CIVIL PRACTICE AND PROCEDURE
SPRING 2015
MAC MOORER

1. **Course Description:** This course will be an in-depth study of the Alabama Rules of Civil Procedure. Special emphasis will be placed on the practical application of the rules and the following topics:
   a. Preliminary litigation considerations, such as jurisdiction and venue;
   b. Drafting and answering complaints;
   c. Discovery;
   d. Pretrial motion practice;
   e. Trial practice;
   f. Post-trial motions;
   g. Major differences between Alabama and Federal practice.

2. **Course Objectives:** This course is designed to instill a working knowledge of the rules governing civil practice and procedure, both for preparation for the Alabama Bar Examination and for practical usage upon entering the practice of law. By the end of the semester, you will know the basics steps in the process of litigating a civil suit. In addition, you will gain insight into the effect of the rules on litigation strategy and practice.

3. **Text and Course Materials:** You are required to have access to current versions of the Alabama Rules of Civil Procedure we will study each week. One good on line source is the Alabama Supreme Court and State Law Library web site, found at www.judicial.alabama.gov. We will also study selected Alabama cases and statutes, which I will supply or which can be accessed on Westlaw or in the Law Library.

4. **Course Outline and Weekly Assignments:** A basic outline of the topics we may cover is set forth below. Detail on the specific topics to be covered in each class, as well as reading assignments for each class, will be provided each week via electronic mail. Students who put reasonable effort into the reading assignments each week will learn the most from the course and generally perform well. The converse is also true.

5. **Class Attendance Policy:** This class will meet each Monday from 5:30 p.m. – 7:20 p.m. Students are expected to attend, and be prepared for, all class sessions. Attendance will be governed by the Law School’s attendance policy, and an attendance roster will be maintained. If you know in advance that you will be absent for a class, please let me know by email as soon as possible.

6. **Make-up Classes:** It is possible that we may need to cancel class during the semester due to our schedules. In the event that a class is canceled for any reason,
we will conduct corresponding make-up classes with the time(s) and date(s) to be announced as soon as they are determined.

**Last minute class cancellations or changes in schedule will be announced via email, so please check your email accounts immediately prior to each class.**

7. **Examination and Grading:** Your grade will be 50% based on a final examination, comprised of essay questions, which will be administered pursuant to the “floating examination” policy of the Law School. The examination questions will be similar in format to those used previously in the Alabama Civil Litigation section of the Bar Examination.

All students are expected to be prepared to discuss the assignment for each class. I will ask questions during class based on the assignments. I will take volunteers and at times may call on students randomly. Thoughtful and active class participation is expected of all students. 25% of your grade will be based upon class attendance and class participation.

The final 25% of your grade will be based upon a 45-50 minute classroom presentation/teaching session you will prepare and conduct regarding an assigned rule(s)/topic(s) and assigned case(s). You will, of course, know your assigned material in advance and I will be available to consult regarding any questions you may have and areas of emphasis for your presentation.

8. **ADA Accommodations:** 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. The Law School’s assistant deans and the University’s Office of Disability Services work together to help individuals with disabilities achieve and maintain individual autonomy. Students with disabilities are encouraged to contact the Associate Dean for Academic Services so that the individual’s needs for support services can be evaluated and accommodated in a timely manner.

9. **Code of Academic Conduct Statement:** All students in attendance at the University of Alabama are expected to be honorable and to observe standards of conduct appropriate to a community of scholars. The University expects from its students a higher standard of conduct than the minimum required to avoid discipline. Academic misconduct includes all acts of dishonesty in any academically related matter and any knowing or intentional help or attempt to help, or conspiracy to help, another student.

The Academic Misconduct Disciplinary Policy will be followed in the event of academic misconduct.
10. **Technology in Class:** Cell phones, iPhones, Blackberries, pagers and other communication devices must be turned off, or be on silent mode, and may not be used during class.

    Recording of lectures is not permitted.

    Students may not use computers during class for any reason other than taking notes. Using a computer to surf the web or send email or instant messages is not allowed under any circumstances.

11. **Contact Information:** I encourage you to contact me if you have any questions. You may reach me by telephone at (205) 581-0714 or by email at mmoorer@lightfootlaw.com. If you need to reach me while I am out of the office during the week, or over the weekend, please email me and I will be happy to schedule a time to speak with you. In addition, if schedules permit, I am happy to make arrangements to meet in the Law School in advance of class.
Alabama Civil Practice and Procedure Basic Coverage

1. Introduction and Overview of Alabama Court System
   - Overview of the Alabama Court System
     - Probate/Municipal Courts
     - District Courts
     - Circuit Courts
     - Appellate Courts
   - Subject Matter and Personal Jurisdiction

2. Considerations in Case Commencement, Part 1: Venue
   - Venue
   - Challenges to Venue and Forum Non Conveniens

3. Considerations in Case Commencement, Part 2: What Claims to Assert?
   - Substantive Claims in Alabama
   - Immunities
   - Limitations Periods

4. Drafting, Filing and Serving a Complaint
   - Form of Pleadings
   - Drafting a Complaint
   - Notice Pleading Standards and Particularity Requirements
   - Twombly and Iqbal in Alabama State Courts
   - Pleading Special Matters (Fraud, especially)
   - Fictitious Parties
   - Jury Demands
   - Verification and Representation of Pleading Contents: Rule 11
   - Service of Process: Methods and Limitations

5. Defendant's Initial Response (Or Lack Thereof)
   - Answers
   - Affirmative Defenses
   - Initial Rule 12 Motions
   - Rule 11 and the Alabama Litigation Accountability Act
   - Timeliness
   - Removal (briefly)
   - Defaults and Default Judgments
6. Amendments, Joinder and Special Procedures – Part One
   - Amendments and Relation Back
   - Counterclaims and Cross-Claims
   - Third-Party Practice
   - Remedies for Defective Pleadings

7. Amendments, Joinder and Special Procedures – Part Two
   - Real Parties in Interest and Capacity
   - Joinder of Claims and Remedies
   - Joinder of Persons
   - Permissive Joinder
   - Interpleader
   - Third-Party Practice
   - Consolidation of Cases
   - Severance of Claims

8. More Complex Pleading Issues
   - Class Actions
   - Derivative Suits
   - Suits Involving Unincorporated Associations
   - Intervention
   - Substitution

9. Discovery – General Scope and Non-Deposition Discovery Methods
   - Scope of Discovery
   - The Importance of Discovery Planning and Timing
   - Interrogatories
   - Requests for Production
   - Requests for Examination or Inspection
   - Requests for Admission
   - Subpoenas
   - Electronic Discovery (briefly)

10. Discovery – Depositions, Motions to Compel, Motions for Sanctions and Challenging Discovery Orders
    - Depositions Upon Written Examination
    - Depositions Upon Oral Examination
    - Use of Depositions at Trial
    - Motions to Compel and Motions for Sanctions
11. Summary Judgment and Other Pretrial Matters

- Summary Judgment Motions
- Motions in Limine
- Motions Regarding Experts
- Offers of Judgment
- Mandatory Pretrial Mediation

12. Trial: What Happens In Court

- Compelling Testimony and Production of Documents
- Motions During Trial
- Charging the Jury
- General and Special Verdicts and Special Interrogatories
- What the Jury Can Take Out of the Courtroom
- Polling the Jury
- Hammond Hearings – Procedure and Evidence

13. Post-Trial Motions and Procedure

- Motions for New Trial
- Motions to Alter, Amend or Vacate Judgment
- Special Time Rules
- Motions for Relief from Judgment or Order
- Enforcement and Collection of Judgments

14. Injunctions and Arbitrations

- Temporary Restraining Orders
- Preliminary Injunctions
- Final Injunctions
- Filing and Defending Against Motions to Compel Arbitration
- The "Substantive" Arbitration Law
- The Movant's Prima Facie Case
- The Opponent's Defenses to Arbitration
- Appeals from Orders Denying or Granting Motions to Compel Arbitration