

Litigation Skills and Professionalism Lab Syllabus

Fall 2018

Professor Patrick Fannin

General Information

Office: 1312 N. Monroe St., Spokane, WA 99201
On Campus Office Meetings Available By Appointment

Phone: office: (509) 328-8204 mobile: (509) 869-9700

Office Hours: Anytime by appointment

Email: pat@fanninlaw.com
(I STRONGLY prefer a call for questions – be aware that e-mails may go to junk box)

Faculty Assistant: Kim Sellars

Gonzaga University recognizes the inherent dignity of all individuals and promotes respect for all people. Sexual misconduct will NOT be tolerated at Gonzaga. If you have been the victim of sexual misconduct we encourage you to report this matter promptly. As a faculty member, I am interested in promoting a safe and healthy environment, and should I learn of any sexual misconduct I must report the matter to the Title IX Coordinator. Should you want to report to a confidential source you may contact the following:

- Gonzaga Health Center | 509.313.4052 | 704 E Sharp Avenue
- Gonzaga Counseling Center | 509.313.4054 | 324 E Sharp Avenue
- Any priest serving as a sacramental confessor or any ordained religious leader serving in the sacred confidence role. | 509.313.4242
- University Lutheran Community Services and SAFeT | 509.624.RAPE*

Course Description

The title of this course, Litigation Skills and Professionalism Lab, is highly suggestive of what this course is about. It is my intent to teach you fundamental civil litigation concepts and skills and to make you aware of some of the ethical, moral and professional considerations involved in civil litigation. In some respects, this class is a blend between the following classes: Torts; Civil Procedure; Legal Writing and Professional Responsibility.

Why now as a first year?

1) Context. Context for those other classes and context for your internship and externships.

2) Enhanced Education. Those other classes teach substantive law – we apply that law.

Goals

- Develop an Understanding of Civil Litigation
You will learn when, how and why litigation happens. You will learn about the major steps that happen during the course of litigation from the filing of a lawsuit to its resolution. There will be a focus on one of the most important steps during litigation: Discovery. There will also be a focus on the tort of NIED (Negligent Infliction of Emotional Distress.)
- Develop the Skills Necessary to be a Competent Litigator
 1. Communication – listening, questioning, establishing rapport, persuasion, presentation
 2. Case screening and planning – theory of the case
 3. Drafting – discovery documents
 4. Fact development – investigation (interviewing, public records, internet) and discovery (written discovery, depositions)
 5. Pretrial advocacy – oral argument on motion
 6. Negotiation – settlement
- Develop the Values Necessary to be a Good Litigator
 1. Strive to provide high quality legal work for each client
 2. Commitment to fairness and justice
 3. Demonstrate honesty, diligence, reliability, judgment, respect
 4. Develop a healthy professional identity

Teaching/Learning Methods

You will learn through a variety of ways as follows:

- 1) One of the primary learning methods we will apply is Role Playing. Through the semester, I will put you in hypothetical situations wherein you play a role – often that of an attorney but sometimes of an observer, a client, judge or other relevant person depending on the situation. We will use real or fictional tort cases and real or fictional issues within those cases as the back-drop for the roll playing exercises.
- 2) Lecture: Often, I will lecture on substantive topics. Students may also be asked, from time to time, to make presentations to the class on assigned subjects.
- 3) Reading: Unfortunately, there is not enough time for us to fully explore the vast world of litigation and professionalism during one semester. As a result, I must assign reading to supplement what we cover in class.
- 4) Outside Assignments: There are other outside assignments, including going to an actual court and observing, designed to help you learn litigation and professionalism.
- 5) Misc.: We may implement other learning/teaching techniques through the semester as necessary and as time permits. By whatever means, the goal will be to enhance your breadth and depth of knowledge and skills related to civil litigation and professionalism.

Materials

- *Litigation Skills and Professionalism Lab Custom Book - 2014)*
- Gerald Stern, *The Buffalo Creek Disaster* (1976)

Our Roles

A. Teacher

- Work hard to help students succeed in the course
- Share knowledge
- Model skills and values
- Provide feedback to students
- Lead in maintaining a positive, challenging learning environment
- Grade student performance
- Other

B. Students

- Work hard to achieve the goals of the course
- Actively contribute to maintaining a positive, challenging learning environment
- Share knowledge
- Provide feedback to teacher and other students
- Cooperate and collaborate with other students
- Other

Evaluation and Grading

A. Principles

- Multiple (more than one graded event)
- Varied (different methods of evaluation)
- Fair (all students graded by same standards)
- Subject to Mandatory Curve – I cannot give all A's . . . or all F's.

B. System

Your grade in the course will be based on the total number of points you earn this semester. Note: Use your Final Exam Number on all graded assignments, quizzes and tests. My grading of you will be anonymous. Points may be awarded for. Any graded test, quiz or assignment that is turned in late will receive no points:

- Quizzes (may be scheduled and/or surprise)
- Assignments

- Final Exam – Format to be determined

“The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to the ABA Standard 310(b)(1) a “credit hour” as an amount of work that reasonable approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks (counting our finals week), or the equivalent amount of work over a different amount of time. This is a 2 credit-hour class, meaning that we will spend two 50-minute blocks of time together in class each week. Applying the ABA standard to the number of credits offered for this class, you should plan on spending a total 6 hours per week (2 hours in class and 4 preparing for class) on course-related work.”

Litigation Skills and Professionalism Lab Fall 2019 Schedule
TUESDAY, 3:00 – 5:00 pm, Room 143

Date	Topic	What You Need to Read for This CLASS	Assignment Due for This CLASS
Tuesday Aug. 27	Anatomy of a Lawsuit Exercise 4	Pages 3- 11 re: Progression of a Civil Case	
Tuesday Aug. 27	Syllabus, Introductions	Syllabus	
Tuesday Sept. 3	Role of a lawyer and professionalism – Exercise 2 Exercise 3	Page 13-21 re: lawyer professionalism Find on the internet and read the Washington State Rules of Professional Conduct	Observation Paper: New things I learned about lawsuits from our class and/or our reading on this. 10 points. No more than ½ page, typed, bullet-point organization, use final exam number.
Tuesday, Sept. 3	Lesson on Drafting Complaints	Pages 111-122 re: litigation planning Hand out on Drafting Complaints (will be e-mailed to Students.) Buffalo Creek Disaster	
Tuesday Sept. 10	Let's Review Your Complaints		A Complaint you have drafted. On a Pleading, w/ caption complying with Washington State/Spokane County Superior Court Local Rules.

<p>Tuesday, Sept. 10</p>	<p>In class discussion Re: lawyer communications – emphasis on Active Listening, Professionalism, Confidentiality and Empathy.</p> <p>In class demonstration of empathetic listening and students attempt the same. (Exercise 5).</p>	<p>Page 23-32 re: Lawyer Communication</p>	
<p>Tuesday Sept. 17</p>	<p>Drawing the story out of the client – Exercise 5(a).</p> <p>Telling our client’s story – Exercise 5(b).</p>		<p>Observation Paper: I used active litigation skills in real life: Here is my story. 20 points. No more than 1/2 page, typed, outline organization, use final exam number.</p>
<p>Tuesday Sept. 17</p>	<p>Telling our client’s story continued. Exercise 5(b).</p>		
<p>Tuesday Sept. 24</p>	<p>Discussion on a new client call and interviewing clients.</p> <p>Exercise 6: Barry Kimble, a new Buffalo Creek client calls (student attorney will answer the call followed by class discussion)</p>	<p>Page 105-111 re: case screening Page 59-76 re: Interviewing the Client</p>	

Tuesday Sept. 24	In class exercise 7 re: Law Students interview Barry Kimble - a new Buffalo Creek client		
Tuesday Oct. 1	Putting it all together: In class exercise 8: you interview a new client for 20 minutes and you are the new client		
Tuesday Oct. 1	Lecture on NIED and Colbert v. Moomba	Page 279-285 re: NIED	Brief the Case: Brief Colbert v. Moomba. Brief should identify in bullet-point organization: the Court; procedural history; holding; relevant facts. 1 page maximum. 25 points. Use final exam numbers.
Tuesday Oct. 8	Colbert v. Moomba continued (Test IRAC'ing discussed)		
Tuesday Oct. 8	Lecture on how to prove past and future damages; How to tackle a damage question on an essay test	Page 295-312 re: Damages	
Tuesday, Oct. 15	Damages continued Informal Discovery	Page 295-312 re: Damages Pages 91-103 re: Fact Investigation	
Tuesday Oct. 15	Informal Disc. Cont'd. Start Formal Discovery	Pages 165-184 re: Discovery; Civil Procedure Rule: 26.	
Tuesday	No Class – Monday		

Oct. 22	Schedule.		
Tuesday Oct. 29	<p>Formal discovery continued.</p> <p>Lecture on Formal Discovery and CR 26 What is Work Product?</p> <p>What is Privileged?</p> <p>Overview of All Discovery Devices</p>		
Tuesday Oct. 29	<p>Lecture: Depositions</p> <p>Watch Video Clips of Depositions – Exercise 9</p> <p>Hand out deposition simulation fact patterns and cover instructions</p> <p>Meet w/ Student Volunteers (4) for Next Week’s Deposition Play – provide them the play transcript and instructions.</p>	<p>Pages 220-242 re: Depositions</p> <p>Civil Procedure Rule: 29, 30 and 31.</p>	
Tuesday Nov. 5	<p>Buffalo Creek Deposition Transcripts</p> <p>Conduct the Deposition Play and Quiz Show – Exercise 10.</p>		
Tuesday	Buffalo Creek Deposition	Simulation Fact Patterns	Certification – you

Nov. 5	<p>Simulations – Exercise 11.</p> <p>Give Discovery Drafting Exercise if Not Previously Given</p>		<p>will turn a certification that you read the transcripts assigned to you and that you are prepared for class. Sign your certification with your final exam numbers – 15 points.</p>
Tuesday Nov. 12	Discovery Continued	<p>All of chapter 12 not already assigned.</p> <p>Civil Procedure Rule: 32, 33, 34, 35, 36, 37 and 45.</p>	Draft Discovery Exercise Do – 15 points
Tuesday Nov. 12	Review Discovery Drafts		
Tuesday Nov. 19	<p>Lecture on Motions; rules governing Motions and the role of local rules on Motions.</p> <p>Hand out and cover motion simulation exercise</p>	<p>Chapter 10 re: Motions</p> <p>Civil Procedure Rules 5, 6, and 7.</p>	
Tuesday Nov. 26	<p>Simulated Motions (Exercise 12)</p> <p>Lecture on Settlement negotiations, class discussion and exercises 13 and 14.</p> <p>Discuss and Hand-out Exercise 15</p>	Chapter 11 re: Settlement Negotiations	

<p>Tuesday Dec. 3</p>	<p>Lecture on Settlement negotiations class discussion and exercises 13 and 14.</p> <p>Hand-out Information for Exercise 15</p>		<p>Provide Results of Exercise 15</p>
<p>Tuesday Dec. 3</p>	<p>Finals Review</p>		
<p>Dec.19 1:30- 4:30</p>	<p>Final Exam</p>	<p>PLEASE INDEPENDENTLY CONFRIM DATE/TIME/LOCATION OF FINAL EXAM.</p> <p>I WILL NOT BE THERE – EXAM WILL BE ADMINISTERED BY MY PROXY</p>	