Syllabus for Litigation Process
Law 817, Section 311
Fall Semester 2015

- Week 1 (August 25, 2015)

Introductory remarks and administrative matters, including course policies; the importance of process in litigation; a few preliminary exercises; course overview, including goals and method; overview of governing statutes and rules; overview of court system; some observations on interpretation and communication; some observations on the litigation process and the art of litigating; expense and civility in litigation; professional competence, diligence, and objectivity.

Reading Assignment: (1) the Preface and Part A, Section I., Introduction to Litigation Process, of Thomas A. Mauet’s, “Pretrial”, 8th Edition; (2) the Maryland Judicial Commission on Professionalism’s, “Ideal of Professionalism”; and finally, (3) the handout “Some Comments on Litigation.”

- Week 2 (September 1, 2015)

Factual considerations relating to the decision to take on a particular case, including the initial client interview, a review of available documents, and preliminary research and evaluation; emergency response to catastrophic loss; privileges; expert retention; conflict of interest and other ethical considerations; client litigation goals and expectations.

Reading Assignment: (1) Part A, Section II, Informal Fact Investigation, of Thomas A. Mauet’s, “Pretrial”, 8th Edition; (2) from Mauet’s, Pretrial, CD Rom: Parts A &B, Case # 1, Johnson v. Williams; (3) a handout, “Emergency Response to Catastrophic Loss Accidents” by Andrew Stephenson; and (4) a handout “Accident Response Checklist” by Andrew Stephenson.

- Week 3 (September 8, 2015)

Legal considerations relating to bringing a given case in a particular court; federal v. state court; subject-matter jurisdiction; choice of law; joinder of parties; personal jurisdiction; statute of limitations; venue; forum non conveniens and service of process.

Reading Assignment: (1) Part A, Section III, Legal Investigation, of Thomas A. Mauet’s, “Pretrial”, 8th Edition; (2) from Mauet’s, Pretrial, CD Rom: Parts A &B, Case # 2, Adams v. Chandler; (3) a handout Morton, Deborah v. John Ritter, Complaint, Motion to Dismiss; Response; and Reply; and (4) a handout F&P Maryland Tort Law Profile, Section I (Overview of Court System), Section II, A (Venue) and Section IV, A
Discussion of the Mauet’s, Pretrial, CD Rom: Parts A & B, Case # 2, Adams v. Chandler false arrest case; deciding whether and how to proceed with a matter; considering alternatives to litigation; managing client expectations; refining and finalizing a fee arrangement; the engagement letter; possible consultation with experts; initial case memorandum; working theory/theories of the case; educating the client; identifying tasks, organizing an approach, and establishing a tentative schedule; parties; joinder issues; outlining a complaint.


Prepared a complaint against the excavator Asher based on the information in the plaintiff’s case file for the Andrews matter and the additional information about the dispute provided thus far (individual submission)
• Week 6 (September 29, 2015)

Discussion of the draft complaints; team selection of the complaint to be answered by opposing team; a defendant's view of things; initial contact with opposing counsel; responses to a complaint other than an answer, including a motion to dismiss; answer to a complaint; format and wording; responding to averments; affirmative defenses; counterclaims, cross-claims, and impleading third-party defendants; indemnification/contribution; jury demand.

**Reading Assignment:** (1) Part B, Section V, §5.4-5.10; Pleadings, of Thomas A. Mauet’s, “Pretrial”, 8th Edition; (2) a handout F&P Maryland Tort Law Profile, Section II, B (Time for Filing An Answer), IV (Defenses), VI (Motions Practice).

Md. Rules 1-203, 1-204, 1-301 to 1-304, 1-321 to 1-324, 1-331, 2-311, 2-321 to 2-325, 2-331, 2-332, 2-341, 2-613

**Second Drafting Assignment (due on October 6, 2015):** prepare an answer or other response to the complaint against the excavator Asher (team project)

• Week 7 (October 6, 2015)

Further review of and comments on the draft complaints; presentation and discussion of the draft responses to the complaint; brief review of the statutes and rules addressed thus far; scheduling order and case management by the court; keeping clients informed; client status reports.

**First Quiz:** jurisdiction, venue, pleadings, defenses, motions, and general procedural rules, including computation of time.

**Reading Assignment:** Md. Rules 2-504, 2-504.1, 2-504.3 Fed. R. Civ. Proc. 16, 26(f)

• Weeks 8 and 9 (October 13-20, 2015)

Introduction to discovery; the types of discovery; working within deadlines set forth in the scheduling order; putting together a discovery plan; expense considerations; electronically stored information; expert consultants and expert witnesses; protection of privileged materials and attorney work product; organizing, formatting, and wording of discovery requests

**Reading Assignment:** (1) Part B, Section VI, Discovery, of Thomas A. Mauet’s, “Pretrial”, 8th Edition; (2) a handout F&P Maryland Tort Law Profile, Section V (Discovery); (3) a handout US District Court MD, Suggested Protocol for Discovery of Electronically Stored Information.

Md. Rules 2-401 to 2-424, 5-701 to 5-706, Maryland Form Interrogatories (appendix to the Rules) Fed. R. Civ. Proc. 26
Third Drafting Assignment (due on October 27):

Prepare interrogatories, a request for the production of documents, and a request for admission of facts, on behalf of either the plaintiff or the defendant in the Andrews case (individual submission)

- Week 10 (October 27, 2015)

Discussion of the draft interrogatories and requests for production; discovery directed to non-parties; responding to discovery requests; following up on prior factual investigation results; correspondence and other communications relating to discovery.

Reading Assignment: (1) from Mauet’s, Pretrial, CD Rom: Parts A & B, Case # 5, Sullivan v. Royal Life Insurance Co.; (2) a handout

Md. Rule 2-510
Fed. R. Civ. Proc. 45

Fourth Drafting Assignment (due on November 3, 2015):

Evaluate and respond to a letter on a discovery matter from opposing counsel in the Andrews case, as set forth in the assignment. (individual submission)

- Week 11 (November 3, 2015)

Further review of and comments on the draft discovery requests; other discovery matters, including the review of answers to interrogatories and document review; depositions; discussion of the correspondence relating to discovery; discovery as primarily an attorney-regulated activity; cooperation and disputes; discovery motions; protective orders; orders to compel discovery; discovery sanctions; ongoing case evaluation


- Week 12 (November 10, 2015)

Further review of and comments on the correspondence relating to discovery; brief review of discovery rules; voluntary dismissal; status conferences; settlement overtures and negotiations; settlement agreements; consent judgments; dispositive motions; identifying key issues of fact and law and evaluating whether summary judgment is available and should be sought; affidavits and documentation in support of a summary
judgment motion; responding to a summary judgment motion.

Second Quiz: Discovery matters


Final Drafting Assignment (due on November 17, 2015)

Prepare a summary judgment motion and supporting memorandum on behalf of either the plaintiff or the defendant in the Andrews case or, alternatively, prepare an office memorandum explaining why such a motion should not be filed on behalf of the plaintiff or defendant at this time (team project)

- Week 13 (November 17, 2015)

Presentation and discussion of the draft summary judgment motions and/or office memoranda; the finality of judgments for appeal purposes; partial judgments; post-judgment motions; deadlines for post-judgment motions and/or a notice of appeal.

Reading Assignment:


Md. Rules 2-534, 2-535, 2-601, 2-602, 2-632, 8-201, 8-202, 8-205, 8-206, 8-301 to 8-303 Fed. R. Civ. Proc. 52, 54, 58, 59, 60, 62, 62.1
Fed. R. App. Proc. 3, 4

The pretrial statement and pretrial conference; ADR/settlement conferences; statutes and rules governing special proceedings (e.g., judicial review of administrative decisions, mechanics' liens, confessed judgment); declaratory judgment actions; concluding remarks.

Reading Assignment:

(1) Part B, Section VIII, Pretrial Conferences and Settlements, of Thomas A. Mauet’s, “Pretrial”, 8th Edition

Third and Final Quiz: dispositive motions, dismissals, judgments, post-judgment motions, and appeals