

TAKING AND DEFENDING DEPOSITIONS

COURSE SYLLABUS SUMMER, 2014

INSTRUCTOR: WILLIE BEN DAW, III

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CLASS HOURS: Monday, Tuesday 6:00 p.m. - 8:30 p.m.

A. DESCRIPTION

Taking and Defending Depositions is a two credit-hour course that focuses exclusively on the methods, techniques, and usage of depositions in the litigation setting. This class will focus on preparing for and taking depositions in State Courts of Texas and will also cover depositions in Federal Court.

B. REQUIRED READINGS

- Malone, David, and Hoffman, Peter (2012) *The Effective Deposition: Techniques and Strategies that Work*. Fourth Edition.
- Dixon v. Providential Life Insurance Case File
- Texas Rules of Civil Procedure (can find online through Supreme Court's website)
- Selected Course Handouts

C. STRUCTURE OF THE COURSE

The class will be composed of nine (9) lectures and eight (8) "break-out" sessions in which each student will be expected to practice the skills discussed during the previous lectures. The first class period will be comprised solely of a lecture. Each class thereafter will begin with a break-out session followed by a lecture, with the exception of class number 6, which will consist of a midterm instead of a break-out session. Students are required to attend each lecture and participate in each break-out session.

Prior to each class period, each student is expected to complete the assigned reading before class and prepare for each break-out session. Each student will be evaluated during each break-out session, and the performance of each student will contribute to their respective final grades.

Students will also be expected to attend one deposition and prepare a paper describing the process, the techniques utilized by the deposing counsel, the actions of the defending attorney, and any other observation that is relevant to the experience. The deposition should be either a complete deposition or the first two hours of a deposition. Students will be provided a list of depositions that are available to attend or they can make their own arrangements.

D. GRADING

Your grade will be determined by adding up your scores in 5 separate categories; with those totals being applied to a predetermined curve determined by the law school administration. The 5 categories represent 4 “tasks” and one overall professionalism grade. Below is a detailed description of the tasks to be performed.

Break-out Sessions - Students will participate in taking simulated depositions using the specifically assigned portions of the Dixon v. Providential Life Insurance case file. Each break out session will consist of 4 students. For each exercise, the one student will act as the attorney taking the deposition, one student will act as the deponent, and one student will be acting as opposing counsel. Students will be expected to have complete understandings of the problem/case file which is the subject of the break out session. Students will be graded on their performance in each session. A student’s participation in the break out sessions will also be a consideration in the professionalism portion of the final grade. The break out session grades will comprise 35% of the final grade.

Mid-Term – The mid-term exam will comprise 20% of the final grade.

Professionalism – Each student will be expected to act in a completely professional manner, which basically involves zealous advocacy done in conjunction with giving the witness, opposing counsel, court reporter, and videographer the proper courtesy and respect. Also, the level of preparedness of each student for each class will impact the professionalism grade. Professionalism will make up 10% of the final grade.

Deposition Observation paper – Each student is required to attend one deposition and write a three page paper describing the process, the techniques utilized by the deposing counsel, the actions of the defending attorney, and any other observation that is relevant to the experience. The deposition observation paper will comprise 5% of the final grade.

Final – The final exam will comprise 30% of the final grade.

E. COURSE OUTLINE AND SCHEDULE

<u>CLASS</u>	<u>TOPIC</u>	<u>READING ASSIGNMENTS</u>
1	Monday, June 2 nd , 2014 Lecture 1: Goals and Purpose of the Course General Background of Depositions Mechanics of a Deposition Beginning the Deposition Introduction to Funneling	Chapters 1, 2, 3, 4, 6 pp. 4-64, 91-116
2	Tuesday, June 3 rd , 2014 Break-out Session - Beginning a Deposition Lecture 2: Style and Organization of a Deposition	Chapters 5, 7, 8 pp. 65-90, 117-195
3	Monday, June 9 th , 2014 Break-out Session - Obtaining Information using Funneling Lecture 3: Defending a Deposition Texas Rules of Civil Procedure and Depositions Federal Rules of Civil Procedure and Depositions Objecting and Responding to Objections During a Deposition Reviewing, Correcting, Editing and Supplementing	Chapters 14, 15 pp. 327-371
4	Tuesday, June 10 th , 2014 Break-out Session - Defending a Deposition	Chapter 13 pp. 296- 326

	Lecture 4: Preparing the Witness	
5	Monday, June 16 th , 2014 Break-out Session - Preparing the Witness	Chapter 9, 10 pp. 197-260
6	Tuesday, June 17 th , 2014 <u>MIDTERM</u> Lecture 6: Review Session Question and Answer Session	None
7	Monday, June 23 rd , 2014 Break-out Session - Laying the Foundation and Usage of Exhibits in deposition Lecture 7: Deposing a Corporate Representative	Chapter 19 pp. 429-444
8	Tuesday, June 24 th , 2014 Break-out Session - Deposition of Corporate Representatives	Chapter 20 pp. 447-489
9	Monday, June 30 th , 2014 Break-out Session - Deposition of Expert Witnesses Lecture: 9 Handling Obstructive Opposing Counsel Use of Depositions at Trial Videotaping Depositions Concluding the Deposition	Chapter 11, 16, 18, 21 pp. 261-280, 375-399, 407-428, 489-498

10	<p>Tuesday, July 1st, 2014</p> <p>Break-out Session - General Practice</p>	
11	<p>Monday, July 7th, 2014</p> <p>Final Review Class Overview</p>	
12	<p>Tuesday, July 8th, 2014</p> <p><u>FINAL EXAMINATION</u></p>	