



FALL 2026 COURSE SYLLABUS

Course Number: **368-001**

Course Title: **Pretrial Practice**

Credit Hours: **2 Credits**

Grading Mode: **Letter Grade**

Meeting Day(s)/Time(s): **Wed. 8:10-10:10 PM**

Meeting Mode: **ON CAMPUS**

Exam Day(s)/Time(s): N/A

Final Exam Mode: N/A

Prerequisite(s): N/A

Corequisite(s): N/A

Instructor(s): **Richard Kelsey**

Contact Information: TBD

Office Hours: By appointment -- If you have questions, issues, problems, contact me via email. If we need to meet, we can set that up virtually.

Course Overview: The students will work through litigation pre-trial process in order to gain appreciation for litigation tools, tactics, and strategies. The students will be introduced to discovery issues and discovery problems commonly occurring in Virginia State and Federal Courts. The students will be introduced to concepts letting students appreciate handling of complex litigation – with a focus on the types of assignments most first and second year litigators might get at a law firm.

This is a practical skills class. We will work through real issues and real questions just as if the students were associates working with a partner on a new piece of litigation.

We will discuss overall litigation tactics and strategies – and how those tactics and strategies might apply to a given case. This will include considering client business decisions, and other client considerations.

We will formulate discovery, consider the types and timing of discovery, work on and refine discovery. We will consider and formulate possible motions – and discuss the strategies and tactics of motions' practice. Why and when to file discovery – as well as why and when not to file.

This class will focus on building the evidentiary blocks essential to supporting or defending a cause of action. We will look at and consider standards for such proof, the type of evidence we have and need, and means of procurement of helpful evidence.

This class will focus on electronic evidence as well. **No – you need no technical background!** You need, however, to understand how electronic discovery and electronic evidence play a central role in building and defending a case – particularly in a pre-trial setting. As a new associate working on commercial litigation – you will be tasked to handle e-discovery issues. As a lawyer in a competitive market – you will need to understand, as many lawyers currently do not – the role of electronic evidence in building and defending cases.

Below is a **preliminary** Syllabus. Like real litigation, what we do from week to week may well change. Like real litigators – you will change and move as the demands of the litigation require.

Course Learning Outcomes: See above: Strategic thinking, pre-trial strategy, effective writing, and legal analysis.

Reading(s) & Supplement(s): There is no mandatory book. I will provide course materials, which you won't need for the first class.

Federal Rules of Civil Procedure (26-35, 45 mostly)

Federal Rules of Evidence (we may touch a few of these)

Virginia Rules (Rule 4.0-4.15)

Grading Policies

Each student will be assigned litigation tasks throughout the semester. These may be a short 3–5-page motion, draft discovery, or a strategic memo. Each student will participate in litigation strategy class discussions on filing of answer, counter-claims, dispositive motions, discovery, etc.

Grading will be as follows:

Discovery assignment – 30%

Final assignment – Motion – 30%

Homework assignments 10%

Class participation 30%

(Class participation will be broken down into two components, attendance 30% and participation 70%) (the ceiling on attendance is an A)

Classroom Policies

Attendance: Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences: Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Use of Technology & AI:

Open Use Policy: Students are encouraged to explore generative AI tools in this course, and are authorized to use AI for any purpose during this course such as for legal research. You may not use AI during any quiz or exam, or the legal drafting of the midterm and final. Students must use AI tools responsibly, verify facts presented by AI, disclose when AI tools are used to create course work product, properly cite any AI tools utilized, and should be prepared to produce the transcript of prompts and responses upon request. Misuse will be treated as a violation of academic standards.

Course Schedule & Assignments

Week 1: Date: 8-19

Topic: Class Introduction. Discussion of class format and introduction to litigation and pre-trial issues and concepts. First meeting of Kelsey and Associates. Discuss Complaint process. Possibly distribute new complaint. Outline client needs and circumstances.

Assignment(s):

Week 2: Date: 8-26

Topic: Strategy meeting of Kelsey and associates to discuss response to complaint, possible discovery, motions, cross and counterclaims, and other relevant information, strategies, and tactics.

Assignment(s): I will provide a link to review my favorite deposition prep video, now on Youtube.

Week 3: Date: 9-2

Topic: No Class ... Materials will be provided and class time will be made up through an assignment.

Assignment(s): TBD

Week 4: Date: 9-9

Topic: Review proposed strategies and tactics for complaint. Discuss who to depose, why, and what we want from each Party or even non-parties. Consider non-party discovery. Discuss order of possible discovery – types of discovery, and what we may want to do in coordinating with co-defendants? Can we do that? If so, how? Consider and discuss why each party is in the suit, and what the ultimate aim of the suit may be.

Assignment(s):

Week 4: Date: 9-16

Topic: Discuss state court tactics and discovery issues. Address motions' practice and compare and contrast Federal Courts with Virginia Courts. Discuss "knowing your Court" and "Knowing your Judge." Strategies and tactics – and rules for filing motions. Consider how complaint might be handled in State Court.

Assignment(s): Short, one-page analysis of all the possible defensive motions to be filed, short of an answer. **Due 9-23 in class ... on paper BEFORE class.**

Week 5: Date: 9-23

Topic: Depositions? Who to depose – when, why, how? Short mock deposition. Discuss deposition strategies. Limits on depositions! Choose carefully. Strategies on getting more depositions in our case. Deposition war stories – and how to handle the impossible opposing counsel and the absurd deponent. Discuss types of depositions (styles and phases of a deposition.) Discuss Rule 30(B)(6) Depositions

Assignment(s): Release fictional fact-pattern for discovery deposition outline. Outline due week 7 (**10-6**).

Week 6: Date: 9-30

Topic: E-discovery and Electronically stored Evidence (“ESI”). What role is e-discovery in current litigation? What are the costs? How to handle it. The Federal Rules: What are the highs and lows? What must you know as a Lawyer? How can you guide your client? How to you actually find the ESI you need – and your Partner has charged you to locate?

Assignment(s):

Week 7: Date: 10-7

Topic: Discussion of evidentiary issues, including routine discovery mistakes, problems, and issues. How courts view discovery disputes, and how the EDVA handles them. Continue discussion on ESI and production of ESI. Consider privilege issues in production of ESI. Discuss merits and needs for counsel consultation. Do you need an expert platform for your ESI?

Assignment(s):

Week 8: Date: 10-14

Topic: Mid-term. Class will focus on the assignment and all aspects of discovery related to that memo assignment.

Assignment(s): **Mid-term. Two weeks.** Strategy memo on a discovery strategy for your client based on your understanding of the case, the big picture, your client, its constraints. Due on 10-27

Week 8: Date: 10-21

Topic: Does your case need computer forensics? How do you know? What are the right considerations assume so? How about 3rd party discovery? How about personal email accounts used for company business? How do we get info from Google, or Yahoo, or a government agency? Other discovery issues to consider.

Assignment(s):

Week 9: Date: 10-28

Topic: Motions practice. Innumerable tactics, including what motions to bring and not to bring. Knowing your court. Discussing preparation of discovery motions and dispositive motions. Discuss of the best strategies for all types of discovery motions. The ultimate strategy is dispositive motions. The goal of not getting to trial or ending a case as quickly and efficiently as possible. What is needed, what are the standards? How do motions fit into the litigation strategy, from the first responsive pleading to summary judgment.

Assignment(s): Your midterm is due today. Bring me excellent memos as a 60th Birthday present.

Week 10: Date: 11-4

Topic: The Motion to Compel. Myths, reality, and how to attack it. A discussion on legal drafting for success.

Assignment(s):

Week 11: Date: 11-11

Topic: **Oral Argument.** Purpose. How courts use them? How to prepare? State vs. Federal Court. Know your court ... means know your judge.

Assignment(s):

Week 12: Date: 11-18

Topic: Final assignment, including questions thereon. Lecture on negotiation and settlement.

Assignment(s):

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-993-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[University Life](#)