TRIAL ADVOCACY I
COURSE INFORMATION

Instructor: Patrick O. Gray
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Classroom and Class Meeting Time

Room A233 in the Law School on Tuesday evenings from 5:30 to 8:20 p.m.

Course Materials

Brown & Seckinger, *Potter v. Schrackle and the Schrackle Construction Company (Casebook)*
Alabama Rules of Civil Procedure (pertinent sections to be assigned and discussed/applied in class)
Code of Alabama (various pertinent statutes (with annotations) to be assigned and handed out for discussion/application in class)
Various Handout/Outline Material (to be provided on each topic area); Class Workshop Exercises (to be provided and utilized in class exercises)

Attendance

Attendance for classes is mandatory. This course involves the participation of each class member in discussions and exercises. The absence of any class member reduces the benefit to the rest of the class as a whole.

Any absence from class, other than unexpected emergencies, illnesses or other occurrences, must be approved in advance by the instructor. Any unexcused absence may result in the lowering of the student's grade.

Grading

This course is a Pass/D/Fail course. Students who attend class, are prepared, and who participate can expect to receive a "Pass" in this course. A "D" or failing grade may be given to students who are absent from class without permission, who fail to perform an assigned exercise, or who generally fail to participate in class activities. Students who make no effort when called on in class will not earn a "Pass".

COURSE METHODOLOGY

The methodology of this course will be a mixture of lecture, discussion, demonstration, and simulated skills exercises. Students will be expected to be actively involved in each week's class.

Students in this section of Trial Ad I will be divided into groups of Plaintiffs and Defendants. Students will be further subdivided into teams of two students (plaintiff and defendant). Students will be expected to perform much as in a seminar. Students will also be expected to have thoroughly researched the topic under discussion, to be able to describe the processes accurately and to answer questions raised by the course syllabus and/or class handouts/e-assignments as well as additional questions raised by class members or the instructor. .

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Course Syllabus
Fall, 2011

CA=Class Assignment
PP=Plaintiff's Problem Assignment
DP=Defendant's Problem Assignment

Note: All problem assignments come from the *Potter v. Shrackle* casebook and from handout materials to be provided in class and by "e-assignment".

Please note that assignments are subject to modification as to content and date due, as necessary to ensure a productive semester. Any changes will be announced in class and provided by way of e-mail instruction and/or e-assignment.

INTRODUCTION

August 23, 2011 – Overview of Trial Ad I Class

CA – Student introductions; overview of class

August 30, 2011 - Introduction to Pretrial Procedures

CA – Be prepared to discuss litigation process, planning, questions; discussion of Pretrial Outline (to be handed out)

INTERVIEWS, FACT INVESTIGATION, AND PLEADINGS

September 6, 2011 - Initial Client Interview - Plaintiff Potter

PP - Conduct an initial interview of Jeffrey Potter (defense attorneys will play the role of Mr. Potter, and the plaintiff's attorneys will interview)

CA - Discuss initial client interview; critique Potter interviews; review/discuss Witness Interview Outline (to be provided)

Discussion:

1. Think about the following issues as they relate to the initial client interview: office setting, seating arrangement, eating/drinking, telephone calls, note-taking, and reading of documents.

2. Be prepared to discuss the following as they relate to interview techniques: preplanning for the interview, interview sheets, types of questions, active listening, developing facts chronologically and whether/how to memorialize the interview.

September 13, 2011- Fact Investigation - Plaintiff

PP - Interview Marilyn Kelly, Alice Mallory, and Juanita & Victoria Williams
DP – Defense attorneys will be assigned roles of the witnesses
CA - Discuss the interviews of witnesses; critique interviews
All students should read over the case material in the Potter v Shrackle Casebook in preparation for class, as well as the Witness Interview Outline. Discuss Complaint Checklist/Outline (to be provided for next class assignment)

Discussion:

1. Be prepared to discuss fact investigation, including interviewing witnesses, research, on-site investigations, and document searches and retrieval.

2. When should the investigation begin? Who should investigate? What sources of information are available? What physical evidence is available? Who should be interviewed and why?

3 How should a witness be contacted? How should a statement be recorded? How do you obtain cooperation from a witness who says he/she doesn't want to get involved? How do you handle a request from the witness for a copy of his/her statement? How do you respond when the witness asks whether he/she should talk to other investigators?

September 20, 2011 - Pleadings - Plaintiff's Complaint

PP - Draft a complaint; serve it on opposing counsel by placing it in counsel's law school box, or by e-mail, no later than 4:45 on the Monday prior to class. Bring a hard copy to class. (note: complaints must be typewritten and signed by student)

PP/DP - Discuss pleadings in class

CA - Discuss drafting complaints; critique complaints

Discussion:

1. Where do you file the complaint? How does the defendant get served? Who serves the defendant?

2. Be prepared to discuss the following as to drafting complaints: the caption, fictitious party pleading, separate or alternative counts, prayer/demand for relief, Rule 11 requirements, drafting techniques.

3. A potential client walk into your office and tells you that a garbage truck owned by the City of Elba, Alabama, ran his car off the road into a ditch, causing major property damage and causing him to be hospitalized for three months with a broken back and pelvis, and killing his infant daughter. The driver of the garbage truck blew a .25 on the 1-5000, and was charged with his third DUI in the past five years. Your potential client tells you that this event occurred approximately five and one-half months ago. You are employed by the city of Elba as city judge, a part-time employment. Do you accept representation? What concerns do you have if you decline representation?

September 27, 2011 - Initial Client Interview - Defendant Schrackle

DP - Conduct an initial interview of Charles Shrackle. Plaintiff attorneys will be assigned the role of Mr. Shrackle. The remaining defense attorneys will conduct the interview.

CA - Review initial client interview Outline Handout; critiques of Shrackle interviews; Review Answer Checklist/Outline to be provided for next class assignment

October 4, 2011 - Pleadings - Defendants' Motion and/or Answers

DP - Draft a motion raising all appropriate matters that can be raised by such motion in response to a complaint (assume that you are first filing a motion and will later file an answer), draft an answer in response to plaintiff's complaint, serve both on opposing counsel by placing copies of each in counsel's law school box, or by e-mail, no later than 4:45 the Monday, prior to class and bring a copy to class. (note: answers and motions must be typewritten, and signed by the student)

DP/PP - Discuss pleadings in class

CA - Discuss drafting responsive pleadings; review Answer Checklist/Outline; critique answers; Discovery Outline to be provided for next class assignment

Discussion:

1. Be prepared to discuss the following issues: Rule 12 responses, contents of answers, general denials, affirmative defenses, compulsory counterclaims, certificates of service, drafting techniques.

2. A potential client walks into your office and tells you that he has been sued by a man over a recent car accident. He tells you that the plaintiff is a former business associate who breached a contract with the client six years and six months ago, causing $250,000.00 in damage. Rather than sue the plaintiff, your client decided to take the "high road" and let the breach of contract pass. The automobile accident your client is being sued over occurred nine months ago. What do you advise your client? How do you proceed to represent him?

DISCOVERY

October 11, 2011 - Interrogatories, Requests for Admissions, Production, or Examination

PP - Prepare interrogatories, requests for admissions, and requests for production, for Schrackle; serve on opposing counsel by placing in counsel's law school box, or by e-mail no later than the Monday prior to class.

DP - Answer interrogatories, etc.; bring responses to class.

PP/DP - Discuss discovery materials in class

CA - Discuss use and drafting of discovery materials; critique exercises; review/discuss Discovery Outline Handout; Deposition Workshop Handout will be provided for next class assignment

Discussion:

- What are the objectives of discovery? As intended by the drafters of the rules of civil procedure? What other objectives might you as a lawyer have for discovery?

October 18 2011 – Depositions

PP – Take deposition of Charles Shrackle

DP – Defend deposition of Charles Shrackle

CA – Discuss depositions, including use of depositions at trial; review/discuss Deposition Workshop Handout

October 25, 2011* – Depositions continued

· Guest Speaker: To be announced
Topic: Deposing expert witnesses and use of depositions at trial; application of rules of civil procedure (A "civil" perspective)

*The dates for guest speakers are subject to change

*NOTE : Assignments for this class and the next will be made up in subsequent classes.

PP – Defend deposition of Jeffrey Potter

DP – Take deposition of Jeffrey Potter

CA – Deposition of Jeffrey Potter; Motion for Summary Judgment Workshop Handout will be provided for next class assignment

November 1, 2011* - Motions for Final Disposition of Issue or Case
Guest Speaker: To be announced
Topic: Pretrial discovery and use of pretrial discovery in dispositive motions and at trial.

* The dates for guest speakers are subject to change

PP - Draft and serve a motion for final disposition on your partner by 4:45 the Monday before class.

PP/DP – Plaintiff's counsel argue motions in class

CA - Discuss pretrial motions for final disposition; critique exercises; review/discuss Motion for Summary Judgment Workshop Handout

November 8, 2011 – Arguing Motions for Final Disposition

CA – Argue Motions for Summary Judgment; Motion for Summary Judgment Workshop, using testimony and evidence to support additional motion for summary judgment to be argued in class. The Workshop Handout materials include all evidence and testimony, as well as supportive case law.

November 15, 2011 – Arguing Motions for Final Disposition; Relief from Judgments (Appeals)

CA – Continue arguments on Motions for Summary Judgment; Motion for Summary Judgment Workshop, using testimony and evidence to support additional motion for summary judgment to be argued in class. Discussion of appellate issues and relief from judgments.

November 22*, 2011 – Conclusion and wrap-up; discussion of Bar exam (Pre-trial issues (focus on civil procedure); Course critique

*TBA