

Pretrial Litigation
Course Policies & Expectations
Spring 2023
TTh 1:10 – 2:40 p.m.

Required textbook:

Reuben A. Guttman & J.C. Lore, *Pretrial Advocacy* (Nat'l Inst. For Trial Advocacy 2021)

Professors:

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Prof. Cowie's section meets in 201

Prof. Conley's section meets in 215

Email is the best way to reach both of us. We respond quickly.

Office hours

Professor Cowie's office hours are by appointment.

Professor Conley's office hours are Monday 1:00 – 2:00 p.m., Friday 9:00 – 10:00 a.m., and by appointment.

Course Objectives

In Pretrial Litigation, you will act as counsel through the pretrial phase of a civil case. Students who successfully complete this course will:

- Learn what factors to consider in an initial case evaluation;
- Interview clients and witnesses;
- Practice keeping clear, succinct notes in a case file;
- Draft pleadings;
- Draft discovery questions and responses;
- Observe and participate in a deposition;
- Learn about motion practice;
- Participate in settlement negotiations on behalf of a client.

Deadlines. Failure to comply with deadlines for assignments will lower your score and your final grade.

Teams. You will work in four-person teams for this class. A handful of teams may need to have either three members. We will ask you to sign up as teams in the first week of class. We reserve the right to assign a student to any team if necessary to ensure that every student has an appropriate team assignment.

Teams will discuss their expectations for working together. We expect all team members to contribute significantly and fairly to each assignment, although teams can agree to divide specific tasks among themselves.

Several classes will be devoted to team workshops. **It may also be necessary for teams to meet outside of scheduled class time to complete class assignments.** Absent exceptional circumstances, team members will receive the same grade on team assignments. Each student should contribute in a substantial way to the preparation of each assignment and should attend all team meetings.

Every team member is expected to act professionally with teammates, opposing teams, and witnesses. Teams should strive to resolve team conflicts, but if problems remain, you may consult with the professors.

If in the discretion of the professors a student does not contribute fairly to team assignments, acts unprofessionally (including being inconsiderate of other students or the witnesses), fails to provide quality work, or makes little or no effort to resolve team conflicts, they will have their grade on relevant assignments and/or their final grade reduced or may receive a failing grade for the course.

Attendance

Class starts promptly and attendance is mandatory. In compliance with ABA standards, ABIII has a schoolwide attendance policy that applies to this class. A copy of that policy is in the Student Handbook, and you are strongly encouraged to read it carefully. In addition, because this course centers on class participation, **more than one unexcused absence may lower your grade.**

If you are not feeling well, please be considerate of your colleagues. If you are attending class with symptoms or after a positive COVID test, please wear a mask.

If you miss class, you are still responsible for turning in homework, making up missed assignments, and obtaining notes from a fellow student about what was covered that day.

You are responsible for keeping accurate records of your attendance and for ensuring your compliance with the law school's policies. It is academic dishonesty to misrepresent your attendance or to misrepresent anyone else's attendance. It is your responsibility to obtain class notes, materials, and information as well as any changes to the assignments from your colleagues if you miss class.

No recording of class is permitted. Classes generally will not be recorded. Aside from accommodations approved through the University of Montana Office for Disability Equity, students are prohibited from recording or copying (whether by video, audio, photograph, screen capture, or other method) class sessions.

Academic Honesty

All students must practice academic honesty. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University. All students need to be familiar with the Student Conduct Code of the University of Montana. Law students also should be familiar with the Law School Honor Code.

For purposes of this class, team members must work together on team assignments. For team assignments, students may not give or receive assistance from other students who are not on their team. For individual assignments, students may not give or receive assistance from anyone other than the professors.

Disability Accommodations

Disabilities. The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and the University of Montana Office for Disability Equity (“ODE”).

If you think you may have a disability adversely effecting your academic performance and you have not already connected with ODE, please contact ODE through one of the options listed at: <https://www.umt.edu/disability/Students/inquire/default.php>. The law school will work with you and ODE to provide an appropriate accommodation.

“Reasonable” means the University permits no fundamental alterations of academic standards or retroactive modifications.

Grading

You will work in four-person law firms throughout the semester. You will do most in-class exercises and homework assignments as a law firm. Your grade depends on your participation in and submission of all in-class exercises and assignments.

Professional Demeanor. Part of participation in class—and becoming effective lawyers—is working with others in a collegial and respectful fashion. Students are expected to act in class and while meeting with their teams as they would before a court, with their peers, and with opposing counsel. Every day in class we will be working together to develop a shared understanding of pretrial litigation. In class and in the small groups, students are expected to be prepared, bring their best efforts to all work, and to act respectfully and professionally toward each other. Failure to act in a professional manner may lower your grade.

Plagiarism and the Honor Code. All conduct in this course is subject to the Honor Code. Violations of the Honor Code will be reported to Honor Code Counsel and will result in a lower grade, up to and including a failing grade, for the assignment in question and/or for the course as a whole. All work in this course must be your own (individually or as part of your team depending on the assignment), and using another’s work (including a classmate’s) without attribution is plagiarism and is a violation of the Honor Code. You must cite and quote the work of others as required by the Honor Code, and failing to do so is a violation of that code. Citations may be in any generally accepted format (*e.g.*, the Blue Book or the Chicago Manual of Style), but must

include pincites and sufficient information to allow me to find the cited material easily. Sloppy citations may result in a reduced grade.

Writing Assistance. The Writing and Public Speaking Center provides one-on-one tutoring at any time in the writing process to law students. www.umt.edu/writingcenter.

Assessment. Your grade has the following components:

Assignment	Points	Individual or Team	Deadline
Draft Memo to File	10	Individual	Feb. 1, 9:00 a.m.
Final Memo to File	30	Individual	Feb. 13, 9:00 a.m.
Draft Complaint	10	Team	Feb. 27, 9:00 a.m.
Final Complaint	25	Team	Mar. 6, 9:00 a.m.
Draft Discovery Requests	5	Team	Mar. 13, 9:00 a.m.
Final Discovery Requests	15	Team	Mar. 27, 9:00 a.m.
Draft Discovery Responses	5	Team	Apr. 10, 9:00 a.m.
Final Discovery Responses	15	Team	Apr. 17, 9:00 a.m.
Take Home, Timed Moodle Exam	25	Individual	
Settlement Brochure	60	Individual	
Total	200		
Individual	125		
Team	75		

In addition, you must complete the following tasks. Failure to do so in a timely and professional manner will lower your grade in the course.

- Submit names of team members (Jan. 20)
- Submit a law firm agreement (Jan. 24)
- Meet with professors on drafts
- Interview and depose witnesses
- Be interviewed and deposed
- Engage in settlement discussions

Take Home, Timed Exam: Part of your assessment will be an open book exam on Moodle that you will be able to take at your convenience during a three-day window. Once you start the exam, you will have only a set amount of time to complete the exam. The exam will open on **Sun. Mar. 12 and must be completed before 11:59 p.m. on Tues. Mar. 14.** The exam will be graded anonymously.

Deadlines. Failure to comply with deadlines will lower your grade.

Anonymous Numbers. Draft assignments should include names of all drafters. Final assignments, including the settlement brochure, should include **only** the drafters' first anonymous numbers.

Spring 2023	WEEK 1 TUESDAY	WEEK 1 THURSDAY	WEEK 2 TUESDAY	WEEK 2 THURSDAY	WEEK 3 TUESDAY
	Jan. 18	Jan. 20	Jan. 24	Jan. 26	Jan. 31
Topic	Introduction: Overview & Law Firms	What Does It Mean to Take a Case: Conflicts & Your Role As a Lawyer	Interviewing	Drafting a Memo to File	Client Interview for Memo to File
Assignment & Due Date		Law firm teams due via Moodle at 9:00 a.m. Jan. 20	Law Firm Agreements due by 9:00 a.m. Tues., Jan. 24.		Students take notes and prepare a memo to file based on the interview. Draft memo due Mon., Feb. 1 @ 9:00 a.m.
Reading	Ch. 1.1, 1.2	Ch. 2 & 4	Ch. 3		

Spring 2023	WEEK 3 THURSDAY	WEEK 4 TUESDAY	WEEK 4 THURSDAY	WEEK 5 TUESDAY	WEEK 5 THURSDAY
	Feb. 2	Feb. 7	Feb. 9	Feb. 14	Feb. 16
Topic	In Class Interviewing Exercises	Students interview each other as witnesses.	Evaluating a case.	Drafting complaints I	Drafting complaints II
Assignment & Due Date	Schedule meeting on draft memo (individual) the week of Feb. 1	Final memo due Mon., Feb. 13 @ 9:00 a.m.			Draft complaints due Mon., Feb. 27 @ 9:00 a.m.
Reading	Ch. 5.5		Ch. 5 & 6	Ch. 7.1-7.10; FRCP 8(a),(d),(e),10	

Spring 2023	WEEK 6 TUESDAY	WEEK 6 THURSDAY	WEEK 7 TUESDAY	WEEK 7 THURSDAY	WEEK 8 TUESDAY
	Feb. 21	Feb. 23	Feb. 28	Mar. 2	Mar. 7
Topic	Answers & counterclaims	Scheduling Orders - Judges' panel on discovery (Room 201)	Discovery I	Discovery II Both sections in Room 201	Discovery Requests In Our Case
Assignment & Due Date			Final complaints due Mon., March 6 @ 9:00 a.m. Schedule team meeting on draft the week pf Feb.27.		Draft discovery requests due Mon., Mar. 13 @ 9:00 a.m.
Reading	Ch. 7.11-7.12; FRCP 8(b),(c)	FRCP 16, 26(f)	Ch. 8; FRCP 26(a),(b),(d)-(f), 33, 34, 36, 45		

Spring 2023	WEEK 8 THURSDAY	WEEK 9 TUESDAY	WEEK 9 THURSDAY	SPRING BREAK	WEEK 10 TUESDAY
	Mar. 9	Mar. 14	Mar. 16	Mar. 20-25	Mar. 28
Topic	Discovery Responses I	Discovery Responses II	Depositions I		Depositions II
Assignment & Due Date		Take home exam on Moodle finished prior to 11:59 p.m. Tues., Mar. 14 Schedule team meeting on draft requests the week of Mar. 13			Final discovery requests due Mon., Mar. 27 @ 9:00 a.m.
Reading	L.R. D. Mt. 26.3(a)		Ch. 9		

Spring 2023	WEEK 10 THURSDAY	WEEK 11 TUESDAY	WEEK 11 THURSDAY	WEEK 12 TUESDAY	WEEK 12 THURSDAY
	Mar. 30	Apr. 4	Apr. 6	Apr. 11	Apr. 13
Topic	Depositions and Responses in Our Case	Students depose each other	Motions Practice	Settlement	Mediator guest lecture (Room 201)
Assignment & Due Date		Draft discovery responses due Mon., Apr. 10 @ 9:00 a.m.		Schedule team meeting on draft responses the week of Apr. 10	Final discovery responses due Mon., Apr. 17 @ 9:00 a.m.; Settlement Brochure due Fri. Apr. 28 @ 5:00 p.m.
Reading			Ch. 10; FRCP 7(b), 37; L.R. D. Mt. 5.1, 7.1, 26.3(c)	Ch. 11; 4th Jud. Distr. R. 9; L.R. D. Mt. 16.5	

Spring 2023	WEEK 13 TUESDAY	WEEK 13 THURSDAY	Settlement Brochure
	Apr. 18	Apr. 20 Last class	Apr. 28 @ 5:00 p.m
Topic	Settlement Conference Exercise	Evaluations; Debrief Settlement Conferences	
Assignment & Due Date			
Reading			