LITIGATION
THE UNIVERSITY OF TOLEDO
LEGAL SPECIALTIES PROGRAM

Instructor: James M. Tuschman, Esq.
Email: james.tuschman@utoledo.edu
Office Hours: Mondays 2:00 pm - 4:00 pm
Wednesdays 2:00 pm - 5:00 pm

Class Location: HH 1419 McQuade Courtroom
Class Day/Time: Mondays & Wednesdays 12:30 pm - 1:45 pm

Credit Hours: 3

Office Location: HH 3024
Office Phone: 419.530.4676
Term: Spring 2015

COURSE DESCRIPTION

[3 hours] This course focuses on evidence and investigation, applying critical thinking skills to actual litigation cases. Students analyze court pleadings for appropriateness and alternative mechanisms and study post-trial and appellate matters. Prerequisite: LGL 1150 and LGL 2020.

COURSE OVERVIEW


STUDENT LEARNING OUTCOMES

- For students to advance their fundamental understanding of civil litigation through the practical application of the rules of civil procedure, rules of ethics, rules of evidence as well as other strategic tools in the context of actual litigation.

- For students to gain perspective by examining the profound and fundamental questions about American jurisprudence that are raised by the process of civil litigation.

- For students to grow through practical research experience.

TEACHING STRATEGIES

This will be a face-to-face classroom experience with a combination of lectures and class discussions.

PREREQUISITES

Tort Law LGL 1150 and Civil Procedure LGL 2020
REQUIRED TEXTS AND ANCILLARY MATERIALS

A Civil Action* by Jonathon Harr (Vintage Books). Students must have completed reading this book no later than January 30th.


TECHNOLOGY REQUIREMENTS

No specific requirements.

UNIVERSITY POLICIES

The University is an equal opportunity educational institution. Please read The University’s Policy Statement on Nondiscrimination on the Basis of Disability American with Disability Act Compliance.

ACADEMIC ACCOMMODATIONS

The University of Toledo is committed to providing equal access to education for all students. If you have a documented disability or you believe you have a disability and would like information regarding academic accommodations/adjustments in this course, please contact the Student Disability Services Office.

ACADEMIC POLICIES

Assignments: Completion of all assignments is a course requirement.

Assignments and exams must be the original work of each student. Students may not collaborate with regard to these matters, unless asked to do so by the Instructor. If such collaboration is discovered, all students involved will receive a zero for the particular assignment, quiz or exam. Neither plagiarism nor cheating will be tolerated and will be addressed in accordance with the applicable policy of the University of Toledo.

As in the practice of law, the student must turn in the original to the Instructor and retain his or her own copy in case something should happen to the original.

Class Participation:

Class participation is essential to a course such as this where the exchange of ideas and the debate of philosophical issues is the focus. Equally important is the fact that the ability to communicate through the written and spoken word is essential to success of a paralegal. A paralegal must be able to clearly and persuasively communicate his or her research, ideas and arguments to attorneys, clients, colleagues and courts. The student’s participation in every class is a valuable opportunity to develop those crucial communication skills. Therefore, every student is expected to consistently and actively participate in class and such participation will be considered in the determination of his or her course grade. Furthermore, class participation is essential to a course such as this where the exchange of ideas and the debate of issues is the focus.
**Deadlines:** One reality of a paralegal career is the deadline. In order to prepare the student for this reality, timely completion of all assignments is required in this course. Each assignment will have a deadline. As in the practice of law, there will be a penalty for the student’s failure to meet the deadlines in this course.

All assignments, quizzes, examinations, and in-class work must be completed and submitted as scheduled. Late assignments will be accepted at my sole discretion and only in extraordinary circumstances. Any late work (including examinations) must be accompanied by a Motion to Accept Late Work in a form suitable for filing with the Lucas County Court of Common Please, together with a Memorandum in Support and appropriate documentation attached as exhibits. If all of these materials are provided in proper form no later than the seventh day after the due date, I will consider accepting the late work. Quizzes may not be made up. There will be no exceptions.

Unless otherwise notified by the Instructor, assignments are due at the beginning of class on the date assigned as the deadline. Any assignment submitted after this time will be penalized five points for the first day and five points if not submitted by 5:00 p.m. on the next day. If the Instructor is not available to receive a late assignment, you may submit it to the receptionist at the faculty center desk, have the receptionist date stamp it and place it in the Instructor’s mailbox.

**COURSE EXPECTATIONS**

**Attendance:** Time management is a crucial skill in civil litigation and the paralegal field. Amidst very busy schedules, courts and employers will require prompt attendance. The student must be on time for class and remain until its completion to receive points for attendance. As set forth above, the student’s attendance will affect his or her grade for the course.

If a student is unable to attend class or will be late for class, he or she should notify the Instructor in advance if possible. The Instructor may excuse a student’s absence from class or tardy arrival to class. The determination of whether an absence or late is excused lies within the discretion of the Instructor. The Instructor may request verification of the reason for the absence. An excused absence or an excused late arrival will not cause the student to lose the attendance point for that class period.

*The University of Toledo Missed Class Policy* Approved by Faculty Senate, 1/22/02; approved by Student Senate, 1/22/02

This policy provides for basic protections and reasonable accommodations for students who miss class with excused absences. Students are expected to attend every class meeting of courses in which they are registered. Only in specific, unavoidable situations does the University excuse absences from class: 1) personal emergencies, including, but no limited to, illness of student or of a dependent of the student (as defined by the Board of Trustees’ Policy and Family and Medical Leave), or death in the family; 2) religious observances that prevent the student form attending class; 3) participation in University-sponsored activities, approved by the appropriate University authority, such as intercollegiate athletic completion, activities approved by academic units, including artistic performances, R.O.T.C. functions, academic field trips and special events connected with coursework; 4) government-required activities, such as military assignments, jury duty, or court appearances; and 5) any other absence that the professor approves.
**Class Preparation:** The student’s preparation for each class is critically important to his or her learning experience in this course. The student’s preparation for class is also critically important to his or her training for a career as a paralegal where adequate and timely preparation will be expected by courts and employers. The student’s adequate preparation for class will enable him or her to make valuable contributions to class discussions and define questions that are raised by course materials that can then be addressed in class. Therefore, the student’s consistent and adequate preparation for class will be considered in the determination of his or her course grade.

**Dropping the Course:** If you want to drop the course, you must officially drop the course through the Registrar’s Office or through the MyUT portal to receive a WD (withdrawal). Otherwise, you may receive a grade of F. Remember, just because you have stopped coming to class does not mean that you have officially dropped the course.

**Amendment(s):** – This syllabus is subject to change.

**GRADING**

- **Midterm**
- **Final Grading**

**COMMUNICATION GUIDELINES**

The Instructor will schedule office hours. The student should feel free to stop in during these time periods or to make an appointment with the Instructor at a mutually convenient time. The student may arrange an appointment by contacting the Instructor in person or by e-mail.

**STUDENT SUPPORT SERVICES**

Students who have accessibility needs should feel free to discuss those needs with the Office of Accessibility and the Instructor in private. A student’s accessibility needs will be accommodated in accordance with University policy.

Any student requiring accommodations for purposes of class, quizzes, exams or assignments must contact the Office of Accessibility and notify the instructor by the second class of the semester. Any student wishing to discuss such issues with the Instructor should do so privately before or after class.
## COURSE SCHEDULE

<table>
<thead>
<tr>
<th>CLASS</th>
<th>TOPIC</th>
<th>READING ASSIGNMENT</th>
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<tbody>
<tr>
<td>Class 1</td>
<td>Course Introduction</td>
<td>Novel “A Civil Action”</td>
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<td></td>
<td>Assign Teams - Plaintiff and Defense</td>
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<td>Class 2</td>
<td>View Video A&amp;E American Justice</td>
<td>Novel “A Civil Action”</td>
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<td>Class 3</td>
<td>View Video “A Civil Action”</td>
<td>Novel “A Civil Action”</td>
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<tr>
<td>Class 4</td>
<td>View Video “A Civil Action”</td>
<td>Novel “A Civil Action”</td>
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<td>Class 5</td>
<td>Review individual take-home assignment #1 (Comparison of book/movie)</td>
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<td>Personal Jurisdiction</td>
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<td></td>
<td>Notice</td>
<td>Chapters 1, 2</td>
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<td>Decision on where to file lawsuit</td>
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<td>Exertion of JD over out-of-state defendants</td>
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<td>Class 6</td>
<td>Subject Matter Jurisdiction</td>
<td>Chapters 3, 4</td>
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<td></td>
<td>Venue and Transfer</td>
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<td></td>
<td>1. Grace Petition for Removal to Fed Court</td>
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<td>2. Plaintiff attempt to amend complaint to add Charles Anderson</td>
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<td>3. Grace Motion to transfer case to another district</td>
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<td>Class 7</td>
<td>The Governing Law in a Diversity Case; Pleadings (Complaint)</td>
<td>Chapters 5, 6</td>
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<td>Ethics: Rule 11; Attorney Signature</td>
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<td>Class 8</td>
<td>Pleadings (Responsive Pleadings/Motions)</td>
<td>Chapters 6, 7</td>
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<td>Joinder of Claims and Parties</td>
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<td>1. Grace claim against Unifirst</td>
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<td>2. Unifirst Claims against Beatrice</td>
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<td>3. Failure to initially name Unifirst</td>
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<td>4. Media attempt to intervene</td>
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<tr>
<td>Class 9</td>
<td>Discovery</td>
<td>Chapters 8, 9</td>
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<td>Schlichtmann’s use of a private investigator</td>
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<td>Schlichtmann’s attempt to acquire information during a deposition about</td>
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<td>chemicals not mentioned in the complaint; Schlichtmann’s attempt to</td>
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<td>gain information pertaining to tannery operations.</td>
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<td>CLASS</td>
<td>TOPIC</td>
<td>READING ASSIGNMENT</td>
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| Class 10 | Discovery  
   The failure to disclose the “Yankee Report”
   By Riley/Beatrice
   Failure to disclose a “GEI Report” by Riley/Beatrice;
   ULF Nordin (Cryovac Plant Manager) deposition-
   Exchange between Schlichtmann and Lynch regarding
   Nordin’s meetings with Grace employees. | Chapters 8 – 12 |
| Class 11 | Discovery  
   Request to take deposition of J. Peter Grace;
   Disclosures submitted by the parties regarding
   testifying experts;
   Permissibility of downgrading Beck from a testifying
   Expert witness to a non-testifying expert witness. | Chapters 8 – 12 |
| Class 12 | Discovery  
   Challenges to novel scientific or medical evidence;
   Ethical obligations to return inadvertently disclosed
   Documents;
   Electronic discovery | Chapters 8 – 12 |
| Class 13 | Discovery  
   General objections for interrogatory instructions
   Based on relevance or work product;
   Defendant’s objection to interrogatories pertaining to
   Non-compliant chemicals and activities before 1960
   And 1979;
   Objections based on relevance, burden and ambiguity. | Chapters 8 – 12 |
| Class 14 | Discovery  
   Whether there should be a limit on the # of
   Interrogatories on party can serve on the other;
   The amount of effort that a party should be required
   To exert in answering an interrogatory;
   Permissibility of naming “most knowledgeable person”
   in a deposition notice;
   Scope of subpoena power under R45 (Granger subpoena)
   Whether it was proper for Cheeseman to instruct
   Shalline not to answer any deposition questions
   pertaining to non-compliant chemical. | Chapters 8 – 12 |
**CLASS** | **TOPIC** | **READING ASSIGNMENT**
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Class 15 | Settlement and Voluntary Dismissal<br>Summary Judgment | Chapters 13, 14
Class 16 | Right to trial by jury and jury selection<br>Motion for judgment as a matter of law | Chapter 15<br>Chapter 16
Class 17 | Instructions and verdicts<br>Renewed motion for judgment as matter of law<br>trial and motion for a new trial | Chapters 17, 18
Class 18 | Appeals and Rule 60 Motions | Chapter 19
Class 19 | The electronic courthouse<br>Problems in basic presentation technology |  
Class 20 | Know protocol when you arrive in court<br>Selecting the right jury for your case |  
Class 21 | Keys to powerful opening statements — introducing your theme effectively<br>Capturing interest<br>Laying out the case plot |  
Class 22 | Getting the best out of witness examination<br>1) Direct examination techniques<br>  - Helping your witness tell the story<br>  - Special tactics for examining experts<br>2) Cross examination techniques<br>  - Framing the questions and limiting the response<br>  - Cross examining experts |  
Class 23 | Ethical considerations |  
Class 24 | Maximizing the effectiveness of experts |  
Class 25 | Strong closing statements and jury instructions |  

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