

# LRWA III -- PRETRIAL PRACTICE AND PROCEDURE SYLLABUS SUMMER 2015

Professor: Elizabeth Jaffe

Email: [ejaffe@johnmarshall.edu](mailto:ejaffe@johnmarshall.edu)

Office: 823 (faculty suite on 8<sup>th</sup> floor)

\*please contact me via email

## Required Texts:

Marilyn J. Berger, Pretrial Advocacy (4th ed., Aspen 2013)

ALWD Citation Manual: A Professional System of Citation

Additional reading and exercises may be assigned as the semester progresses. Students are responsible for any scheduling changes or additions or deletions to the syllabus announced in class or on TWEN. You must register on TWEN for Pretrial for Professor Jaffe's section.

## SYLLABUS

<u>DATE</u>	<u>CLASS TOPIC AND ASSIGNMENTS</u>
Wed May 27	Overview of Course; Client Interview and Factual Investigation Read for class: Berger p. 3-12; 90-132
Mon June 1	Initial Pleadings I: Theory of Case; Complaint, Service of Process, Answer and Counterclaims Read for Class: Berger p. 18-47; 165-217; 226-228 Assigned: Complaint
Wed June 3	Initial Pleadings II: Theory of Case; Complaint, Service of Process, Answer and Counterclaims Read for Class: Berger p. 18-47; 165-217; 226-228 Assigned: Answer <b>Due: Complaint</b>

Mon June 8	Motions Attacking the Pleadings: Persuasive Writing for Motions; Responding to Motions; CREAC and Research review Read for class: Berger p. 392-406; 410-424 <b>Due: Answer</b>
Wed June 10	Motions Attacking the Pleadings: Persuasive Writing for Motions; Responding to Motions; CREAC and Research Read for class: Berger p.392-406; 410-424 Assigned: PreTrial Motion and Memorandum in Support
Mon June 15	Motions Attacking the Pleadings: Persuasive Writing for Motions; Responding to Motions; CREAC and Research Read for class: Berger p.392-406; 410-424
Wed June 17	Written Discovery I: Drafting Interrogatories; Requests to Produce; and Requests for Admission Read for class: Berger p. 51-87; 231-285; 292-296 Assigned: Discovery Requests (group assignment)
Mon June 22	Written Discovery II: Responding to Interrogatories; Requests to Produce; and Requests for Admission Read for class: Berger p. 51-87; 231-285; 292-296 Assigned: Discovery Responses (group assignment) <b>Due: Discovery Requests (group assignment)</b>
Wed June 24	Written Discovery III: Evaluating written discovery; Good Faith Letters; Motions to Compel Read for class: Berger p. 285-292 <b>Due: Discovery Responses (group assignment)</b>
Mon June 29	Motion workshop <b>Due: Bring Draft of Motion to Dismiss and Memorandum in Support to class with questions</b>
Wed July 1	Depositions Read for class: Berger p. 298-363
Mon July 6	Oral Argument Skills Read for class: Berger p. 424-437

Wed July 8	Negotiations/PreTrial Conferences/PreTrial Orders Read for class: Berger p. 444-484 <b>Due: Final Motion to Dismiss and Memorandum in Support (Bring hard copy to class with Blind Grade Number to turn in)</b>
---------------	---

### Grading:

Assignment	Percentage of Grade
<b>Final Motion to Dismiss and Memorandum in Support</b>	<b>100%</b>
<u>Pass/Fail Assignments</u> *Complaint *Answer *Interrogatories, Requests for Production, Requests for Admission *Responses to Discovery	

#### 1. Assignments

Failure to complete all assignments may result in a grade of F. Unexcused failure to participate in the group homework and in class assignments may, at the discretion of the professor, result in an F for the course.

#### 2. Type

All assignments must be typed in Times New Roman 14 point font and double spaced. All assignments must have a one inch page margins and pages must be numbered in the center of the bottom of the page. You must use proper ALWD format for citations. You should underline rather than italicize where appropriate in a cite.

#### 3. Filing Desk

**You must bring a printed hard copy of the Final Motion to Dismiss and Memorandum in Support with you to turn in to the “Clerk’s File” at the beginning of the last class with only your BLIND GRADE NUMBER on it.**

You should bring 2 copies of all other assignments (those that are Pass/Fail) with you to class when they are due with **your NAME written on them, NOT your blind grade number.**

#### 4. Deadlines/Penalties

Because meeting deadlines is an essential part of practicing law, I will hold you to strict deadlines for all assignments. I expect you to be working on your assignments well in advance of the due date, so I will not tolerate late submissions. If you turn in the final graded assignment late, I will impose a one-step grade reduction for every two hours your assignment is late.

For example, if you turn in an assignment at 8:45 a.m., but it was due at 8:30 a.m., then you will receive a one-step grade reduction. So, if your grade on the assignment was a “B,” that B would be reduced to a “B-.” By way of another example, if you turn in a paper at 10:33 a.m., but it was due at 8:30 a.m., then a two-step penalty will be assessed against you. So, if your grade was a “B,” then the two-step penalty would lower your grade to a “C+.” **Assignments are due immediately before class begins that day.**

#### 5. Deadline Extensions

**Computer, word processing, or printing problems are not acceptable excuses for missing a deadline.** Do not try to complete or print an assignment so close to its deadline that you cannot make other arrangements to complete or print it in time to meet that deadline. You are expected to anticipate these problems and take into account that you may lose documents or revisions, or may have to revise the format (particularly if you are inexperienced or working on unfamiliar computer equipment).

Similarly, you should keep in mind that large numbers of people will be using the law school printers when you have an assignment due. Consider using alternatives such as your friend’s printer, or Kinko’s, or any other similar business.

At my discretion, I may grant an extension of a deadline for legitimate and serious **emergencies**, or when you have obtained permission **in advance**. Examples of such an emergency would include a car accident on your way to the law school or a disabling illness. To receive a deadline extension, you

must contact me immediately. You should be aware that I DO NOT grant extensions as a matter of course. In fact, extensions are rare.

If you need accommodations for disabilities under the Americans with Disabilities Act, you should make necessary arrangements as soon as possible after the semester begins, and well before any due dates. You can begin this process by contacting the Associate Dean for Academic Affairs or the Associate Dean of Students.

#### 6. TWEN/Email Accounts

You must register to my TWEN site before the second meeting of class.

Also, it is your responsibility to check your AJMLS email account **daily**. It is also your responsibility to maintain that account (or any other account at which you receive emails related to AJMLS) in a manner that allows all communications to make their way to your inbox. I will not make any allowances for students who have not checked their email accounts or who have failed to maintain them appropriately.

#### 7. Attendance/Tardiness

You must attend my class. If you are more than 5 minutes late for a class and did not receive special permission to be tardy, I will count that as one-half of an absence. I am required to follow the AJMLS policy regarding absences and will adhere strictly to that policy.

#### 8. Collaboration

Because articulating the law is a crucial part of your learning process, you may discuss with classmates your understanding of the general concepts and rules of law applicable to any particular assignment. You may not provide any citations to specific cases or statutes, or the names of particular cases, however, until they have been discussed in class. Stated more generally, you may discuss the concepts you have acquired from your research, but you may not use this collaboration privilege to circumvent the requirement that you conduct your research and develop your analysis independently.

Similarly, you may discuss research strategy and process, but not your specific answers. Discussions about strategy and/or process can be one of

the best ways to help one another through a research project. Students who fail to master the basics of research will be at a serious disadvantage in their future jobs. The only way to learn how to do legal research is to attempt to do the research and to receive feedback on the results.

### **Prohibited Collaboration: Research Restrictions**

You are to conduct your research independently unless I authorize otherwise. Both the receipt of and the provision of unauthorized research assistance are prohibited. For example, you may not ask another student to identify specific relevant cases, statutes, or legal authorities; you may not look through the results of another student's research, either with or without that student's permission; you may not provide to another student the location or name of relevant legal authorities; and you may not allow another student to review the products of your research. After I have mentioned authorities in class, you may freely share the names or citations.

When performing computer-assisted legal research, you may not use the Westlaw and LEXIS representatives or reference attorneys (or other outside help) to assist with crafting your on-line searches. You may, however, contact Westlaw or LEXIS representatives for help in resolving technical questions or problems (e.g. trouble signing on to an online service or clarification of why a particular search that you have crafted is returning an error message).

### **Prohibited Collaboration: Review of Student Work**

I am the only person who may review your written work for content, analysis, style, grammatical issues, citations, or any other substantive purpose. You may not share your written work with another student or anyone else before the assignment is due, you may not turn in anyone else's work as your own, and you may not pick up another student's work after it has been graded.

You may not ask for or obtain another person's work on similar law school assignments. Unless permitted by these Rules, or with prior approval of your professor, you may not give your written work to any other person for review until the course is completed. This prohibition includes giving your work to someone to proofread for basic errors in grammar, spelling, or punctuation, as well as for comments on your legal analysis.

You may (indeed, should) use any available software to check your spelling and grammar. Be aware, though, that software programs do not catch all grammar and spelling errors. The only way to catch all grammar and spelling errors is by careful and thorough proofreading and editing.

Nothing in these rules prevents you from sharing the notes that you took in class with another student in that class.

## 9. Plagiarism

The AJMLS policy on Plagiarism is incorporated by this reference into these Classroom Policies. I will adhere strictly to the AJMLS policy on Plagiarism.

## 10. Laptops

You may have laptops in my class but you may only use them when you are working on an assignment or taking notes on a lecture. If you abuse the privilege of having a laptop, then you will lose the privilege. Thus, do not “surf the net,” instant message, use Facebook (or any other web site), or check email while in my class. Moreover, you should not have any other program open on your laptop computer during class other than the program on which you take your class notes unless you are doing in class research related to an assignment.

## 11. Pass/Fail Assignments

Pass/Fail assignments are due at the time class begins on the day they are due. **You do not need to upload these assignments to TWEN but must bring 2 copies of the assignment to class with your FULL NAME on the assignment, NOT your blind grade number.** Any assignment that is graded as a “pass” or a “fail” should not be undervalued. I expect that you will put forth the required efforts into those assignments as they are intended to improve your performance on the final writing assignments. Thus, if you receive a “fail” on any P/F assignment, I will deduct one-half step (as defined in No. 4 above) from your grade on the immediately following graded assignment.

## 12. Learning Objectives

**OVERALL:** Understand apply the general concepts of pretrial litigation from the commencement of the attorney client relationship through the time of trial.

**PURPOSE:** At the conclusion of the course, students will have a solid foundation to enable them to develop and implement the skills necessary for pretrial litigation and the pretrial concepts needed to work in a law firm representing clients.

**CONCEPTS:** By the end of the course, the students will understand and be able to develop a big picture litigation strategy and further develop the analytical skills taught in first year LRWA. The students will learn client communication skills, be exposed to ethical issues in drafting pleadings to be filed before the court and in conducting discovery, and develop issue spotting skills to determine if a client has a cause of action. The students will also further expand on their research skills identifying potential causes of action and defenses based on the facts and will learn how to use informal fact gathering to develop case facts to the required elements to a cause of action.

The students will learn organizational skills including: identifying what facts are necessary to establish elements of an action or defense; identifying evidentiary sources of the necessary facts; and identifying the proper discovery tools to use to obtain necessary evidence. The students will understand how to research and use forms for litigation. The students will gain knowledge of how the Rules of Civil Procedure and the Local Rules guide how litigation must be conducted.

The students will produce the following pleadings including: complaint, answer, motion to dismiss, memorandum in support, and discovery requests. The students will also be exposed to conducting and defending depositions, motions to compel and motions for summary judgment. The students will expand on the oral argument skills taught in first year LRWA.

**PROFESSIONALISM:** Students will be exposed to specific concepts of professionalism for litigation practice.



### 13. Accommodations

Accommodations for disability and extensions for illness must be requested before the paper is due; it is best if we are aware of these issues as soon as possible. If you need to request an extension or other accommodation, you must begin the process by talking with the Associate Dean for Academic Affairs as soon as possible. Do not wait until right before something is due or after you have already turned in the graded assignment to request an accommodation. Because privacy is often important in situations like this, any necessary documentation can be submitted to the Associate Dean, who can maintain your privacy and inform me of the appropriate accommodation.