

Practical Lawyering
Draft: Course Requirements and Syllabus
Fall Semester 2007
Professor Lonny Hoffman

I. Course Overview

This course focuses on the body of law and practice skills essential for all lawyers who will be involved with civil litigation to comprehend.

II. Course Organization

In organizing the course, I tried to include topics I thought were (i) essential subject areas for soon-to-be litigators because of their practical importance but (ii) are likely not covered or not covered in any detail in any other law school course. In doing this, I sought the input of recent law school graduates concerning what subject areas and skill sets they wish they had a better grasp as new lawyers. I also received input from more experienced lawyers about what young lawyers should know and what would help them be more valuable in the workplace.

Additionally, in structuring this class I was keenly aware of empirical studies that indicate the majority of a trial lawyer's time and attention is spent in pretrial proceedings. Leaving for others to debate whether (or how much) "the vanishing trial phenomenon" is a cause for systemic concern, this course syllabus reflects that most of the subjects to which we will devote our time and attention are those that occur as a prelude to trial. I say as a *prelude* to trial, not in lieu of trial, because the only serious and responsible pretrial work worth doing is that which is done with an eye toward preparation for trial. Even if the possibility of reaching a jury (or bench) trial is statistically remote, a lawyer who prepares for and as though trial is a real possibility is more likely to secure a favorable result for her client than one who never expects the case to go to trial and acts accordingly.

II. Course Materials

Course material packages will be available before the semester begins.

II. Schedule of Classes

The class meets on Monday and Wednesday, from 9:00 – 10:20 am. in BLB115

III. Grades, Attendance and Participation

Grades

Your final grade will be based on one take home examination to be handed out before the final examination period, and to a smaller degree, on class participation. Though we will discuss it in greater detail during the semester, the exam likely will have two or three short answer essay questions (answers limited to no more than five pages each) covering material that we read and discussed during the semester. It will be due on the day and by the end of the exam period scheduled for this course.

In terms of class participation, I will sometimes call on students; at other times I may ask for volunteers. If you are prepared when I call on you, then I may improve your final grade, subject to any restrictions that the school may set. In the past I have increased the final grade of some students by one-third of a letter grade and, in much rarer instances, by a greater amount. In other (really rare) instances, I have reduced a student's grade for failure to attend and/or participate.

Attendance

Regular class attendance is required by the Law Center's academic rules and, in any case, is essential to a coherent understanding of the course. Moreover, because we will frequently break into smaller groups, your absence will place added strain on your fellow group members who depend on you. I certainly recognize that illness, child care emergencies and other unavoidable conflicts may necessitate being out of class but it bears emphasizing that absences should be kept to an absolute minimum.

You will be asked on the final examination to certify that you attended the requisite minimum number of classes, as required by school rules. The Law Center has an eighty percent attendance policy for students. Since we have 29 regularly scheduled classes, this policy means you may miss no more than 6 classes in order to receive credit for the course. I may treat a student who is unprepared as though they were absent.

IV. Office Hours

My office is Room 220 TUII. Direct phone is 713.743.5206; email is LHoffman@central.uh.edu. I hope you feel welcome to stop by during my office hours (MW 2:30 – 3:30) or by calling/emailing in advance to schedule an appointment at another convenient time.

V. For the First Class

For this first class only, we will meet in the Heritage Room, on the second floor of TUII. I will bring bagels, cream cheese, coffee and juice.

Your assignment before the first class, on Monday, August 20 is to read my essay, “A Parting Reprise,” available through the Social Science Research Network website, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=898240, by clicking on that link and then downloading the document (there are several icons to click to download and they all seem to work); and

To read the general introductory materials on the Texas Judicial System, Texans for Lawsuit Reform Foundation (2007). [FYI, TLR is a partisan organization (right-leaning, for those who don’t know) and this material is part of a package that supported legislation TLR proposed in the last legislative session. All that said, the introductory materials I’ve included for you here to read do not seem to me to be partisan at all but, instead, one of the best succinct summaries I read of our current judicial system and structure in Texas. That’s why I’ve asked you to read it.]

Detailed Course Syllabus

Date	Subject
Aug 20	Initial course meeting.
Aug 22	Initial client interview Engagement/Nonengagement letters and (some) initial factual investigation
Aug 27	Dealing with the Client: Perspectives from Inside
Aug 29	Insurance Coverage Considerations

Sept 5	Forum Shopping and other strategic considerations at the outset of a case
Sept 10	Presuit Discovery: TRCP 202
Sept 12	Field trip to Austin for CCA argument
Sept 17	Conducting internal investigations for a corporate client
Sept 19 (extended class)	Client Crisis exercise: How to assist the client in time of crisis
Sept 24	No class
Sept 26	Jury and jury charge
Oct 1	Representing a defendant- Initial Workup: Responsive pleadings; contents of; investigation; collection of documents
Oct 3	Discovery
October 8	Discovery – privilege issues

October 10	E-Discovery (introduction)
October 15 (extended class, begins at 8:30 am).	E-Discovery in Texas (more detail)
October 17	Depositions
October 22	Corporate Representative Depositions
October 24	Expert: Your Own Expert
October 29	Experts: Your Opponent's Expert
Oct 31	The Case Schedule: the schedule in the case and the strategies that go into setting up the schedule
Nov 5	Mediation

Nov 7	Litigating with the Government
Nov 12	Summary Judgment
Nov 14	Preparing for trial
Nov 19	Timekeeping
Nov 21	NO CLASS
Nov 26	Dealing with Difficult Opposing Counsel