

CHARLESTON SCHOOL OF LAW
SYLLABUS
DEPOSITIONS: EFFECTIVE STRATEGIES AND TECHNIQUES 6321 § B

Fall 2021
Adjunct Professor Brandy G. Price
office hours by Zoom or Phone appointment

Monday and Wednesday
4:45 p.m. - 6:05 p.m.
Online

Required Textbook

The Deposition Handbook Revised Fifth Edition – published by Trial Guides

Students can register for the New Lawyer Program and receive 25% off The Deposition Handbook and other Trial Guides published books and video products. Here is a link to the registration page:

https://www.trialguides.com/pages/new-lawyer-program?_pos=1&_sid=ae2f2878d&_ss=r

Here is the link to purchase the book:

https://www.trialguides.com/products/the-deposition-handbook?_pos=4&_sid=a434f0c9c&_ss=r

Online Resources:

South Carolina Rules of Court (civil and evidence) <https://www.sccourts.org/courtReg/>

Federal Rules of Civil Procedure <https://www.law.cornell.edu/rules/frcp>

Federal Rules of Evidence <https://www.law.cornell.edu/rules/fre>

Grade, Class Credits, Attendance Policy:

This course is for three (3) credits. The course will meet via Zoom on Mondays and Wednesdays from 4:45 p.m. to 6:05 p.m., unless otherwise announced.

Due to the use of role play exercises (simulations) throughout the semester, which depend on students playing an assigned role (witness and/or opposing counsel), class attendance and thorough preparation are mandatory. *If you are going to be absent or late for any reason, please notify me as soon as possible before class so that I may plan accordingly.* In addition, due to the use of role plays throughout the course and the need to determine the members of the class as soon as possible, lack of participation, unexcused absences and/or lateness will be noted and will result in a lower grade.

The course is graded based on the following: 1. class participation (50%), as described below; and 2. the Final Exam (50%).

The components of class participation include: 1. your attendance; 2. your preparation for, and active participation in, class, including short in-class witness preparation and deposition exercises, longer in-class deposition role plays, a number of problem sets on witness preparation and deposition practice, post-role play debriefings, and feedback from professor and students; 3. written /or verbal self-critiques, as the taker and as a defender of the deposition; 4. Preparation for and argument of motion(s) concerning depositions; and 5. your Final Exam.

In addition, throughout the semester, you will be evaluated on your demonstration of an understanding of, ability to perform, and use of effective deposition skills, including preparing a

CHARLESTON SCHOOL OF LAW
SYLLABUS
DEPOSITIONS: EFFECTIVE STRATEGIES AND TECHNIQUES 6321 § B

witness and yourself for a deposition as well as taking and defending a deposition. (Note: This course is not “blind graded.”)

As to any simulated motion hearing, deposition questioning, including cross-examination, and any written materials submitted such as deposition notices, cross-examination questionnaires, etc., you will be able to “re-submit” those for additional points after having an opportunity to be critiqued.

The Final Exam will be open book and test your knowledge of the rules of procedure, evidence, and simulated exercises.

Course Description and Objectives:

This is a course in understanding, planning, and strategically taking depositions. The course objectives include having the students learn about the various rules (civil procedure, evidence, and ethics) and strategies to be used in preparing for and taking depositions. Students will learn by doing. Students will participate and learn about phases of the deposition process - noticing a deposition, planning questions and goals for depositions, questioning witnesses, learning techniques to deal with evasive or non-responsive answers from the witness, handling obstructive opposing counsel and using transcripts in a discovery and dispositive motion.

Students will be expected to achieve the following outcomes: 1. knowledge and understanding of the rules and procedural law concerning depositions; 2. legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context; 3. exercise of proper professional and ethical responsibilities to clients, opposing counsel and the legal system; 4. other professional skills needed for competent and ethical participation as a member of the legal profession; and 5. learning techniques that can be used not just in a deposition but at trial as well.

This course reviews the South Carolina Rules of Civil Procedure, Evidence, Ethics, and comparable Federal Rules. Pre-requisites shall be successful completion of Civil Procedure I & II and LRAW I & II. It is preferred that one has also successfully completed Evidence; however, one may take Evidence at the same time.

Access to the South Carolina and Federal Rules of Civil Procedure and Evidence are required and are available online for free. The South Carolina Rules of Procedure Annotated and South Carolina Rules of Evidence Annotated published by the South Carolina Bar CLE Division may be helpful texts and the library should have those available.

Completion of the objectives will help make students marketable law clerks and associate attorneys. The class will prepare those who plan on solo practice upon graduation to have basic pretrial skills.

Classes involve lectures, discussions, student participation in the form of taking and defending a deposition and playing the role of a witness. There will be a review of applicable rules and in-class demonstrations designed to develop basic and advanced skills as well as motions practice. Competent advocacy requires good research, planning, strategy, and organizational skills.

CHARLESTON SCHOOL OF LAW
SYLLABUS
DEPOSITIONS: EFFECTIVE STRATEGIES AND TECHNIQUES 6321 § B

Students are responsible for drafting the subject legal documents and outlining deposition questions both in and out of class.

This is a proposed outline of topics and class assignments that is subject to change. The schedule follows the course book, including working with some of the examples. The schedule will be adjusted to account for invited speakers and completion of Partner/Group presentations that will occur during class time throughout the semester.

1. Introduction to class; Discussion regarding course objectives and goals; types of depositions; purposes and goals of a deposition; deposition conduct, including Read/Review Rule 30 / *In Re Anonymous*; *Hall v. Clifton*; proper objections.
2. Read/Review Chapter 1 and 2 in textbook; Dead-Man's Statute; Respond to In-Class Reading Discussion Questions.
3. Read/Review Chapter 3 and 4 including Appendix C, F, and G in textbook; Read Transcript of Witness Interview; Prepare/Review 10 witness interview follow-up questions.
4. Read/Review Chapter 5 in textbook; Read/Review Deposition Transcript; Analyze deposition clips during class and discuss; Students to provide observations in class; Partners/Groups assigned including explanation of Claims File and Claims File Review.
5. Read/Review Chapter 7 and 12 in textbook; Partner/Group Work: Claim Files Analysis Presentation; Provide feedback regarding Claims File Analysis.
6. Read/Review Chapter 12 and Appendix D in textbook; Partner/Group Work: Introduction of partnerships/groups, prepare/present questions to authenticate exhibits, mark exhibits, prepare rebuttal questions, etc.
7. Read/Review Chapter 8, 9, and 13 in textbook; Partner/Group Work: Prepare/Present admissions and impeachment questions for witness including exhibits; Objections.
8. Review Articles on TWEN concerning Objections; Analyze video clips and make observations in class.
9. Read/Review Chapters 10 and 11 in textbook; Read/Review Rule 30(j); Analyze clips of beginning and conducting a deposition and make observations in class.
10. Partner/Group Work: Prepare/Present Initial Instructions to witness; importance of initial instructions.
11. Read/Review Chapter 6 and 15 in textbook.

CHARLESTON SCHOOL OF LAW
SYLLABUS

DEPOSITIONS: EFFECTIVE STRATEGIES AND TECHNIQUES 6321 § B

12. Review Chapter 6 and Prepare/Present 30(b)(6) Notice; Read/Review cases: *Beach Mart*, *QBE*, *Rainey*, and *US*.
13. Read/Review Chapter 18 and 19 in textbook. Analyze witness preparation video.
14. Partner/Group Work: Prepare witness preparation questions for designated witnesses.
15. Class Observations: Watch 30(b)(6) Depositions; prepare in-class observations notes
16. Class Observations: Watch Fact Witness Deposition; prepare in-class observation notes; Read/Review Deposition Transcript; Prepare 1-page persuasive summary of testimony
17. Read/Review Chapters 16 and 17 in textbook; Analysis of types of Experts; Refer to Appendix E in textbook.
18. Individual Work: Prepare/Present Expert list and questions for expert witness.
19. Class Observations: Watch Expert Deposition; prepare in-class observations notes.
20. Read/Review Chapter 20 in textbook; Participate in class poll/quiz.
21. Read/Review Chapter 21 in textbook; Participate in class poll/quiz.
22. Read/Review Chapter 22 in textbook; Participate in class poll/quiz.
23. Final Exam Review

There will be a Final Examination. Other interim assignments may be given. Participation in class and performance on writing assignments and examinations will be weighted in final grade.

ATTENDANCE POLICY: Absent, Tardy, Present, but Unprepared, Exits Early

Attendance is mandatory. Students are required to attend class on a regular and punctual basis and no student may miss more than fifteen percent (15%) of the class meetings and get credit for the course. For this course, which meets twice a week, this means that a student may miss no more than four (4) classes or such other amount as the school policy requires. To get credit for attendance, you must sign the roster for every class. It is your responsibility to sign the roster and if you fail to sign it, you will be considered absent for that day. A student who is tardy, present but unprepared for class or who leaves class early may, at the discretion of the professor, be marked as absent. “*Tardy*” means more than 10 minutes late following the start time of class without an excuse approved by the Professor. “*Present but unprepared*” means that the student demonstrates that s/he has not reviewed the materials to prepare for class and is unable to meaningfully present or respond to questions about the material. “*Leaves class early*” means the student exits class more than 10 minutes before class ends. If a student exceeds this limit, the student shall not be permitted to take the exam. If you plan on being absent, late or need to leave class early for any reason, please let Professor Price know ahead of time.

CHARLESTON SCHOOL OF LAW
SYLLABUS
DEPOSITIONS: EFFECTIVE STRATEGIES AND TECHNIQUES 6321 § B

BASIS OF GRADE:

Grade will be based on class participation, assignments, class discussion and the exam. There will be at least three opportunities for students to receive individualized feedback regarding legal skills from the professor related to making oral arguments, drafting of documents and cross-examination as demonstrated by the student in class. The student will have an opportunity to incorporate the feedback and be reassessed with additional feedback. Class participation and assignments will be half of the grade and the final exam will represent the other half. The exam will also test the student's ability to apply legal skills to questions and fact patterns related to the Federal Rules of Evidence and Procedure. Students may use a hard copy or online version of the Federal Rules for the exam.

Under Charleston School of Law policy, the amount of work for *each* credit hour of a course must be:

- At least 750 minutes of in-class time (12 ½ hours), which may include 50 minutes of final examination time; and,
- At least 1800 minutes (30 hours) of out-of-class student work.

This is a **3-credit hour** class, meaning that, in addition to attending classes each week, you should plan to spend a minimum of **6 hours per week** preparing for class.

ADA notice: Students with disabilities should contact the Associate Dean for Academic Affairs as soon as possible to request reasonable accommodations should those accommodations be desired.

**Assignments herein are tentative and may be altered by the Professor. Assignments will be announced in class. Class attendance is mandatory as required by the school policy. Professor reserves the right to deviate from this Syllabus and not move forward until proficiency in each area is attained. Guest speakers and examinations may alter timetable in this Syllabus. Students with disabilities should contact the Associate Dean for Academic Affairs, Dean Margaret Lawton as soon as possible to request reasonable accommodations should those accommodations be desired.