are on the course Canvas page. The course Canvas website is the official class record and schedule. Please refer to it and not this syllabus for information regarding class lessons, objectives, reading materials, assignments, and exercises. In each class, we will read cases, study rules, read secondary sources, and discuss practical e-discovery problems. The class reading assignments and exercises are posted on the course Canvas page.

Here is the weekly structure of the course. Please consult Canvas for additional details regarding the reading assignments and materials:

Week 1: Litigation and Electronic Discovery

Week 2: ESI Preservation Duties: Clients and Counsel

Week 3: ESI Preservation Methods Including Copying and Collection

Week 4: The Rule 26(a) and (b) and 26(f) Conference.

Week 5: Rule 34 Document Requests and Objections

Week 6: Keyword Search of Electronically Stored Information

Week 7: Enhanced Keyword Search and Advanced Data Analytics Techniques

Week 8: Artificial Intelligence: Predictive Coding

Week 9: Managing Documents Review Projects

Week 10: Artificial Intelligence: Generative AI and Review

Week 11: Defending ESI Search and Productions

Week 12: Rule 37 Judicial Review and Balancing of E-Discovery Failures

Week 13: E-Discovery Sanctions for Spoliation and Data Loss

I reserve the right to make reasonable adjustments and modifications to the weekly schedule as required by the pace and progress of the class, including, but not limited to, additional or reduced assignments, readings, and exercises.

Workload/class preparation and the 2:1 out of class/in class requirement (ABA Standard 310):

1. You should expect to spend, on average, approximately two hours preparing for every hour of class. Reading assignments are posted on the "Modules" link on the Canvas site (located on the left side of the Canvas site).
2. It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.
3. ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. (Course) has 3 "classroom hours" of in-class instruction each week, requiring at least 6 hours of preparation outside of class. Accordingly, you will have about 60 pages of reading each week. Because the course includes statutory and regulatory excerpts that require careful reading, as well as discussion problems that require thoughtful

advance written preparation, you should spend at least one hour on every 10-15 pages of reading.

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:

Grade	Points	Grade	Point	Grade	Point
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: https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies .

Religious Holidays:

UF Law respects students' observance of religious holidays.

• Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
• Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
• Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances

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

Preferred Name and Pronouns:

It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. I would like to acknowledge your preferred name, and pronouns that reflect your identity. If your name and pronouns are not reflected by your UF-rostered name, please let me know how you would like to be addressed in class.

You can change your “Display Name” in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records.

Class Recordings:

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

Discourse, Inclusion, and the Classroom Ethos:

As a law student and 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. This is even more important in the case of controversial issues and other topics that may elicit strong emotions.

As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions
- speak honestly, thoughtfully, and respectfully
- listen carefully and respectfully
- reserve the right to change our mind and allow for others to do the same
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers

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

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"

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.***