

PRETRIAL CIVIL LITIGATION (LAW 245.1)
SPRING 2020

UC Berkeley School of Law
Fridays, 10-12:40

Instructor: Quynh K. Vu
Office Hours: Fridays, 1-2 pm, Zoom & by appointment
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Course Description: This course is designed to acquaint students with pretrial litigation practice in typical civil cases. The skills taught are applicable in any civil case setting. This is a skills course, in that it focuses on the practical application of the federal civil rules, decision making and judgment. We will cover pleadings; written discovery; preparing for, taking and defending depositions (including mock deposition practice); making and opposing motions; and oral argument of motions. Strategies, settlement considerations, client relations and other topics relevant to typical litigation practice are also discussed. The evidence course, while useful, is not a prerequisite.

The vast majority of federal civil cases never proceed to trial. Rather, most such cases are resolved through settlement or dispositive motion practice. This course will focus on those pretrial activities that litigation attorneys will undertake upon graduating from law school. We will study the law and strategies applicable to filing various types of court pleadings and other real-world litigation scenarios. You will be required to draft pleadings, present oral arguments and engage in other simulations against adversaries.

The primary objectives of this three unit course are to provide pretrial skills background and training. Students will learn the lawyer's role in discovery and fact development by drafting and responding to written discovery requests. Through course materials, lectures and discussions, you will garner the tools and insights necessary to perform these real world litigation tasks.

Reading: We will be using PreTrial by Mauet and Marcus, 9th Edition. We will also be using a mock case file, which will be uploaded onto Bspace.

Grading:

Classroom participation and exercises: 35%

Written assignments (45%)

- Complaint or Answer: 5%
- Written discovery requests/responses: 20%
- Meet and confer letters/responses: 5%
- Discovery motion: 15%

Final project (20%):

- Motion for summary judgment: 10%
- Oral argument: 10%

CALENDAR

Class 1 – January 22

- Lecture: Course overview, overview of litigation process; client intake; client interviews; demand letters; fee structures; review of mock case
- Reading: Text Chap. I; Chap. II pgs. 19-37; Chap. IV pgs. 87-119

Class 2 – January 29

- Exercise: Client interview; brainstorming legal theories
- Lecture: Drafting a complaint; theory of the case; assignment of teams
- Reading: Text Chap. V, pgs. 123-153
Case File – Factual Summary
FRCP 4, 8-12, Northern District Civil Local Rule 3-2, 3-5, 3-6, 4-2
Sample complaint
- Assignment: Complaint (Plaintiffs only)

Class 3 – February 5

- Exercise: Brainstorm affirmative defenses; brainstorm FRCP 12 motions
- Lecture: Responding to a complaint; investigating the facts; preparing for witness interviews
- Reading: Text Chap. II, pgs. 37-51, Chap. V, pgs. 153-169
Case File – Defendant or Plaintiff Interview Summary
Sample Answer
- Assignment: Answer (Defendants only)

Class 4- February 12

- Exercise: Witness interviews; Rule 26 Conference
- Lecture: Case planning (legal issues in dispute, factual issues in dispute, initial disclosures, discovery plan; meeting and conferring for Rule 26 conference)
- Reading: Text Chap. IV, pp. 102-115, Chap. VI, pg. 195-224
Sample Discovery Order (Donato); ND Cal CMC Order
FRCP 26
- Assignment: Joint Case Management Conference Statement; Initial Disclosures

Class 5 – February 19

- Exercise: Case Management Conference
- Lecture: Propounding and responding to discovery, handling discovery disputes, e-discovery, protective orders
- Reading: Text Chap VI, pgs. 227-321; 325-333
FRCP 26-37
Case File (Read witness interview summaries – to be emailed)
- Assignment: Discovery requests: (5 Requests for Production of Documents; 5 Interrogatories; 5 Requests for Admissions)

Class 6 – February 26

- Exercise: Brainstorm discovery responses/objections
Lecture: Discovery and disputes; Depositions (law, purpose, who to depose, witness preparation, preparing to take a deposition, defending a deposition)
Reading: Text Chap. VI, pgs. 281-321
FRCP 30, 37
Judge Donato Standing Order on Discovery
Preparing Witness for Deposition Guide
Assignment: Discovery Responses (Due March 4, 3 pm)
Prepare deposition outline of witness

Class 7 – March 5

- Exercise: Depositions
Reading: Text Chap. VI. Pgs. 334-343
Assignment: Meet and confer letters on discovery

Class 8 – March 12

- Exercise: Meet and confer; outline motion to compel letter
Lecture: Deposition debrief, discovery motions, privilege logs
Assignment: Plaintiff's letter brief on motion to compel

Class 9 – March 19

- Exercise: Brainstorm arguments for motions for summary judgment/adjudication
Lecture: Motion practice & dispositive motions; class certification
Reading: Text Chap. VII, pgs. 345-353; 371-385
FRCP 56
ND Cal L. Rules 7, 56
Assignment: Defendant's opposition letter brief to Motion to Compel

Class 10 – April 2

- Exercise: Hearings on motions to compel (Guest judge)
Reading: Oral Advocacy Guide
Assignment: Defendant's Motion for Summary Judgment/Adjudication (due April 14)
Plaintiff's Opposition to Motion for Summary Judgment/Adjudication (due April 26)

Class 11 – April 9

- Exercise: Expert report review
Lecture: Experts, Alternative Dispute Resolution
Reading: Text Chap. VI, pgs. 209-210, pgs. 215-218, pgs. 289-291; Chap. VIII, pgs. 394-410

Class 12 – April 16

Exercise: Mediation (Magistrate Judge Sallie Kim)

Reading: Text Ch. VIII, pgs. 404-433

Class 13 – April 23

Exercise: Drafting Settlement Agreements

Lecture: Settlement Agreements, Pre-Trial Filings

Class 14 – April 30

Final: Hearings on Motions for Summary Judgment