

***CIVIL PRACTICE CLINIC I –
Fall 2020
PROFESSOR JANET HEPPARD
713.743.2094(JHeppard@uh.edu)
PROFESSOR DIANE MCMANUS
713.743.8430 (dmmcmanu@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 supervisors. Think

about the Rules of Professional Responsibility as they affect your practice. 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. Materials related to our class topics and various subject matter case checklists can be found in the civil clinic directory on the y:drive under "Course Materials" along with any additional handouts which may be provided by your professors or 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 **Tuesdays and Thursdays from 4:00 – 5:30 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 and to allow you time to plan your class presentation. 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.

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 **Friday, December 4, 2020**, 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.

Expectations:

- Be present in class: for ZOOM classes - cameras should be on at all times unless you have been excused
- Be on-time to class
- Ask questions: ZOOM classes >> raise the blue hand if you have a question
 - OR ask your question in the chat box
- Maintain a schedule to get your class work done (in all classes)
- Keep your eye on the prize ... and the end of the semester

Learning Outcomes for this Course:

- Development of Interviewing and Counseling Skills
- Development of fact investigation, trial, and public speaking skills
- Improvement in legal research and writing skills
- Mastery of relevant substantive law in areas including Family Law and the Estates Code
- Increased knowledge of stress management skills
- Recognition of the benefits of cultural competence in the legal field
- Enhanced knowledge in law practice management

Assessment:

Your final grade will be determined by assessing your work in the following areas as you represent your assigned clients and participate in the classroom portion of the course:

- Professionalism
- Lawyering Skills
- Classroom participation and assignments

Note: more specifics about the assessment of skills in these areas is included in the Student Manual each student will receive at the beginning of the semester.

Chosen Names and Preferred Pronouns:

I want to address each of you in a manner that corresponds to your identity. Although mistakes happen, chosen names and preferred pronouns—including non-binary ones such as they|them|their—must be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun or if you have concerns about how I or your classmates address you.

Diversity, Inclusion, and Wellness

This is an inclusive learning space.

At UHLC, we are committed to ensuring inclusive online and classroom learning spaces, where you'll be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, to contribute, and to succeed.

If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please reach out to your professors. We want to be a resource for you. If you feel more comfortable speaking with someone besides us, Student Services is an excellent resource: 713-743-2182.

University Sexual Misconduct Policy

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:

<http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d7.pdf> (antidiscrimination)

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d8.pdf> (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy

reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Note: Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

Required Language

Face Covering Policy (required for courses with a face-to-face component)

To reduce the spread of COVID-19, the University [requires face coverings](#) on campus including classrooms for both faculty and students. Face coverings must cover your mouth and nose and be worn throughout the class session. A mask with a valve is not considered an adequate face covering and should not be used, as it can expel exhaled air, increasing the risk to others. Eating or drinking during class is discouraged and is not an excuse for removing the face covering for any extended length of time. For additional information on the use of face coverings, please see [Face Covering FAQs](#). Failure to comply with the requirement to wear a face covering in class will result in your being asked to leave the classroom immediately and a disciplinary referral through the Dean of Students Office. Requests for accommodations relating to the face covering policy may be directed to the [Center for Students with DisABILITIES \(CSD\)](#).

Required Daily Health Self-Assessment (required for courses with a face-to-face component)

Your presence in class each session means that you have completed a daily self-assessment of your health/exposure and you:

- Are NOT exhibiting any [Coronavirus Symptoms](#)
- Have NOT tested positive for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [COVID-19 Diagnosis/Symptoms Protocols](#) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](#) for what to do if you have potentially been exposed to COVID-19.

Recording of Class (required for all courses)

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes (required for all courses)

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through (*specify how students will be notified of changes*).

Date	Topic
August 19-20	Mandatory Orientation
***NOTE:	<p>At least one journal “entry” during the semester is to be a digital video entry 2-3 minutes in length and submitted via email.</p> <p>Some topic dates may change depending on speaker availability.</p>
Week 1 August 25 & 27	<p>Recap of the first week; Review of Syllabus Review of class requirements (via student attorney manual) any questions?????</p> <p>Guardianships and Probate matters: 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? Exercise: draft of will, Durable POA, Health Care POA/Directive to Physicians, Declaration of Guardian, and HIPAA release due to Professor Heppard by 5:00 pm by September 10.</p> <p>Journals due August 27 via email by 5:00 pm; assigned topic: orientation and court visit;</p>
Week 2 September 1	Guardianships and Probate matters – con’d
September 3	<p>Court – professionalism, pet peeves, best practices: Speaker: Judge Barbara Stalder – Judge 280th State District Court, Harris County</p> <p>What is expected from attorneys when they appear in court? When we speak of professionalism in court, what exactly does that mean? How should attorneys behave while still zealously advocating for their client? What pet peeves do judges have regarding attorneys appearing in their courts?</p>
Week 3 September 8	<p>Motions: How do I draft a motion??? 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 October 1 class.</p>

September 10

Building Your Client's Case - Fact Investigation and Discovery

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?

Week 4

September 15

Building Your Client's Case - Fact Investigation and Discovery – con'd

September 17

Case Rounds: be prepared to describe one of your cases and to share one thing you have learned from working on that case.

Journals due via email by 5:00 pm

Week 5

September 22 & 24

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.

Week 6

September 29

Trial/Hearing: Cont'd

October 1

Electronic Evidence - Speaker: Erik Locascio

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.

Week 7
October 6

Case Rounds: be prepared to describe one of your cases and to share one thing you have learned from working on that case.

October 8

No class – prepare for group presentations
Journals due via email by 5:00 pm on October 8

Week 8
October 13

Tuesday – No class – prepare for group presentations

October 15

Mid-semester logs due to Prof Heppard by 5:00 pm

Dealing with Stress:

Being a lawyer can be very stressful; it is important to learn how to deal with these stresses and to be aware of secondary trauma and what it can mean in your law practice. In this class, we will discuss types of stress and how to manage that stress in your life.

Week 9
October 19 – 23

Mid-semester individual meetings with students and Professors – no class

Week 10
October 27

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.

October 29

Working with Impaired Clients – Speaker: Dustin Rynders

Lawyers need to work with their clients on their cases and clients must be able to participate and make certain case strategy decisions. How does one determine if a client is impaired and what should you do if you decide your client is impaired? Cases sometimes take strange turns and lawyers need to be ready for anything.

Week 11
November 3

Case Rounds

November 5

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? Why do attorneys need to be culturally sensitive? How does cultural competence make one a better attorney?

Journals due via email by 5:00 pm

Week 12
November 10

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. Two student presenters will lead a discussion on the influences of media and the law through time.

November 12

ADR/Negotiation/Mediation: Speaker: Professor Tasha Willis – Mediation Clinic Director

What role will ADR play in your practice? How do you become an effective negotiator? How do you prepare your client for mediation? What style of conflict management do you tend to use? What impact will this have on your client? Students participate in a negotiation role play.

Complete test on conflict management styles which will be emailed.

Journals due via email by 5:00 pm

Week 13
November 17 & 19

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?

Nov 17: watch "To Kill A Mockingbird" on your own and answer the discussion questions provided – no class

November 19 – class and discussion of movie

Week 14
November 24

Final Class, Evaluations - 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?

Exit Interviews will be scheduled at this time; Self-evaluations due at least 24 hours prior to the exit interview.

December 4

Final logs and final journal (including hard copies of journals and including a final journal related to the Week 14 Video and discussion, Rule of Justice topic, are due to Professor Heppard by Noon.