

CIVIL PRACTICE CLINIC
FALL 2013
PROFESSOR JANET HEPPARD
713.743.2094(JHeppard@uh.edu)
PROFESSOR BARBARA STALDER
713.743.0897 (bjstalde@central.uh.edu)

Law school clinics provide students with the opportunity to learn about the law from a practical perspective. In the Civil Practice Clinic, you will learn the law and procedure by providing representation to individuals who are experiencing legal problems. The majority of our clients are indigent, are often in crisis, and may have very little trust in the “system”. As the student attorney on the case, you will be responsible for making legal decisions and strategy calls and you may face ethical dilemmas that arise in the course of representation. This is an opportunity for you to learn to think and to act like a lawyer in a very real, practical setting. You will be doing the work of a new attorney in a small firm, but have the advantage of having supervision from an experienced attorney. You may get nervous at times and feel frustrated at others. You may be excited about your experiences and sometimes be confused by the procedures and the outcomes in a case (it’s different than reading about it in a book). You should remember this is a learning experience, an opportunity to take chances. Don’t be afraid to do so. The most important thing to remember is that your client is your priority and you always want to provide the best representation possible. This can be done by thinking creatively about the case, taking some chances, coming up with new ideas and, most of all, by putting in the time to learn about your client, the law, and procedures.

Clinical education encourages students to question their own values and ethics through the practice of law. At times during your experiences, you may find yourself questioning the behavior of other attorneys and possibly even the judges hearing your cases. You should feel free to talk about these experiences in class, meetings with your supervisor, informal discussions, and/or in your journals. You may question what your client does or what choices your client seems to make in life. You may not agree with everything your client does or what s/he wants to get out of the process. Discuss your reactions with other clinic students and supervisors and write about them in your journal. Do not make judgments about your clients and be sure to always treat them with respect. Specific journal assignments may be given during the semester, but you should also use the journal to write about your observations at any time.

You will be making litigation decisions on your cases. These decisions are to be discussed with your supervisor before you take any action. There may be times when your supervisor does not agree with the steps you think are necessary and you may not always understand the rationale behind your supervisor’s decision or you may disagree with the litigation strategy suggested. If this is the case, speak up. Let your supervisor know that you have your own ideas. Your supervisor will always listen to your suggestions and explain why she believes in one particular strategy over another. Just as your supervisor’s position will be explained to you, you should be ready to explain your position to them. Your decisions should always be well thought out; indicating you have considered all aspects of the problem. Although your supervisor may veto your decision in the end, the thinking process and discussion will help everyone have a better understanding of the case. Your supervisor may also decide your tactics are the better way to proceed with the case. Primarily, it is this process; the discussion and

building of your cases; which will develop your ability to be a lawyer, and, in the process, help your supervisor determine your grade. Just “following directions” doesn’t get you a top grade. You need to take responsibility for your cases and take the initiative on case management. This does not mean you should work on your cases in a vacuum. Talk to other student attorneys. Talk to your supervisor. If your supervisor does not get a chance to discuss the thought process with you, they are not able to evaluate how you decided on particular strategies.

As an attorney, your schedule may be very demanding. You will often have court deadlines and there will be deadlines imposed by the clinic. Your supervisor will need time to review documents prior to filing dates. In addition, your supervisor will also have to review interview outlines, questions for depositions, questions for hearings, etc. If you fail to meet court deadlines or ones agreed to with your supervisor, your grade will be affected. Attorneys face malpractice issues if they miss deadlines. As a student attorney, missing deadlines will affect your grade.

The class sessions, including orientation, are designed to help complement your practical clinical experience. The material and exercises covered in class will be related to the cases you have in the clinic. Your participation in class is important for you, your fellow students, and your clients. Make sure you are prepared and have read the assignments prior to the class meeting. The text for the class consists of the materials (clinic reader) distributed (on TWEN) at orientation and during the semester, and any additional handouts which may be provided by your fellow classmates. In addition, there are sometimes books or articles listed by various subject matters you may find helpful. These are suggested readings. You are not expected to memorize each aspect of each class or each line of the written materials. You should, however, make good use of the materials which are distributed. Refer back to them constantly. That is why they have been provided to you. Class attendance and participation is mandatory. Missing class or being unprepared may lower your final grade. It is important to let us know if you are not going to be available for class. Your classmates depend on your attendance and participation as much as we do.

Class meets on **Thursdays from 4:00 – 6:00 pm**. Please review your syllabus carefully as there are some class times when we will not meet due to the orientation that was held prior to the beginning of the semester. The classes will concentrate on skills, substantive law, ethics and case strategy. As students, you are responsible for taking charge of your cases; you will also be responsible for portions of the class sessions. Students will be responsible for presenting their cases during some class sessions and leading the discussion regarding strategy decisions and/or ethical considerations.

Students are responsible for turning in their logs and journals in a timely manner. Information on what goes into your log and journal is available in your student manual. The dates logs and journals are due are included on the syllabus. The final log must be turned in no later than **Noon, December 6, 2013** at that time, all files must be closed or transferred and transfer/closing memos must be completed and closing/transfer letters sent to clients. We will discuss these memos with you throughout the semester and should be informed when your files are all closed or transferred (by giving your supervisors a final weekly case sheet) so we can review the files prior to the grading process. Your grade will be lowered if your final log is not turned in on time, your hours are not complete, and your files are not in order by December 6, 2013. Permission for an extension can only be granted if requested prior to December 6, 2013.

You will have to learn a great deal in a short time in order to be able to handle your cases properly. The learning curve is very steep. For that reason, the beginning of the semester is extremely time consuming and starts earlier for the clinic than for your other classes. Your clinic responsibilities will end by December 6, 2013, unless you have a trial or hearing scheduled in December and wish to participate in the hearing/trial. If a hearing or trial is scheduled for December on one of your cases and you don't wish to participate in the court proceeding, you must let us know as soon as possible.

Date	Topic
August 21-23	Mandatory Orientation
August 29	<p>Recap of the first week; Review of Syllabus</p> <p>Review of class requirements (via student attorney manual); any questions?????</p> <p>Guardianships and other probate matters:</p> <p>Guardianship is a legal method to protect “incapacitated” adults (and some minor children) from being exploited by others. Probate: What happens to property if someone dies with or without a will? What “end of life” documents are important for everyone? Where do I go for more information?</p>
September 5	<p>Building Your Client’s Case - Fact Investigation and Discovery</p> <p>A new client has walked in the door. What do you do first? How do you develop a case plan? What is fact investigation? How can you best use formal and/or informal discovery methods to build your client’s case for trial or settlement? How do you choose which methods to use? What facts do I need to develop the theme and theory of the case.</p> <p>Depositions: What is the purpose of a deposition? Do I have to use a court reporter? What if I can’t afford the cost of a court reporter? How does one conduct a deposition which will be beneficial to my case? How do you prepare your client for a deposition?</p> <p>Case Rounds-be prepared to speak briefly about one of your cases</p> <p>Journals due via email by 5:00 pm; assigned topic: orientation and court visit; draft of will, Durable POA, Health Care POA/Directive to Physicians due to Professor Heppard by 5:00 pm</p>
September 12	<p>Electronic Evidence tentative</p> <p>Speaker: TBA -Attorney</p> <p>Technology is all around us and is used more and more in law; both in the courtroom, in fact investigation, and in case management. It is important that you, as an attorney, are familiar with current technology and electronic evidence (and what methods of evidence collection are legal/illegal) in order to properly advocate for and protect your client’s interests. It is also important to understand how to protect client confidentiality when communicating with clients and when electronically storing your clients’ files and other case information.</p>
September 19	<p>Motions to the Court:</p> <p>I need a court to order the other party to do or not do some act. Or I need my client to be permitted to do something. How do I get my request before the judge? Does it have to be a formal request? In writing? Typed? How long does it have to be? Where do I start? Ahhhh! They needed it yesterday.</p> <p>Motion assignment due back on or before September 27 class.</p>

Case Rounds: be prepared to speak about one of your cases
Journals due via email by 5:00 pm

September 26

Trial/Hearing: What to do

It is important to make sure every “I” is dotted and every “T” is crossed before trial. Your trial notebook should be started when you first decide to take a case. You continue to add materials, reorganize and build the notebook until trial.

Using Exhibits in your hearings/trials

Exhibits can be used to help prove your case; but, how do I get them before the court so they can be considered? How do I effectively use exhibits? Learn the “magic” words needed and see if you can get an exhibit into evidence.

Opening and Closing:

Your opening sets the stage for your case at trial. The closing pulls it together for the jury before they start deliberation or reminds the judge of your major points. Both are important to your case.

Direct and Cross Examination of Witnesses -

Direct and cross examination of witnesses is an art that needs to be developed. Through direct examination you want your witness to tell a story in their own words. You cannot lead the witness through the process and sometimes cannot stop a potentially loose witness from talking too much. A good cross examination is tight and quick. It is one of the most difficult aspects of trial to prepare for, but one of the most important.

Appeals –

What does an attorney need to know/do at trial to protect their client if their case needs to be appealed? Know what motions can be filed after trial and what effect the filing has on appeal deadlines.

Additional suggested readings: The Winning Edge; Mautet’s Fundamentals of Trial Techniques; Basic Trial Advocacy by Peter Murray; Trial Advocacy by Moore, Bergman and Binder; and Texas Litigation Primer from The Trial Advocacy Institute, University of Houston.

October 3

Trial/Hearing: Cont’d
Journals due via email by 5:00 pm

October 10

Trial/Hearing: Cont’d

October 17

No Class-begin preparing for class presentations

October 24

No Class – continue to prepare for class presentations

October 31

Ethical Issues in the Practice of Law

Attorneys are constantly required to make ethical decisions in the practice of law. Questions arise regarding communication with clients and witnesses, actions of other attorneys, actions of judges, decisions to make in the course of representation and actions you may or may not take as an attorney. Two student presenters will discuss ethical issues that may arise in the practice of law.

Journals due via email by 5:00 pm

Logs due to Professor Heppard by end of day

November 7

Media and the Law

Over the past 20+ years the public's perception of lawyers, justice and the law has changed because of the influence of the media and the law. This includes, TV shows, Court TV, and the Internet. Three student presenters will lead a discussion on the influences of media and the law through time.

November 14

Diversity, Racism, Sexism (Genderism), Classism:

How do these topics affect the judicial system and the way you practice law? Are these issues you need to think about as an attorney practicing in the 21st Century? Three student presenters will lead this discussion.

Journals due via email by 5:00 pm

November 21

Why we do what we do: the need for Social Justice (Justice and the Rule of Law):

The concept of rule of law is deeply linked to the principle of justice, involving an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs. Throughout history there are examples of what happens when we forget about the rule of law. Why is the Rule of Law important? What happens when the rule of law is not defended and protected; when fear, hate, and prejudice administer the law?

November 28

No Class – Happy Thanksgiving

December 5

**Final Class, Evaluation - Internal and External
Goals after Law School:**

What do you plan on doing with your law degree? Are you going to practice law? Will you work with a large firm? Will you be a solo practitioner? How can you reach your goals? Did you meet your semester goals?

December 6

Final logs and final journal (including hard copies of journals) are due to Professor Heppard or Stalder by Noon.