



National Paralegal College

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PLG-108-1209

Legal Research, Writing and Civil Litigation

Syllabus and Course Guide

The NPC Legal research, Writing and Civil Litigation course meets 15 times over the course of the 8-week term in the NPC interactive classroom. Each session consists of about 60 minutes of online lecture by the course instructor. After the lecture, students may ask questions and make comments on the material being studied.

There will be TWO alternative lecture times for this course:

3:00 PM, Eastern Time – taught by Stephen Haas* or Ellis Washington

8:00 PM, Eastern Time – taught by Eric Baime

** Stephen will be unavailable for several classes. On those days, Professor Ellis Washington will fill in for the 3:00 session, though recordings from Stephen will also be posted. Please see this syllabus for information as to when such dates will occur.*

You may come to either of these classes based on your own schedule and convenience. Attendance at any of the three classes will satisfy the weekly interaction requirement. You may switch back and forth between lecturers. All three classes will be recorded. There is no need to attend or listen to more than one section on a given day, as they will cover the same material.

All class sessions are recorded and may be viewed by students at any time. Mp3 audio recordings of each class will also be made available for download.

To successfully complete the course, each student must satisfactorily complete:

- 5 written assignments
- 3 examinations

INSTRUCTORS:

The instructors for this course are:

Lecturers:

- Stephen Haas (shaas@nationalparalegal.edu)
- Eric Baime (bebaim@att.net)
- Ellis Washington (ewashingtonnpc@gmail.com)

Grader:

- DeDe Sandler (reachdedenpc@yahoo.com)

COURSE DESCRIPTION:

This course is among the most important courses a paralegal student can take, simply because it is in the area of litigation that attorneys rely most heavily on their paralegals. This course will provide students with a comprehensive understanding of the major aspects of civil litigation, from both the plaintiff's and defendant's perspectives. The course will focus on a variety of subjects aimed at teaching the student how to manage a case from beginning to end. The subjects covered in the course will include determining jurisdiction and venue; initiating and commencing a lawsuit; client counseling; investigation techniques and the discovery process; the drafting of summons and complaints, motions, briefs and pleadings; settlement techniques; the trial itself; pre and post-trial activities and the appeals process.

This course will also offer an intensive but simplified introduction to U.S. legal systems and methodologies, basic principles of *stare decisis* and precedent, the nature of legal education, and sources of law. Topics include: The judicial structure, including both federal and state; statutes, regulations, common law and constitutional law; synthesizing sources of law; the judicial process and the doctrine of *stare decisis*; overruling precedent, holding, rationale, and dictum.

The key component of the paralegal's role in civil litigation is drafting documents. Therefore, this course will also focus on training our students to do competent legal research and develop their ability to draft legal documents. Students will learn to identify and use a variety of research tools, including both the online collection provided by LexisNexis® as well as traditional book-based methods of legal research. A portion of the course will focus on the various types and form books of reference books, proper case citation, cite checking and the proper method of case reporting, Shepardizing, methods of compiling legislative histories and administrative legal research.

COURSE OBJECTIVES:

At the completion of this course, the student should be able to:

- Research legal issues in any jurisdiction.
- Navigate through online law libraries, i.e. LexisNexis.

- Cite appropriate authorities and legal sources.
- Distinguish between “binding” authority and “persuasive” authority.
- Determine valid case law using “Shepards”.
- Assist in writing a persuasive legal memorandum.
- Apply the rules of venue in both federal and state jurisdictions.
- Describe key elements of various civil pleadings, i.e. complaints, answers, etc.
- Understand various discovery mechanisms & their appropriate usage.
- Apply the rules regarding admissibility of information obtained through the discovery process, in a court of law.
- Describe basic rules of trial procedure.
- Describe basic rules of evidence.
- Determine the appropriate appellate court to which a verdict can be appealed.
- Describe the standards for review appellate courts use in various situations.
- Describe the requirements for certification of a class action suit.
- Determine whether a class action is appropriate in various hypothetical situations.

READING ASSIGNMENTS:

All reading assignments refer to the NPC courseware, including the interactions attached to each subchapter. Cases and/or statutes that are specifically mentioned in the syllabus are required reading. The texts of these cases and/or statutes may be accessed directly from the courseware. In addition to the assigned courseware and cases, students should familiarize themselves with the various legal documents listed for each lecture. These documents can be found on the “Documents and Slides” page on the NPC student website. Some, but not all, of these documents will be discussed in class. Reading assignments for each class should be completed prior to the class.

RECOMMENDED READING:

It is *highly* recommended that student obtain copies of the following reference books:

1) William H. Putnam, [Pocket Guide to Legal Research](http://www.amazon.com/Pocket-Guide-Research-William-Putman/dp/1418053767/)

2) William H. Putnam, [Pocket Guide to Legal Writing](http://www.amazon.com/Pocket-Guide-Legal-Writing/dp/1401865976/)

The links to Amazon.com above are for your convenience only. You can get these books from virtually any source at which legal and legal education books are sold. This syllabus references readings from these books, which should be treated as optional, but encouraged, reading. These books should also be kept throughout your National Paralegal College career (and perhaps for your work career as well) as handy references regarding legal citation, legal research and legal writing rules and principles.

WRITTEN ASSIGNMENTS:

During the course (as indicated on this syllabus), five assignments will be posted “assignments and exams” page. The 5 assignments will cumulatively count for 40% of the student’s grade for the course. Information will be posted to the message board that indicates when the material for each assignment is discussed in class.

Assignments are to be submitted via the section of the student menu entitled “assignments and exams.”

It is highly recommended that assignment answers be composed in a word processing program and then passed into the NPC system rather than composing it in the assignment answer window. This is important because an inadvertent page refresh or login timeout could cause you to lose all unsaved work typed into the NPC assignment window.

Pdf documents and images may also be submitted as part of your assignment. For a short tutorial on creating and submitting pdf documents, please see:

<http://tinyurl.com/assignmentpdf>

(You may have to log into Google to view this document.)

Each submitted assignment will be graded on the following scale:

4 - Excellent

3 - Good

2 – Satisfactory

1 – Poor

0 – Not acceptable (must resubmit)

(Half-points may also be awarded in assignment grading.)

Please see the “Assignment Grading Rubric” (the next page of this syllabus) for more detailed information as to how assignments are graded and the key elements of assignments that instructors look for when grading assignments.

In addition to a grade, students will receive written feedback from the instructor on their assignments, where appropriate.

To the extent that such is possible, it is recommended that students complete the assignments as the course proceeds rather than waiting until after the course ends

Assignment Grading Rubric

Factor	4 (Excellent)	3(Good)	2(Satisfactory)	1 (Poor)	0 (no credit)
Thoroughness	Answered all questions in the exercise completely and in the appropriate order.	Answered all questions in the exercise but not completely and/or not in the appropriate order	Answered most of the questions in the exercise but not completely and/or not in the appropriate order	Did not answer many of the questions in the exercise but did make some reasonable effort to do so.	Made little or no reasonable effort to answer the questions posed in the assignment
Demonstrated Understanding Of the Assignment and has come to an appropriate conclusion	Response demonstrates a thorough understanding of the exercise and the student has justified and enunciated an appropriate conclusion.	Response demonstrates an understanding of the exercise and comes to a conclusion.	Response demonstrates some understanding of the exercise. The conclusion that the students comes to may not be appropriately justified by the rest of the essay.	Response demonstrates some understanding of the exercise but shows a high level of confusion on the part of the student. The student's conclusion, if any, is not supported by the rest of the essay.	Response demonstrates a very poor understanding of the subject matter presented by the assignment.
Documentation/ Legal research (note: For assignments, sources should be those obtained through legal research; for exam essays, legal principles learned in class or the courseware is sufficient.)	Student has cited at least two excellent sources and has applied them appropriately. Appropriate sources are documented and well cited and well integrated.	Student has cited one excellent source or two or more good sources but has missed at least one excellent source. Sources are integrated well in the assignment.	Student has cited appropriate sources but has missed the best available OR student has cited good sources but has done a poor job of integrating them.	Student has cited poor or inappropriate authorities or has failed to establish the relevance of the sources that he or she has cited.	Student has not cited any legal authorities or has cited authorities that are irrelevant.
Organization	Essay is organized very well; the reader can clearly understand where the essay is going at all point and a cohesive easy-to-follow argument is made in the essay. Separate paragraphs are used for separate ideas.	Essay is well organized. The essay is coherent, though may not flow freely. Different components of the essay are broken up appropriately.	Essay shows some level of organization, but is difficult to follow. The essay is not as focused as it should be. Essay may go back and forth between points without using new paragraphs.	Essay is poorly organized and is very difficult to follow. The student did not appropriately separate thoughts and did not properly organize the essay.	Student's essay is in chaos. There is no reasonable attempt to organize the essay coherently.
Critical Thinking and Analysis	Shows excellent critical thinking and analysis. The student was able to apply the cited law to the facts of the given case in a clear and convincing manner.	Shows good critical thinking and analysis. The student's points are well argued and well supported.	Shows adequate critical thinking and analysis. The student's points are supported by logic, but are not exceptionally convincing.	Shows minimal critical thinking and analysis. The student's arguments are weak and unconvincing.	Shows no effort critical thinking or analysis. The student's points make no sense.

EXAMINATIONS:

Examinations will be posted on the NPC website when indicated on the syllabus of the course. The examinations consist entirely of “short essay” questions. The 3 examinations will cumulatively count for 60% of the student’s course grade.

Examinations are non-cumulative; they cover only the material that has been covered since the previous examination. The instructor will provide specific information regarding the content of each examination as the examination time approaches.

All examinations are timed. A student may begin the examination any time after it is posted to the NPC website. Once begun, the examination must be completed within 4 hours.

Examinations will be graded on a conventional 0-100 scale. The number of points each question is worth is equal to 100 divided by the number of questions on the examination.

For each examination question, full credit will be awarded if the student:

- 1) Correctly identifies the legal issue(s) presented by the question
- 2) Applies the correct law to the legal issue(s) presented (note: full credit may also be awarded if the student’s answer comes to an “incorrect” conclusion if the student bases his or her analysis on correct law and supports his or her position in a convincing manner)
- 3) Presents his or her answer in a clear and understandable manner

The amount of partial credit to be awarded, if any, for an answer that is not complete and correct is at the discretion of the instructor. Instructors are instructed to award partial credit that is proportional to the level of knowledge and legal skill displayed by the student in answering the question.

The following factors are generally NOT taken into account in grading examinations:

Legal research; Although research is a key component of assignments, examinations are graded on the student’s knowledge of the legal concepts taught and do not require independent research.

Grammar and spelling (unless they impact the ability of the graded to understand the student’s answer); Although these are essential skills for a paralegal, examinations test legal knowledge and ability to apply the skills learned, not necessarily the ability to write professional legal memoranda (assignments test this skill). In addition, because exams are taken under time constraints, we would rather see the students spend their time spotting legal issues and applying applicable law than on proofreading answers for typos and grammar mistakes.

For more information on assignments and examinations, please see the *NPC Student Handbook*.

WEEKLY INTERACTION REQUIREMENT

To ensure that all students are involved and participating in the course as the course moves forward, each student enrolled in this course must, at least once during each week, either:

- 1) Attend a live lecture
- OR
- 2) Submit at least one assignment
- OR
- 3) Take at least one examination
- OR
- 4) Answer a weekly “interaction” question or questions that will be posted on the “Assignments and Exams” page.

The weekly “interaction” question(s) will be simple and straightforward and will cover material covered in class that week. Answers to these questions should be short (typically 1-3 sentences) and to the point.

This student response (which is necessary only if the student does not attend a live class or take an exam or submit an assignment in the given week) will be graded on a pass/fail basis. The interaction questions will be posted no later than Monday of each week and must be answered on or before the following Monday.

The weekly interaction questions will be posted alongside the assignments. Students who do not attend a live class or take an exam or submit an assignment in the given week will be required to answer the questions presented. Students who did attend a live class or take an exam or submit an assignment in the given week may ignore the question.

Any student who does not fulfill this requirement during a given week will receive a reduction in his or her over-all grade of 2 percentage points from his or her over-all average. *Moreover, for students who are receiving federal financial aid, under applicable federal regulations, students who do not satisfy an interaction requirement for 14 consecutive days may lose their eligibility for federal financial aid.*

All examinations and assignments are due no later than November 25, 2012 at 11:59 PM EASTERN TIME; That’s EASTERN time. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.

PLEASE SEE THE END OF THIS SYLLABUS FOR A NOTE ON NPC DEADLINE EXTENSION POLICY.

Lecture and reading assignments schedule

Class 1

Wednesday, September 5, 2012

We will begin this course with a background discussion of the U.S. Legal system and the structure of our judiciary. We will look at the various sources of law that exist under the American system and analyze the differences between primary and secondary sources of law. Finally, we will discuss the concept of case law and discuss how to tell when it is appropriate to cite a particular case.

Courseware Reading:

Chapter 1: United States Legal System– Judicial Structure

- A. Introduction to Separation of Powers
- B. Federalism and the difference between Federal and State Judicial Systems
- C. Sources of Law
- D. Case Law

Cases and Statues:

United States Constitution, Article III

The best way to start gaining an understanding of the manner in which the U.S. judicial system works is by going straight to the source; Article III. In that Article, the structure of the federal court system is established. When reading this article, notice how only the Supreme Court is mandated by the Constitution. Also, pay close attention to the bases for federal court jurisdiction. That language will be critical later in the course.

In re United States

This is a very recent case with a strange fact pattern and that deals with a fascinating issue. Normally, of course, it is the prosecutor that argues for the pressing of criminal charges and the judge decides if criminal charges are appropriate. Here, we have sort of a role reversal. The prosecutor wanted to drop a charge that the judge refused to drop! The judge even went so far as to appoint a private lawyer to prosecute the case. This case is a very important read because it brings into focus the separation of powers as it applies to the functioning of the criminal justice system.

Assignment 1 will be posted on or before the date of this class.

Class 2

Monday, September 10, 2012

We will devote this class to discussion issues of legal citation and cite checking. We will discuss the different sources from which a person can access the complex body of information known as “the law.” We will learn how to cite check and how to “Shepardize” and discuss why those things are important. We will also discuss the types of sources that should be sought as primary or mandatory authority and the types of sources that are secondary authority.

Courseware Reading:

Chapter 2: Legal Research

- A. Introduction to Legal Research
- B. Legal Research Sources
- C. Legal Citation
- D. Briefs, Legal Memoranda and Legal Writing
- E. Cite Checking

Class 3:**Wednesday, September 12, 2012**

In this class, we will take a virtual trip to a “law library.” We will look at and discuss the various types of law volumes you would find at the law library. We will also discuss legal research using the physical digests. Although most legal research is done online today, it helps to know how to use law libraries for research as well.

Courseware Reading:

NONE

If you have a copy of Pocket Guide to Legal Research referenced earlier in this syllabus, it is recommended that you read through as much of Chapters 1 through 5 as you can of that book. If you cannot complete this reading, then browse it and come back to read it more thoroughly when you can.

Class 4**Monday, September 17, 2012**

The 3:00 class for this lecture will be delivered by Professor Ellis Washington.

In this class, we will begin a legal memorandum walkthrough. We will discuss research on Lexis and the Lexis system in general. Then, we will look at a legal research project (comparable to an assignment) and simulate the legal research component of completing that assignment. We will also organize our “assignment” in preparation for actually writing the assignment in our next class.

Courseware Reading:

NONE

If you have a copy of Pocket Guide to Legal Research referenced earlier in this syllabus, it is recommended that you read through as much of Chapters 5 through 9 as you can of that book. If you cannot complete this reading, then browse it and come back to read it more thoroughly when you can.

Chapter 10 of this book should be used as a reference for citing various types of primary and secondary authority.

Assignment 2 will be posted on or before the day of this class

Class 5

Wednesday, September 19, 2012

We will devote this class to discussing principles of legal writing. We will discuss how a memorandum of law should look and we will go through the “do”s and “don’t”s of legal writing. We will look at various important legal writing strategies, including the usage of strong transitional words, avoidance of legalese, etc.

Courseware Reading:

NONE

If you have a copy of Pocket Guide to Legal Writing referenced earlier in this syllabus, it is recommended that you read through as much of Chapters 1 through 4 as you can of that book. If you cannot complete this reading, then browse it and come back to read it more thoroughly when you can.

Class 6

Monday, September 24, 2012

In this class, we will continue our assignment walkthrough from class 4. We will take our research and organization from class 4 and use it to draft a legal memorandum from scratch. Special attention will be paid to drafting statements of fact, properly framing the legal issue, properly citing and quoting legal authority, stating the rule of law, applying the rules to the facts at hands and drafting an appropriate conclusion.

Courseware Reading:

NONE

If you have a copy of Pocket Guide to Legal Writing referenced earlier in this syllabus, it is recommended that you read through as much of Chapters 7 through 10 as you can of that book. If you cannot complete this reading, then browse it and come back to read it more thoroughly when you can.

Examination # 1 will be administered at this point

The 3:00 class for this lecture will be delivered by Professor Ellis Washington.

In this class, we will begin the Civil Litigation component of our course. We will start that study with a discussion of jurisdiction. That is, we will discuss when a court has the power and authority to decide a case. First, we will focus on the question of jurisdiction over the parties of things. We will look at when a court may exercise jurisdiction over the parties and/or property involved in a civil action. Then, we will look at subject matter jurisdiction; or when the court has the authority to determine the legal questions brought before it.

Courseware Reading:

Chapter 3: Jurisdiction

- A. Introduction: Jurisdiction over the Parties or Things
- B. Personal Jurisdiction
- C. In rem and Quasi In rem jurisdiction
- D. Subject Matter Jurisdiction
- E. Subject Matter Jurisdiction- Supplemental Jurisdiction

Cases and Statutes:

International Shoe Co. v. Washington

This is probably the leading case in terms of the analysis of what constitutes “due process” in holding citizens of one state to the jurisdiction of the courts of another state. This case set forth the famous “minimum contacts + fairness” formula for determining whether it is constitutional to hold a person to the jurisdiction of a foreign state. When discussing later cases such as Burger King and Asahi, remember that all of those cases fundamentally stem from International Shoe.

28 U.S.C. § 1331

This is the “federal question jurisdiction” provision for federal courts in the U.S. Code. It is short and to the point, but it must be read as a starting point for any discussion about federal question jurisdiction in federal courts.

28 U.S.C. § 1332

This is the “diversity jurisdiction” provision for federal courts in the U.S. Code. It describes when and under what circumstances a lawsuit can be brought in federal court simply because the litigants are from different states. Although there are many other provisions relating the federal court jurisdiction, this provision, along with 1331, is the most often used and therefore the most important to read.

Assignment 3 will be posted on or before the day or this class

The 3:00 class for this lecture will be delivered by Professor Ellis Washington.

First in this class, we will look at the issue of proper venue, i.e., how to choose which court in which a civil case should proceed if more than one court has jurisdiction over the subject matter and persons involved in the case. Next, we will turn our focus to the issue of choice of law. Sometimes more than one set of laws appear to be applicable to a case and the judge has to make a determination as to whether to apply federal or state law or must determine which state supplies the laws that should govern a case. We will touch on the famous Erie doctrine in which the Supreme Court ruled that state law should be applied in federal court in some circumstances. In addition to the federal/state law dichotomy, we will also discuss the procedure in determining which state's law to apply in the event that parties or events in more than one state are involved in the litigation.

Courseware Reading:

Chapter 4: Venue, the Erie Doctrine and Choice of Law

- A. Venue- Introduction
- B. Venue- State actions
- C. Venue- Federal actions
- D. Venue- Forum non conveniens
- E. Erie Doctrine and Choice of Law- Introduction
- F. History of the Erie Doctrine
- G. Choice of Law

Cases and Statutes:

28 U.S.C. § 1391

This statute sets the rules for the proper venues for federal cases. Although venue rules vary from state to state, reading this statute will help give you an idea as to how venue rules work. When reading the statute, think of the policy considerations that go into these rules and where it is fair to expect a person to bring or defend against a lawsuit.

Erie Railroad Co. v. Tompkins

This case, of course, gave rise to the famous Erie doctrine that provides that, in certain circumstances, state case law should be applied in federal court. The policy reasons for this rule and the limits of it make this doctrine an area of study onto itself. For our purposes, it will suffice to discuss the policy considerations that led to the decision and whether Erie and its progeny really do a good job at alleviating those concerns.

Class 9

Wednesday, October 3, 2012

We will focus in this class on the opening stages of a civil case; i.e., the first steps in “pre-trial practice.” We will start by looking at the “pleadings,” i.e., the documents that open the civil action: the summons and complaint filed by the plaintiff and the defendant’s answer. We will discuss the content of these documents and how and when they must be filed and then served on the opponent. We will look at examples of these documents and discuss how they should be drafted.

Courseware reading:

Chapter 5: Pre-Trial Practice

- A. Introduction to Pre-Trial Practice
- B. Summons, Complaint and Answer
- C. Service of Process

Cases and Statues:

Federal Rules of Civil Procedure: Rules 7 and 8

From this point on in the course, your primary reading of legal sources should be of the Rules of Procedure themselves. Although different states have different rules regarding civil procedure, the federal rules apply to federal courts in every state and serve as a great sample of a body or procedural rules. These two rules set forth the requirements for drafting complaints that initiate lawsuits.

Federal Rules of Civil Procedure: Rule 4

This Federal Rule discusses the procedure for service process upon a defendant in a civil case. Keep in mind that the purpose of service of process is to notify the opponent of the lawsuit. How well does this rule guarantee that such notice will be effectively delivered? Are there any requirements that you would add?

Documents for Review:

- Civil Action Cover Sheet
- Summons in a Civil Action- Federal
- Sample Completed complaint - State
- Waiver of Service of Summons - Federal
- Certificate of Service by Mail- State
- Answer to a Complaint Packet -State

Assignment 4 will be posted on or before the day of this class

The 3:00 class for this lecture will be delivered by Professor Ellis Washington

We will focus on the process of discovery in this class. We will look at the various methods that are available to parties to a civil proceeding to investigate in preparation for trial. We will discuss depositions, interrogatories, requests for documentation, etc., and we will look at the various forms that should be used during this process. We will also look at Rule 11 of the FRCP, which provides for sanctions against parties for an array of misconduct, including discovery violations.

Courseware Reading:

Chapter 5: Pre-Trial Practice

D. Discovery and Rule 11

Cases and Statutes:

Federal Rules of Civil Procedure: Rule 11

This is the famous rule that allows a judge to impose sanctions on an attorney for filing a false, misleading or frivolous document or for other misconduct. In addition, the rule provides that the attorney must vouch for all documents filed during the course of the lawsuit. This rule is very important because it often served as a basis for threats leveled between opponents in a contentious civil proceeding.

Documents for Review:

- Provisional Discovery Plan- Federal
- Form Interrogatories - State
- Subpoena in a Civil Case - Federal
- Request for Admissions - State

The 3:00 class for this lecture will be delivered by Professor Ellis Washington.

Tonight, we will finish up our discussion of pre-trial practice by discussing various other issues relevant to this stage in the litigation. We will touch on the issues of pre-trial motions and joinder, which occurs when parties other than the plaintiff and defendant seek to join litigation that may affect their interests. We will briefly touch on the doctrine of *res judicata* which aims to prevent issues from being litigated more than once.

Courseware Reading:

Chapter 5: Pre-Trial Practice

- E. Pre-Trial Motions Practice
- F. Adding Parties and Claims
- G. Res Judicata and Collateral Estoppel

Cases and Statutes:

Federal Rules of Civil Procedure: Rule 12

This very important rule lists the motions that a defendant in a lawsuit can file in response to a complaint leveled by the plaintiff. The defendant can move to dismiss the case for a variety of reasons or can move to have the plaintiff clarify the allegations in the complaint. The rule also discusses which of the various defenses are waived if they are not raised initially. If you are going to practice in civil litigation and you can memorize the content of any one of the Federal Rules, this should be the one.

Federal Rules of Civil Procedure: Rule 14

This Rule discusses the basics of third party practice. We will discuss several other rules regarding the introduction and maintenance of multiple parties in a proceeding. In fact, it would be best to try to read Rules 14-22 and 24-25. But, reading Rule 14 will at least give you a solid introduction and view of how third party practice works in the federal civil litigation system.

Documents for Review:

- Cross Complaint - State
- Third Party Summons – Federal

Examination # 2 will be administered at this point

Next, we will begin our discussion of the trial itself. We will discuss jury selection and other events that happen early in a trial, such as opening statements and presentation of evidence. We will look at burdens of proof that apply in civil cases, including the generally applied “preponderance of the evidence” standard and discuss the interaction between the jury system and the burdens of proof. We will also look at certain motions, such as orders to show cause and requests for judicial intervention that may precede or accompany litigation.

Courseware Reading:

Chapter 6: Trial Practice

- A. Introduction to Trial Practice
- B. Basic Trial and Jury Selection
- C. Opening Statements and Burden of Proof

Cases and Statutes:

United State Constitution: Amendment VII

The Seventh Amendment guarantees the right to a jury trial in a civil case. Although the Amendment seems simple enough, its phrase “in suits at common law” has spurred mounds of analysis (including Supreme Court cases) trying to figure out exactly what that means.

Documents for Review:

- Request for Judicial Intervention- State
- Order to Show Cause - Federal
- Temporary Restraining Order -State
- Declaration for Temporary Restraining Order -State

This class will continue our discussion of trial practice. We will discuss how trials are run, what the various stages of a trial are and how evidence may and may not be presented. We will also focus on the different stages of the trial itself and on the motions that are appropriate for each phase of the trial.

Courseware Reading:

Chapter 6: Trial Practice

- D. Plaintiff's Case-in-chief
- E. Defendant's Case-in-chief
- F. Close of evidence

Cases and Statues:

Federal Rules of Evidence, Rules 801-804

These are the federal rules regarding the all important issue of "hearsay." Although the rules of evidence are not quite as important to a paralegal as they are to an attorney, since paralegals do not actually try cases, the hearsay rules may be an exception. Very often, cases can turn on whether somebody's statement of what someone else said will be admissible. Therefore, for trial preparation and for settlement negotiations, it is important to understand that basics of what constitutes inadmissible hearsay.

Girden v. Sandals International

This case discussed the importance of proper jury instructions. Specifically, when is an improper jury instruction grounds for reversal of the jury verdict and when is it merely considered "harmless error"? This case will help bring this issue into focus and it provides a glimpse as to how courts analyze this question.

Documents for Review:

- Sample Trial Ready-List
- Exhibit and Witness List - State
- Notice of Appearance for Attorney- Federal
- Judgment Abstract -State

Assignment 5 will be posted on or before the day or this class

In this class, we will focus on post-trial procedure. We will examine the motions and should and must be made at the close of a trial after the jury has delivered its verdict. We will look at the standard under which jury verdicts can be reversed and/or new trials can be ordered. We will also look briefly at the issue of enforcing judgments, including the methods by which a judgment can be collected.

Courseware Reading:

Chapter 7: Post-Trial Practice, Appeals and Class Actions

- A. Introduction to Post-Trial Practice
- B. Post-Trial Motions
- C. Enforcement of Judgments

Cases and Statutes:

Federal Rules of Civil Procedure: Rules 59 and 60

Judgments rendered by courts and/or juries are supposed to be final and complete. However, sometimes, new evidence or changed circumstances dictate that verdicts should be re-examined. These rules provide the grounds under which judgments should be reviewed and, if necessary, revised. Understanding these rules is critical to the legal practitioner in the field of litigation, because they set forth the limits on what you can do for a client who has suffered an adverse judgment.

Documents for Review:

- Bill of Costs -Federal
- Certificate of Judgment Foreclosure by Sale - State
- Writ of Attachment before Judgment -Federal
- Writ of Execution– Federal

The final class will continue our discussion of post-trial procedures. We will look at the appeals process and by which a party who disagrees with the court's rulings or the jury's verdict can appeal the case to a higher court. Finally, we will close with a discussion of class action lawsuits; what their roles are, how they are organized and what prerequisites there are to their filing.

Courseware Reading:

Chapter 7: Post-Trial Practice, Appeals and Class Actions

D. Appeals

E. Class Action Lawsuits

Cases and Statutes

Federal Rules of Appellate Procedure: Rule 4(a)

This rule sets forth the procedures and timelines relevant to the filing of an appeal. These are, of course, a starting point, when discussing the civil appellate process.

Federal Rules of Civil Procedure: Rule 23

This federal rule discussed the class action lawsuit. "Mass torts" is a growing and very lucrative area of personal injury law. Because of the complexity involved in class actions lawsuits and because of the enormous potential ramifications that such suits have, following proper procedure in handling such suits is critical. Rule 23 is a great place to start when learning about the class action lawsuit.

Documents for Review:

- Bill of Costs -Federal
- Certificate of Judgment Foreclosure by Sale - State
- Writ of Attachment before Judgment -Federal
- Writ of Execution– Federal

Examination # 3 will be administered at this point.

All examinations and assignments are due no later than November 25, 2012 at 11:59 PM EASTERN TIME; That's EASTERN time. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.

Please see the NPC EXTENSIONS POLICY below for details on extensions to complete your work.

NPC EXTENSIONS POLICY

- 1) Extensions that conform to the rules below may be requested from the “assignments and exams” page on the NPC student website.
- 2) No extensions are possible unless the student has first submitted at least one assignment or examination.
- 3) No extensions of more than thirty (30) days beyond the deadline are possible for any reason at all.
- 4) Requested extensions are granted automatically. It is not necessary to give any reason for the request. However, for each day of extension you request, you will be penalized 4 raw points (of 500 that determine your final grade - see page 8 of this syllabus). This accounts for 0.8% of your course grade, per day of extension. This is necessary to compensate for the advantage that students who take more time to do their work enjoy over those who complete their work on time. This also means that a short extension (e.g., a day or two) is unlikely to affect your grade, but a long extension (e.g., two weeks) is guaranteed to affect your grade.
- 5) The penalty referenced in Paragraph 4 may be waived by an instructor in extreme cases only. Extreme cases include circumstances beyond the control of the student that caused the student to be unable to complete work for *a significant period of time*. Foreseeable life circumstances such as being busy at work or at home, vacations, family occasions or power or internet outages lasting a few days, are foreseeable life circumstances. Extensions may be taken for these reasons (or, for that matter, for any reason at all), but the grade penalty will not be waived for anything short of a true, unforeseeable emergency.