LAW 368: PRETRIAL PRACTICE  
Spring 2015  
SYLLABUS  

Professors:  
Brian Hudak  
U.S. Attorney’s Office  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2549 (work)  
Office: Brian.Hudak@usdoj.gov  
Home: Brian.Hudak@hotmail.com  

Wynne Kelly  
U.S. Attorney’s Office  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2545 (work)  
Office: Wynne.Kelly@usdoj.gov  
Home: wpkelly78@gmail.com  

I. Class Organization:  

The class will be divided into law firms -- each of which will be responsible for litigating a case during the course. You will be informed of your firm and client assignments in the first weeks of class. In litigating the case(s), we will use D.C. substantive law and Federal procedure.  

Each of you will share responsibility for your respective firm’s legal research, factual investigation, witness interviews, and client contact. It is important that all students be prepared to begin work on the first day of class.  

II. Writing Assignments:  

Your writing assignments will take three forms.  

Minor Firm Assignments -- you will be responsible for completing on a per-firm basis certain factual and legal memoranda that you and the other members of your firm will use to represent your clients during the course. These minor firm assignments should be distributed to your fellow firm members and to us.  

Major Firm Assignments -- you will also work within your firm to complete on a per-firm basis discovery requests and discovery responses. These assignments will be graded and each member of the firm will receive the same grade. These major firm assignments should be your firm’s joint product and distributed to us.  

Individual Assignments -- you will use these firm assignments and other materials to prepare your own individual filings -- complaints, answers, and motions for summary judgment. You may, and are encouraged to, discuss legal and factual theories with your fellow firm members but the written work on these individual assignments should, at the end of the day, be your own. Additionally,
you may review, borrow, and/or tailor drafts from forms and samples of similar filings in real cases or examples that we provide to you in class as you deem appropriate given the specific needs of your case and the directions we provide to you in class. Individual assignments should be sent to us.

Specific deadlines for these writing assignments are set forth below.

III. Class Sessions:

For the majority of our classes, we will meet as a whole class from 8:00-9:50 on Tuesday evenings. On occasion, as reflected in the below schedule, we will meet separately as individual firms for one-hour strategy sessions. During these strategy sessions, we will act as senior partners in your firm and will guide you, but will expect you to be prepared to discuss and develop how the litigation should proceed.

IV. Course Book:

The required course book for this course is *Pretrial*, Eighth Edition, by Thomas A. Mauet. You should also bring a copy of the Federal Rules of Civil Procedure (your first-year copy will do) to each class. Occasionally, we may provide supplemental readings to aid in your class preparation. Your course book has a computer disk inside the back cover that contains the plaintiff’s and the defendant’s starting case files for the cases we will be litigating. *Do not look at the contents of the disk until you have been given your firm/client assignments.* Once you are given your firm/client assignments feel free to look at anything on the disk, except for your opponent’s files and information. During the course of your litigation, you will obtain all information pertaining to your opponent through informal and/or formal discovery.

V. Grading:

Your grade will be based on your in-class participation (which will include minor firm assignments) and the following assignments: (i) complaint (individual); (ii) answer (individual); (iii) interrogatories and document requests (major firm); (iv) responses to interrogatories and document requests (major firm); (v) a deposition (individual); and (vi) a summary judgment brief (individual).

Your graded written work will be measured using the following general factors: (i) professional formatting, including citations; (ii) proper grammar and spelling; (iii) proper tone and voice; (iv) compliance with directions; (v) concise, effective, and thorough writing; (vi) legal and factual sufficiency / supportability of allegations, arguments, and other statements; and (vii) completeness of assignment and conformity with in class instructions and all applicable rules. Specific criteria for each assignment will also be discussed in class.
Finally, you should maintain a “billable hours” time sheet of your case-related activities. We will use your time sheets to discuss settlement potential at the end of the semester.

VI. Class Schedule and Assignments:

Below is a detailed schedule of classes and class assignments.

VII. Questions / Concerns / Contacting Us:

If you have any questions or concerns about anything during the course, please contact us. We will maintain an “open door” policy. The best way to reach us is through the email addresses noted above. **Please be sure to use all of the above addresses when trying to reach us** as we may be away from our desks.
CLASS SCHEDULE AND ASSIGNMENTS

1-6-15: A. Class Meets 8:00-9:50

Overview of the Course

Introduction to Litigation Planning

Informal Fact Investigation

B. Litigation Assignments for Next Week:

* Review Case Files

* Research Potential Claims

* Meet with Firm

* Firms A & B: Interview Plaintiff and Other Witnesses

* ASSIGNMENT FOR NEXT WEEK:¹ Legal Research Memo of Potential Claims (one per firm -- Firms A & B on Main Case, Firms C & D on Side Case).

¹ For assignments, you should distribute them as indicated in the Syllabus (Firm Assignments to your fellow firm members and us; Individual Assignments to us) by 5:00 p.m. the day of the next scheduled class.
1-13-15: A. Class Meets 8:00-9:50

Drafting a Complaint
• Read §§ 5.1-5.3 and § 5.13 of Chapter 5.

B. Litigation Assignments:

* Firms A & B: Continue to Interview Clients and Other Witnesses.

* ASSIGNMENT FOR NEXT WEEK: Firms A & B Only: Witness Interview Memos (one per witness per firm).

1-20-15: A. Firms Meet Separately:

 o Law Firm A & B Meet at 8:00-8:50
 o Law Firms C & D Meet at 9:00-9:50

Case Evaluation and Strategy:
• Read §§ 4.1-4.6 of Chapter 4

Note: Be prepared to discuss the legal and factual investigation to date, to develop a case strategy, and to plan the complaint to be filed.

B. Litigation Assignments:

* ASSIGNMENT FOR NEXT WEEK: Complaint (graded, one per person).

---

2 Individual and Major Firm Assignments will be returned to you with a grade. Minor Firm Assignments will not be returned to you, but rather will be reviewed for completeness and used in evaluating your in-class participation.
1-27-15: A.  Class Meets 8:00-9:50:  

Responses to a Complaint  
• Read §§ 5.4-5.12 of Chapter 5.  
• Read §§ 7.1-7.4, §§ 7.6-7.7 of Chapter 7.  

B.  Litigation Assignment:  

* Firms C&D: Interview Defendant & Other Witnesses  

* **ASSIGNMENT FOR NEXT WEEK:** Legal Research Memo of Potential Defenses (one per firm -- Firms A & B on Side Case, Firms C & D on Main Case).  

---

2-3-15: A.  Class Meets 8:00-9:50:  

Discovery (Interrogatories & Document Requests)  
• Read §§ 6.1-6.8 of Chapter 6  

B.  Litigation Assignments:  

* Firms C & D: Continue to Interview Clients and Other Witnesses.  

* **ASSIGNMENT FOR NEXT WEEK:** Firms C & D Only, Witness Interview Memos (one per witness per firm).
2-10-15: A. Firms Meet Separately:
   o Firms C & D Meet at 8:00-8:50
   o Firms A & B Meet at 9:00-9:50

   Note: During this strategy session, we will review the Answer and plan the discovery to be filed.

B. Litigation Assignments:

   * Assignment for next week: Answer (graded, one per person)

2-17-15: NO CLASS

2-24-15: A. Class Meets 8:00-9:50:

   Discovery (Depositions)
   • Read § 6.9 of Chapter 6

B. Litigation Assignment:

   * Assignment for next week: Interrogatories and Document Requests (graded, one per firm)
3-3-15: A. Law Firms Meet Separately:

- Law Firms A & B Meet 8:00-8:50
- Law Firms C & D Meet 9:00-9:50

Preparing a Witness for Deposition
- Review § 6.9 of Chapter 6

Note: During this strategy session, we will review all discovery filed to date including interrogatories and document requests. We also will discuss and plan upcoming depositions.

B. Litigation Assignments

* ASSIGNMENT FOR NEXT WEEK: Discovery Responses (graded, one per firm).

3-10-15: NO CLASS (SPRING BREAK)

3-17-15: A. Class Meets 8:00-9:50:

Take Depositions

B. Litigation Assignments: none

3-24-15: A. Class Meets 8:00-9:50:

Take Depositions

B. Litigation Assignments: none
3-31-15: A. Class Meets 8:00-9:50:

Take Depositions

B. Litigation Assignments:

* ASSIGNMENT FOR NEXT WEEK: Deposition Summaries (one per witness, as negotiated by note takers).

4-7-15: A. Class Meets 8:00-9:50:

Summary Judgment:
• Read § 7.8 of Chapter 7.

B. Litigation Assignments: None

4-14-15: A. Firms Meet Separately & Then Together:

 o Law Firms C & D Meet at 8:00-8:45
 o Law Firms A & B Meet at 8:45-9:30
 o All Together at 9:30-9:50

Settlement Conferences:
• Read §§ 8.3 of Chapter 8.

BRING YOUR TIME SHEETS TO CLASS

Note: This is our last strategy session. During this strategy session, we will plan summary judgment motions. We also will discuss settlement evaluation and settlement conference strategy.

B. Litigation Assignments: None