

COURSE SYLLABUS

PRE-TRIAL ADVOCACY: CIVIL

Fall 2022

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Class Hours: Wednesdays 5:30-8:20 PM in Room A246

Required Texts: Mauet & Marcus, Pretrial (Mauet & Marcus, 10th Ed., 2019) (“Mauet”)

Brown & Rothschild, potter v. Schrackle and the Schrackle Constr. Co.
(Broun & Rothschild, 7th Ed., 2019)

Alabama Rules of Civil Procedure, freely available at the following link:
<https://judicial.alabama.gov/library/CivilProcedure>

Supplemental cases or handouts: as provided in class

Assignments

From time-to-time, I may assign problems for students to work out and turn in “in class”. Such assignments must be ready at the beginning of the indicated class. Other assignments are due by the dates and times indicated in the class schedule below. There may also be times when we meet outside of class where your team will discuss your current assignment with me acting as a Senior Partner in your law firm. These meetings will be arranged for a mutually convenient time for all of us.

Emails

You must check your email regularly for announcements, assignments, and other information relating to your classes and assignments. Please let me know if you want to receive emails at a personal address rather than your law school address. **Please use the above email address to communicate with me.** I have several different email accounts and I do not check them all on a regular basis. If you don’t use the email above, it is likely I will not receive, review, or respond to emails sent to other addresses.

Course Objectives

This course will teach you about, and require you to participate in, the pretrial process in the context of a moot civil lawsuit. You will learn how to investigate facts, interview witnesses, draft pleadings, conduct and oppose discovery, and draft and argue a motion for summary judgment or opposition thereto. You will also regularly participate in written and oral advocacy exercises.

Grading

This is a Pass/Fail course. To earn a passing grade, students must demonstrate a good faith effort in completing all oral and written advocacy assignments. Consistent with the law school's grading policies, one or more students may earn a High Pass in this class by demonstrating exceptional skill in and/or commitment to fulfilling the assignments.

COVID-19 Course Policies

Health First

The healthinfo.ua.edu website continues to provide the campus community with information and updates about COVID-19 guidance and resources.

Attendance

Class attendance is required. The American Bar Association (ABA) requires that the Law School implement an attendance policy, and we are required to follow it. If our class meets in person and you are able to attend (i.e., you do not have an excuse as described in following paragraphs), you are expected to attend in person.

If you have an appropriate excuse (i.e. you have been directed to isolate or quarantine, by UA or a healthcare provider), you may participate in the class session remotely until the directive is lifted. In this context, remote attendance by Zoom, or by viewing or listening to a recording of the class, may be counted as “attending” the class. The choice of means is within your discretion. Any students in this situation must make arrangements **in advance** through the Associate Dean of Academic Affairs Grace Lee (205.348.1125; glee@law.ua.edu), and Dean Lee will discuss with you the best method of remote attendance for your class. **I will not record or use Zoom for class unless arrangements are made in advance.**

Additionally, if you have advance written permission from Associate Dean of Academic Affairs Grace Lee (205.348.1125; glee@law.ua.edu), you may meet the attendance requirement by watching recordings of class sessions that have already happened (i.e., asynchronously). Please consult Dean Lee for a list of permissible reasons. If you do not attend synchronously (either in person or remotely) and you do not have a written excuse allowing you to attend asynchronously, you will be considered absent from that class session, even if you watch the recording of that class session later.

Discussion and Participation

Please be in your seat or signed onto the Zoom session a few minutes before the beginning of each class. Please keep up with the reading and be prepared to answer questions and participate in the discussion each day. If you have written permission to view class remotely and you are not able to interact with me and other students, you will need to schedule additional time with me and other students to discuss the material covered in class (the ABA requires that all law school courses provide a meaningful opportunity for interaction among students and between students and the instructor).

Online Contingency

In the event we are unable to hold class in person (because the University announces a period of “Limited Business Operations”; because the city, state, or federal government imposes a shelter-at-home order; or because I am unable to teach in person), we will continue to meet during our regularly scheduled time via Zoom. As long as the Law School building is accessible, you are free to use our assigned classroom as your physical location while on a Zoom class session. I will distribute additional materials that provide guidance on how class will proceed online. I ask for your understanding in the event a transition to online learning becomes necessary.

ADA Policy

The Law School is committed to meeting the needs of students with physical, learning, and other disabilities, and provides appropriate accommodations and services tailored to each person’s specific requirements. Students who require disability accommodations should contact the Office of Disability Services (www.ods.ua.edu). Students who require accommodations related to pregnancy or parental status should contact the Title IX Office (<https://uact.ua.edu/information/pregnancy>). Approved accommodations will be sent to the Registrar’s Office, which will handle the provision of all accommodations within the Law School.

It is important that you receive any accommodations to which you are entitled to make the course accessible. To accomplish this important purpose and to maintain your confidentiality, please address your questions regarding accommodations to Dean Grace Lee, rather than me.

Office Hours

My virtual office hours are from 8:00 am - 11:00 am on Mondays. Please contact me by email to make an appointment to visit using Zoom.

TOPIC COVERAGE AND SCHEDULE

Please refer to the following when reading the Course Schedule below:

- RA = Reading Assignment (read *before* class and be prepared to discuss)
- PA = Assignments for Plaintiff Attorneys
- DA = Assignments for Defense Attorneys
- Rules = Alabama Rules of Civil Procedure

There will be many in-class exercises not reflected on this schedule. In addition to the assigned Mauet reading, you are responsible for reviewing the *Potter v. Schrackle* case file facts relevant to each week's topic. Unless an earlier time is specified, all submissions are due by midnight on the identified due date.

Introduction and course overview.

August 17 Introduction to Course; Assignment of Law Firms; Assignment of Witnesses;
Introduction to Litigation Planning

RA—Mauet pp. 1–18

Informal fact investigation, client interviews, and establishing the attorney-client relationship.

August 24 Structuring Fact Investigations; Initial Client Interview

RA—Mauet 19–37; skim *Potter v Schrackle* case file

PA—Interview potential client, Jeffrey Potter

August 31 Witness Interviews, Exhibits and Engagement Letters

RA—Mauet pp. 37–51, 89–105

DA—Engagement letter for client(s) due to my email by 5:00 PM on
September 5, 2022

PA/DA—Conduct interview of designated witnesses

Pleadings

- September 7 General Pleading Requirements; Complaint
- RA—Mauet pp. 121–149; Rules 4, 7, 8, 10, 11
- PA—Serve Complaint on opposing Counsel by September 11, 2022
- September 14 Answers, Counterclaims, Rule 12 Responses and Amendments of Pleadings
- RA—Mauet pp. 150–167, 186–189
- DA—Serve Answer and Affirmative Defenses on opposing Counsel by September 18, 2022

The discovery process

- September 21 Scope of Discovery; Fundamental Discovery Techniques; Scheduling Orders
- RA—Mauet pp. 191–208, 224–259, 321–329; Rules 26, 33, 34, 36
- PA/DA—Serve Consolidated Discovery Requests (RFP, Interrogatories, RFA) on opposing Counsel by 5:00 p.m. on September 26, 2022
- September 28 Subpoenas to Third Parties; Discovery Disputes; ESI
- RA—Mauet pp. 330–340, 343–351, skim 259–276; Rules 26, 37, 45
- PA/DA—Draft and serve Motion to Compel on opposing counsel by October 2, 2022
- PA/DA—Prepare for hearing on Motion to Compel
- October 8 Hearing on Motion to Compel
- PA/DA—Oral Arguments: argue for your Motion to Compel and oppose your opponent’s Motion to Compel
- October 12 Depositions
- RA—Mauet pp. 278–316; Rules 30, 32
- PA/DA—Turn in deposition questionnaires for Schrackle (PA) or Potter (DA), as applicable, by October 17, 2022 (*do not serve on opposing counsel*)
- October 19 Depositions, continued

PA—Depose Charles Schrackle

DA—Depose Jeffrey Potter

Summary judgment

October 26 Motion for Summary Judgment; Opposing MSJ

RA—Mauet - pp. 367-381, review pp. 343–350; Rule 56

DA—Serve MSJ on opposing counsel by October 30, 2022

November 2 Advocacy Techniques for Arguing Motion for Summary Judgment and
Opposition Thereto

PA—Serve Opposition to MSJ on opposing counsel by November 6, 2022

November 9 Hearing on Motion for Summary Judgment and Opposition Thereto

DA—Argue in favor of SJ

PA—Argue in opposition to SJ

Pretrial and settlement

November 16 Pretrial Conference and Settlement

RA—Mauet pp. 389–409