

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

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## 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 Dalton's section.

## SYLLABUS

<u>WEEK</u>	<u>CLASS TOPIC AND ASSIGNMENTS</u>
Week 1	Overview of Course; Client Interview and Factual Investigation Read for class: Berger p. 3-12; 90-132
Week 2	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
Week 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>
Week 4	Motions Attacking the Pleadings: Persuasive Writing for Motions; Responding to Motions; CREAC and Research review Read for class: Berger p. 392-406; 410-424 Assigned: PreTrial Motion and Brief <b>Due: Answer</b>

Week 5	Motions Attacking the Pleadings: Persuasive Writing for Motions; Responding to Motions; CREAC and Research review Read for class: Berger p.392-406; 410-424
Week 6	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: CREAC Outline</b>
Week 7	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) <b>Due: PreTrial Motion and Brief</b>
Week 8	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>
Week 9	Written Discovery III: Evaluating written discover; Good Faith Letters; Motions to Compel Read for class: Berger p. 285-292 <b>Due: Discovery Responses (group assignment)</b>
Week 10	Motion workshop/conferences/feedback Assigned: Redraft PreTrial Motion and Brief
Week 11	Depositions Read for class: Berger p. 298-363
Week 12	Motion for Summary Judgment; Responding to Motions for Summary Judgment Read for class: Berger p.392-406; 410-424
Week 13	Oral Argument Skills Read for class: Berger p. 424-437
Week 14	Negotiations/Pretrial Conferences/Pretrial orders/Evaluations Read for class: Berger p. 444-484 <b>Due: Redraft PreTrial Motion and Brief</b>

**Grading:**

Assignment	Percentage of Grade
PreTrial Motion and Brief in Support	40%
Redraft of Motion and Brief in Support	60%
<u>Pass/Fail Assignments</u> *Complaint *Answer *Interrogatories, Requests for Production, Requests for Admission *Responses to Discovery	

**1. Communication**

The best way to reach me outside of class and office hours is by emailing me (rather than calling me) at the email address above. I will not respond to emails sent on the weekends until the following week.

During office hours or in emails, I will be glad to discuss/respond to pointed questions. I will not review any assignment generally.

Throughout the semester, I frequently will send communications to the class as a whole or members of the class via email through TWEN. Therefore, it is crucial that you sign up for my course TWEN site using your preferred email address. **You are required to check your email during the week on a daily basis.** If you do not, you may miss important and potentially time-sensitive class-related communications.

**2. Attendance**

*Regular* and *punctual* class attendance is mandatory. Per school policy, if you miss more than 20% of the Pretrial Advocacy course, you will be academically withdrawn and will automatically receive a W/F for the course. I have no discretion to allow extra absences. Coming to class late or leaving early may affect your attendance for those days.

**3. Type**

Legal professionalism is an important component of this course. Accordingly, unless otherwise indicated, all assignments that are handed in must be typewritten and should be free of typographical, spelling, and grammatical errors.

All graded assignments must comply with the following requirements:

1. Place anonymous student number and my name in the upper right corner of each page (you must cover your identification number when you meet with me to discuss assignments);
2. Assignments must be on 8.5" x 11.0" white paper;
3. Margins must be 1 inch on all sides;
4. Type must be courier or new courier and the font must be 12 point;
5. Assignments should be double spaced unless otherwise indicated;
6. Pages must be numbered consecutively on the bottom center of the page – do not number the first page;
7. You must use left justification; and
8. Length of assignment must be within the specified page limit if there is one.

I reserve the right to lower your grade on an assignment by up to two steps for failure to comply with requirements 1 through 8 on that assignment. For instance, if you would have received a "B" on the assignment, I reserve the right to lower your grade to a "C+" for failure to comply with the above specifications. I will not read any pages that exceed the specified page limit and your assignment will be graded based upon the material within the page limit only.

#### 4. Assignments due

You should bring all assignment to class and place them in the "Clerk file." You do not need to turn the assignment in to TWEN.

#### 5. 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 a 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"

#### 6. 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 a friend's or parent's printer, or Kinko's or 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 Associate Dean of Students.

## 7. 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.

#### 8. Plagiarism

The JMLS policy on Plagiarism is incorporated by this reference into these Classroom Policies.

#### 9. Pass/Fail Assignments

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. If you receive a "fail" on any P/F assignment, your final grade will be lowered by 2 steps.

#### 10. Class Participation

Given the small size of this class, I expect all students to come to class each week prepared and for students to participate actively in class discussion. I reserve the right to lower your grade at the end of the semester if, in my discretion, I find that you are unprepared repeatedly for class.

## 11. Computers

You are not permitted to use laptops in class.

If you do not have a computer, it is your responsibility to ensure that you have adequate access to a computer for the purpose of completing assignments. There is a computer lab in the library for all law students. Do not wait until the last minute to complete or print an assignment in the computer lab. Technological failures are your responsibility and are not an excuse for late or unprofessional assignments. It is your responsibility to save your material and use back-up options.