**University of Baltimore School of Law**

**Litigation Process Syllabus**

**Law 817.412**

**Spring 2020**

**Course**

Litigation Process

Law 817 - Section 412TBD

**Instructor**

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**Available for Meetings with Students**

Wednesday, before and after class, and by appointment.

**Class Schedule**

Wednesday, 6:15 p.m. – 9:00 p.m. There will **not** be class on April 8 due to Passover.

**Location**

Room assignments are available through MyUB.

**Course Description**

Litigation Process is a 3-credit hour course and fulfills the upper-level advocacy requirement. It provides an introduction to the roles lawyers play in litigation. Investigation, counseling, drafting, negotiation, and written and oral advocacy will be explored. The course will take students through the stages of a lawsuit, from initial client interview through pleading, discovery, pretrial, and up to trial, in such a way as to emphasize the dynamic role an attorney has in developing and implementing a theory of the case and in exploring the relationship between law and fact. Additionally, since vast majority of civil cases never proceed to trial, this course will provide you with the skills necessary to set up a matter to be resolved through settlement (negotiated or mediated) or dispositive motion practice. My goal is to provide a very hands-on, practical approach, which is what the subject matter demands. If, together, we achieve this goal, this class should prove valuable in your future career.

**Required Course Materials**

* Roger S. Haydock, David E. Herr & Jeffrey W. Stempel, Fundamental of Pretrial Litigation (10th ed. 2016) (referred to herein as “Haydock”)

**Other Course Materials (all available online)**

* Federal Rules of Civil Procedure
* Local Rules for the United States District Court for the District of Maryland (also available in TWEN)
* Maryland Civil Pattern Jury Instructions
* Supplemental materials to be posted on TWEN

**Student Learning Objectives**

* Understand pre-trial due diligence, including informal factual discovery and client interviews
* Understand how to develop causes of action
* Understand how to draft a complaint, answer, counter-claims, and cross-claims
* Understand motion practice, preliminary and dispositive (dismissal, default, and summary judgment)
* Understand discovery (interrogatories, requests for admission, and requests for production of documents; discovery of electronically stored information (ESI); relevance; attorney-client & work product privileges; protective orders; depositions, and sanctions for discovery abuse)
* Understand how to prepare jury instructions
* Understand how to draft a pretrial memorandum
* Understand the purpose of pretrial conferences
* Understand how to draft a settlement agreement

**Grades**

75%: Written Exercises (drafting of pleadings, discovery, motions)

25%: Oral Participation (class discussion)

N.B. - The course does NOT have a final examination.

**Course Expectations**

Consistent with American Bar Association Standards for Law Schools, students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class, or an equivalent amount of work for other academic activities or other academic work leading to the award of credit hours. This means that you should expect to spend approximately six hours of work outside of class each week between reading assignments and written assignments. I expect students to complete assigned reading prior to class and to come to class prepared to participate.

**Prerequisites**

First-year day courses.

**Attendance**

Attending class is imperative since this is an interactive class. A student exceeding the two (2) maximum allowable absences as illustrated in the School of Law’s Attendance Policy [http://law.ubalt.edu/academics/policiesandprocedures] may be compelled to withdraw from the course. Students forced to withdraw for exceeding the two (2) allowed absences may receive a grade of FA (failure due to excessive absences).

**Course Website**

This course has a TWEN webpage that links to this course contains the syllabus, announcements, the class assignments, and supplemental class materials. You are responsible for self-enrolling for access to the TWEN class webpage and for checking regularly for updates.

**Use of Computers and Other Electronic Devices**

Students may use laptop computers for class-related purposes, though this privilege may be revoked if computer use becomes distracting. We live in a world where many of us are attached to our phone and are constantly interacting with others or looking at things on the Internet. To assure that this class has your full attention when we meet, there will be a “media fast” during class, meaning that all cellphones and smartphones are to be shut off during class. I realize that exceptional circumstances may arise where a student needs to be accessible during class. If you believe that you will be in this type of situation for a particular class, please speak with the instructor before class.

**Policy on the Timely Submission of Written Assignments**

This course requires the submission of written assignments which cover many of the types of documents that lawyers must draft in the course of the litigation process. All assignments are due by the beginning of class. In terms of not meeting this deadline for the submission of written assignments, I will approach this as courts do in my experience. If you contact me in advance of the class and have good cause for an extension, I will attempt to be flexible consistent with being fair to the other class members who met the deadline. If you miss the deadline and do not contact me until after the deadline passed, I will be less lenient and, at a minimum, your submission will be marked down.

**Class Cancellation**

If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web page or call the University's Snow Closing Line at (410) 837-4201. If the University is not closed, students should presume that class will take place as scheduled.

**Academic Integrity**

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law. Violations of academic integrity include, but are not limited to: cheating; plagiarism; misuse of library materials; use of another’s book or study materials without consent; unapproved multiple submissions; material misrepresentation of one’s academic history or standing; misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports. The School of Law’s Honor Code is incorporated herein by reference [<https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm>].

**Title IX Sexual Misconduct and Nondiscrimination Policy**

The University of Baltimore’s Sexual Misconduct and Nondiscrimination policy complies with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned, or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB’s nondiscrimination policies can be found at: <http://www.ubalt.edu.titleix>.

**Disability Policy**

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University’s facilities, please contact the Office of Academic Affairs, at ublawacadaff@ubalt.edu or 410-837-4468.

**Course Evaluations**

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted. Since making this course valuable to my students is my primary goal as your instructor, I truly appreciate your input and regularly make changes to the course based on the suggestions and comments of my students.

**NOTE: The following syllabus and related course schedule of topics and assignments are subject to change.**

**Course Schedule**

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| **Week** | **Topic** | **Assignment** |
| 1 – January 15 | Administrative matters and course overview; Introduction to litigation process; Interview Juanita Vasquez | *Reading for this class:* Haydock, pp. 3-33 & 36-38. |
| 2 – January 22 | Litigation planning & informal fact investigation | *Reading for this class:* Haydock, pp. 43-44, 50-81; Md. Civ. Pattern Jury Instructions Table of Contents.  *Written assignment due by the beginning of this class:* Draft a *short* intake memo (3 pp. max) to the partner describing Vazquez’s story and potential claims based upon the interview the week before. |
| 3 - January 29 | Pre-complaint issues and concerns; retainer letters | *Reading for this class:* Haydock, pp. 91-101;Personal Jurisdiction Supplement; Retainer Letter Supplement and Retainer Letter Supplement.002; & Vasquez Supplement.  *Written assignment due by the beginning of this class*: Draft revised intake memo. |
| 4- February 5 | Preservation hold notices; legal investigation and other legal issues related to preparing a complaint; demand letters, Complaints; service of complaints | *Reading for this class: Haydock,* pp. 44-50, 101-38*;* Demand Letter and Preservation Notice Supplement.  *Written assignment due by the beginning of this class:* Retainer agreement for Vazquez |
| 5 – February 12 | Complaints (cont.); the importance of themes to litigation; a defendant’s options for responding to a complaint: preliminary motions; removal; answers; affirmative defenses; counterclaims; and third-party practice; misc. pleading issues. | *Reading for this class:* Haydock, pp. 138-54; 163-78; 184-94.  *Written assignment due by the beginning of this class:* Draft demand letter on behalf of Vazquez to Hot Dog Enterprises (2.5 pp. max) |
| 6 – February 19 | Preliminary injunctive relief; Case planning: initial disclosures; discovery plan; meet and confer on discovery and case schedule; and report to court; privileges; protective orders, Issues regarding Electronically Stored Information (ESI) | *Reading for this class:* Haydock, pp. 269-72, 446-463 & 612-23.  *Written assignment due by the beginning of this class:* Complaint for Vazquez |
| 7 – February 26 | Propounding and responding to discovery | *Reading for this class:* Haydock, pp. 215-231, 246-257, 381-445 493-509; D. Md. L.R. 104, App. A (Discovery Guidelines), and App. D (Standard Forms); Judge Grimm’s Standing Discovery Order (Apr. 9, 2013)  *Written assignment due by the beginning of this class:* Draft short (2 pp, max) Rule 26(a)(1) disclosure for Vazquez |
| 8 – March 4 | Discovery (continued); Obtaining discovery against non-parties; Expert witnesses; Requests for physical inspections and independent medical examinations; Resolving discovery disputes | *Reading for this class:* Continuation of readings from Week 7 and Haydock, pp. 257-67; 477-90; 513-27 & 781-82.  *Written assignment due by the beginning of this class:* Draft answer by Hot Dog Enterprises to Vazquez’s complaint (you will be provided with a complaint by Vazquez to which to respond). |
| 9 – March 11 (No class on March 18 due to Spring Break) | Depositions | *Reading for this class:* Haydock, pp. 293-64  *Written assignment due by the beginning of this class:* Draft on behalf of Marquez and directed to Hot Dog Enterprises eight (8): Interrogatories; Document Requests; and Requests for Admissions. |
| 10 – March 25 | Deposition Simulations – Class will be divided into three teams with each team having an opportunity to depose for about 45 minutes per team | *Reading for this class:* None  *Written assignment due by the beginning of this class:* Deposition outline for Robert Clune in Vazquez v. Hot Dog Enterprise |
| 11 – April 1 (No class on April 8 due to Passover) | Motions and effective presentation of motions;  Pretrial conferences and pretrial orders | *Reading for this class:* Haydock, pp. 535-62; 577-84; 588-601; & 637-81.  *Written assignment due by the beginning of this class:* None |
| 12 – April 15 | Settlements and Settlement Simulation | *Reading for this class:* Haydock, pp. 28-33 (review) & 693-722.  *Written assignment due by the beginning of this class:* Confidential Mediation Statement |
| 13 – April 22 | Presentations of results of negotiation simulations; Jury Instructions; any carryover; wrap up of what we’ve learned | *Reading for this class:* Haydock, pp. 729-38; D. Md. L.R. 106;& *Md. Pattern Civil Pattern Jury Instructions – Table of Contents;*  *Written assignment due by the beginning of this class:* Settlement Agreementbased upon the results of your simulations the week before |