

PRE-TRIAL ADVOCACY
Law 521 – SPRING 2020
Professor Brandon J. Zanotti

COURSE SYLLABUS

I. Class Time & Room

Room 206
Thursdays, 4:50 – 7:20 pm

II. Contact Information

Prof. Brandon J. Zanotti
Williamson County State’s Attorney
200 W. Jefferson Street, Suite 205
Marion, Illinois 62959
bjzanotti@gmail.com or brandon.zanotti@siu.edu

Please feel free to e-mail me with any questions you may have. E-mail is the best way to reach me. I will also be amenable to setting up specific meeting times if need be.

III. Purpose & Scope of the Course

This course focuses on learning the mechanics of a case prior to a civil jury trial. We will also be covering some criminal material. I intend to provide a very hands-on, practical approach, which is what the subject matter demands, and why this class will provide value to your future careers.

As such, this class is writing intensive and will demand significant time both in and out of the classroom drafting various legal documents. Due to these requirements the class is a pass/fail course, without a midterm or final exam.

IV. Attendance

The Law School has a mandated attendance policy. Pursuant to that policy you will only be allowed to miss two (2) classes throughout the semester. I strongly encourage you to attend each and every class session as we will be building on fact patterns and lectures in a cumulative fashion throughout the semester. Failure to comply with the School of Law attendance policy shall result in sanctions.

There may be occasions where class will be extended to allow for the practical exercises to occur. Each student will be assigned a task while their peers perform the practical exercises and specific times will be given to students for the practical exercises well in advance of the specific class period.

Certain classes will require *mandatory attendance*, and an absence will be allowed only for documented emergencies or if given permission to miss that class is given by the professor well in advance; if one of these mandatory attendance classes is missed with a valid excuse, the in-class project will still be required to be made up during an off-class time period as scheduled by the professor.

V. **Required Text & Statutory Sources**

1. Fundamentals of Pre-Trial Litigation 10th ed. (FPL)
Haydock, Herr & Stempel
2. Federal Rules of Civil Procedure (FRCP) (Available on Westlaw/Lexis)
3. Illinois Code of Civil Procedure (ICCP)
(Available on Westlaw/Lexis)
4. Illinois Rules of Professional Conduct (Available Online or Westlaw/Lexis)
5. Local Rules for the Circuit Courts of Illinois (Available Online or Westlaw/Lexis)

VI. **Assignments & Grades**

This course is Pass/Fail. The grades will be converted by the Registrar according to the following scale: 2.1 or greater = Satisfactory; below 2.1 = Unsatisfactory. Only students who receive a Satisfactory grade will earn academic credit for the course.

If you provide adequate, timely writing assignments and participate in all practical exercises you will pass this class. In the event I determine any of your written assignments are inadequate, you will be given an opportunity to correct any deficiencies based upon my written feedback. I will allow each student one extension of time to turn in one writing assignment during the semester. To use your one extension you must e-mail me one (1) day prior to the submission deadline as contained in the syllabus. Unless otherwise noted or instructed, all written assignments must be turned in to me on the date due.

Throughout the semester we will engage in practical live exercises, like mock depositions and oral arguments. Some of these exercises may be done with a partner. I will ask for all of your e-mail addresses at the start of the first class. There will be many assignments and messages throughout the semester I will give via e-mail.

VII. **Class Schedule, Readings & Assignments**

Class 1 – January 16, 2020: Introduction to the Course; Client Intake; Contingency Fee Agreements and Engagement Letters; Case Investigation

- Readings for Class: FPL, pp. 26-28; pp. 43-81
- Assignment for Next Class: Follow-Up Client Questions

- Brief Description of Class: In this session, we will outline the course and its objectives and expectations. We will also discuss the process of taking in a potential case.

Class 2 – January 23, 2020: The Complaint

- Readings for Class: FPL, pp. 91-137
- Assignment for Next Class: The Complaint (Due Feb. 6)
- Brief Description of Class: We will discuss pleading requirements in Illinois while comparing and contrasting the Federal requirements.

Class 3 – January 30, 2020: Practice MPT

- Readings for Class: None
- Assignment for Next Class: Reminder: the Complaint is due Feb. 6.
- Brief Description of Class: We will take a timed 90 minute sample Multi-State Performance Test. All materials will be provided for you. You will examine the material provided and then provide the directed written response. I assume most of you will be using your laptops, but if you wish to write that is fine, simply ensure you bring the proper materials to do so. For laptop users the maximum of 9,200 characters will be allowed. For writers, this equates to roughly 8 pages (one sided).

Class 4 – February 6, 2020: Federal Jurisdiction & Removal; Defendant’s Motion to Dismiss; Defendant’s Answer with Affirmative Defenses

- Readings for Class: FPL, pp. 138-199
- Assignment for Next Class: Motion to Dismiss
- Brief Description of Class: We will discuss the potential removal of the state court complaint to Federal Court and the rules regarding the same. We will also discuss the filing of pre-answer Motions to Dismiss in Illinois and the filing of an Answer with Affirmative Defenses.

Class 5 – February 13, 2020: The Written Discovery Process

- Readings for Class: FPL, pp. 215-231; pp. 381-407; pp. 416-419; pp. 493-509
- Assignment for Next Class: Written Discovery (Details TBA)
- Brief Description of Class: We will discuss the written discovery process and discuss potential drafting strategies.

Class 6 – February 20, 2020: Depositions

- Readings for Class: FPL, pp. 293-301; pp. 316-319; pp. 321-333; pp. 346-357
- Assignment for Next Class: Deposition Preparation for Case 1
- Brief Description of Class: We will discuss the procedures of depositions, as well as deposition strategy.

Class 7 – February 27, 2020: Live Depositions – Case 1

- Readings for Class: FPL, pp. 333-361
- Assignment for Next Class: Deposition Preparation for Case 2
- Brief Description of Class: We will break off in groups and conduct truncated depositions with live party deponents.

Class 8 – March 5, 2020: Live Depositions – Case 2

- Readings for Class: None
- Assignment for Next Class: Develop Questions for Attorney Panel
- Brief Description of Class: We will break off in groups and conduct truncated depositions with live party deponents.

SPRING BREAK: March 7 – 15, 2020 – NO CLASS

Class 9 – March 19, 2020: Attorney Panel

- Readings for Class: None
- Assignment for Next Class: TBD
- Brief Description of Class: We will engage in an active, roundtable discussion with a panel of very experienced attorneys to discuss issues we have learned thus far and other issues in pre-trial advocacy “from the front lines.”

Class 10 – March 26, 2020: Pre-Trial Motions and the Motion for Summary Judgment

- Readings for Class: FPL, pp. 535-562; pp. 584-608
- Assignment for Next Class: TBD
- Assignment (Due April 9): Motion for Summary Judgment w/ Supporting Memorandum of Law
- Brief Description of Class: We will discuss pre-trial motion form and practice, including the Motion for Summary Judgment.

Class 11 – April 2, 2020: Discussion of Final Pre-Trial Motions; Settlement of Litigation

- Readings for Class: FPL, pp. 637-650; pp. 664-681; pp. 693-718
- Assignment for Next Class: Prepare for Oral Arguments (Reminder: MSJ is also due)
- Brief Description of Class: We will review and discuss the pre-trial motions at issue, as well as the Motion for Summary Judgment. We will also discuss preparation for oral argument on same. We will then discuss settlement of litigation, including mediation procedures and techniques.

Class 12 – April 9, 2020: Oral Argument on Pre-Trial Motions

- Readings for Class: None

- Assignment for Next Class: Prepare for Oral Arguments
- Brief Description of Class: We will engage in mock oral arguments. Time slots for argument TBA.

Class 13 – April 16, 2020: Oral Argument on Pre-Trial Motions Continued

- Readings for Class: None
- Assignment for Next Class: Prepare for Mediation
- Brief Description of Class: We will engage in mock oral arguments. Time slots for argument TBA.

Class 14 – April 23, 2020: Mediation and Settlement Workshop

- Readings for Class: Refresh on prior reading FPL pp. 693-718; pp. 718-722
- Assignment for Final: TBA
- Brief Description of Class: We will break off in groups and engage in a mock mediation. I will serve as mediator, as will other local attorneys experienced in mediation practice.

Class 15 – Finals Week: Final Project Due (TBA)

COURSE SYLLABUS
ADDENDUM

Workload Expectations

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 ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably 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, or the equivalent amount of work over a different amount of time.” This is a 3-credit hour class. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a total of 9 hours per week (3 in class and 6 preparing for class) on course-related work.

Bar-Type Assessments

The faculty passed a rule in December 2016 requiring bar-type assessment (MEE, MPT, substantial number of MBE questions) in all classes except 1L Lawyering Skills, approved practicums, Professionalism & the Law, Business Bootcamp, Women in Leadership, co-curricular courses (journals, moot court, mock trial), and designated writing courses (senior seminars, AAA, independent studies).

To ensure compliance with the foregoing, in our class, this will mean taking a mock Multi-State Performance test in one of our early classes.

Plagiarism and Collaboration

Plagiarism will not be tolerated in this class, and if it occurs, appropriate sanctions will be levied. As mentioned above, there will be several projects that will require collaborative work efforts as a group. I will clearly define those projects where group collaboration is appropriate. If not defined, then it shall be assumed that the work project is an individual project, and no plagiarism or group collaboration will be allowed.

Emergency Procedures

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety's website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Disability Policy

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

Recording of Classes

Our class is not set up to be recorded. If you know you must miss class in advance and desire a recording, you may contact the law school's tech support office in advance and inquire as to whether a certain class session may be recorded, and must obtain my permission first if doing so. Some of the hands-on, practical activities we will be conducting would be better learned in person, and if one of those sessions is missed, it may behoove the absent student to schedule a time to engage in the missed activity as opposed to watching it on a recording. Also, please be aware that using video or audio devices to record our class without express permission will be deemed to be a violation of the SIU Law Honor Code.