

**CHARLESTON SCHOOL OF LAW**  
**SYLLABUS FOR COURSE IN**  
**PLEADINGS AND PRACTICE**

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Office Hours: M-Th- 9:00 to 4:00  
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Begin Date: Fall 2021 (rev 08.03.2021)

Credit Hours: 3 per semester

Mid Term Exam Date : TBD

**Recommended but not Required Text:** 2021 Edition of South Carolina Rules of Court, published as a volume of the South Carolina Code of Laws, published by Thompson West.

This is a course in civil pleadings and practice. Emphasis will be on learning skills by student participation in all phases of pleadings and practice. **Assignments will be announced in class and posted under Course Materials on our TWEN site. Assignments in this syllabus are for suggestion only.**

This is not a course focusing primarily on evidence or jurisdictional civil procedure, although analysis and strategy of some of those issues are discussed. Pre-requisites shall be successful completion of Civil Procedure I & II and LRAW I & II. Successful completion of Evidence is a co-requisite. This course will be fashioned to follow the South Carolina Rules of Civil Procedure. The course will include exposure to pre-trial procedure in Circuit Court, Family Court, Probate Court and Magistrate's Court. The South Carolina Rules of Civil Procedure shall be a recommended text. At times, there will be a comparison and contrast with the Federal Rules of Civil Procedure.

**COURSE OBJECTIVES**

The objectives of this course shall be to provide students with practical application of the theories studied in Civil Procedure I & II, Torts and Contracts. Using writing and analytical skills learned in LRAW I & II, students will learn the craft and information required to create the case caption, drafting pre-trial pleadings, and motions, discovery devices, subpoenas, and proposed orders. Also, discussions will include related ethical considerations, and local practices including filing procedures, fees and cover sheets. Guest speakers may also be utilized.

The course will provide students with practical skills to create pleadings; providing them with "know how" prior to graduation and practice. The students will, through their assignments create a "form file" for use in practice. Completion of the objective will make the students marketable law clerks and associate attorneys. It will prepare those who plan on solo practice upon graduation to enter the field with advanced skills. Skills obtained will also assist with Bar examinations through recognition, and explanation, of stating claims upon which relief can be granted, as well as affirmative defenses; complete familiarity with pleading Rule 12 defenses, understanding of ethical rules involving pleadings and discovery devices, and the ability to craft pleadings in accordance with the applicable Rule in a correct fashion. Discussions will also focus on inter-personal communications between the attorney and clients and with opposing counsel.

Classes will mainly involve lectures. Also, discussions, intensive review of applicable rules and in-class demonstrations designed to develop basic and advanced pleading skills will be utilized. Competent advocacy requires good research, planning, strategy and organizational skills. Students will be responsible for drafting the subject legal documents, both in and out of class, which can lead to the creation of a "form file" for use after graduation.

### **GRADING, ASSIGNMENTS AND EXAMS**

Grading is based upon writing assignments, skills performances in legal document drafting and objective examination(s) on matters presented in class and posted on the class TWEN site. Assignments stated in this Syllabus are tentative and may be altered by the Professor. **Specific assignments will be announced in class and posted on this course's TWEN under "course materials."** Students must register for this course on TWEN to receive assignments and important notifications.

Every writing assignment in the class must be completed and turned in to Professor Budman by its due date. The failure to complete a writing assignment

will result in the student receiving a -0- for that assignment. “Turned in to Professor Budman by its due date” means submitting the assignment electronically in the assignment drop box under Assignments and Quizes on our TWEN site. An assignment may be turned in by emailing it to Professor Budman, but only in the event the assignment cannot be submitted electronically. Please do not submit an assignment electronically in the assignment drop box and email it to the professor, unless specifically requested by the Professor to do so.

The majority of a student’s grade is devoted to the assessment of the student’s ability to competently prepare specific legal documents. Completion and competency of writing assignments will comprise 55% of the grade. These assignments will be known as “Skills Performances.” Skills performances will be individually assessed by the Professor. During the semester, Professor Budman will assign no fewer than (3) three specified opportunities to complete an exercise involving document drafting as the class Skills Performances. After each specified opportunity is completed by the student, Professor Budman will provide each student with a letter grade, and individualized oral and/or written feedback regarding their work. Each student will then have the opportunity to incorporate the Professor’s feedback into a revised document and be re-assessed on the specific skill or document. The grade received by the student for that assignment will be the grade assigned to the revised document. If the student fails to timely complete the revised document, the student’s grade for the assignment will be assessed on the document submitted before the feedback is offered.

There will be other writing assignments involving document drafting that will involve self-evaluation by the student. A specific writing assignment will be given by Professor Budman. When the assignment is completed and turned in, a sample copy of the assignment prepared by the Professor will be disseminated to the class. The class will then have the ability to compare their document to the document prepared by the Professor and make a self- assessment of their work. These assignments will count toward the “completion” requirement of the writing assignments, but will not count toward the “competency” requirement. Only those writing assignments specifically designated in advance as Skills Performance by Professor Budman will count toward the completion and competency requirements.

The remaining 45% of the student’s grade will be based upon objective examination. There will be a proctored mid-term examination consisting of 40 +/- True/False with written explanation of answers, multiple choice, and/or fill in the blank questions. The class will be given one hour and fifteen minutes to complete

the exam. This will be a closed book exam and will be given in-class. The grade on this exam will comprise 20% of the student's final grade. There will be a cumulative final examination consisting of 40 +/- multiple choice and fill in the blank questions. The class will be given one hour and thirty minutes to complete the exam. This will be a closed book, non-proctored exam. The grade on this exam will comprise 25% of the student's final grade. Professor Budman reserves the right to impose the CSOL suggested grading curve on all final grades, if necessary.

### **ATTENDANCE POLICY:**

#### **Attendance is MANDATORY.**

To comply with ABA standards, all students are required to attend class on a regular and punctual basis. Under CSOL's Attendance Requirement, students are required to attend at least 85 percent of the scheduled classes for this course. Therefore, no student may miss more **than FIFTEEN percent (15%)** (rounded to the nearest whole number) of the scheduled 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 classes without consequences.** "Scheduled class meetings" is defined as the total number of classes that are established for this course during this semester, as established by the published schedule, with such number remaining the same in spite of modifications that might arise during the semester (speakers, inclement weather, professor cancellation, etc.). *No absences from class are "excusable" for purposes of determining whether a student has violated the Attendance Requirement.* Only the Office of Academic Affairs may officially excuse an absence.

As long as our class meets personally, **Attendance will be taken by paper Roster, which will either be passed around in class or called out by the professor. No student may sign the roster for another student.** If the course is being held virtually, you must be logged in and remain logged in for the duration of the class. A student who is tardy or who exits early may, at the discretion of the professor be marked absent. "Tardy" shall mean arriving for or logging in to class after 8:40 a.m. "Exiting early" shall mean leaving class or logging off before 9:35 a.m. If you know in advance that you will be absent for any reason, please notify Professor Budman by email. If an assignment falls due on the day of an absence, the assignment shall still be timely placed in our assignment drop box on TWEN (meeting virtually only). Every student is obligated to be familiar with and strictly abide by CSOL's Attendance Requirement:

<https://charlestonlaw.edu/academics/academic-policies/attendance-policy/>

## **WORK PER CREDIT HOUR**

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.

## **SPECIAL ADA NOTICE**

**Students with disabilities must contact Dean Margaret Lawton as soon as possible to request reasonable accommodations should those accommodations be desired. Her phone number is 843-377-2423. Her email is: [mawton@charlestonlaw.edu](mailto:mawton@charlestonlaw.edu)**

## **PLEADINGS AND PRACTICE- Proposed Class Schedule**

\* Professor reserves the right to deviate from this Syllabus and not move forward until proficiency in each area is attained. **Writing assignments will be announced in class and posted under Course Materials on our TWEN site. Assignments in this syllabus are for illustration only.**

**Class One:** Discussion regarding course objectives;

**Class Two:** Realities of the modern law office; costs of operating a law office.

**Class Three:** meeting with the client; overview of requirements for retainer agreements; opening litigation goals; Ethical requirements of retainer agreements; recognition of statutes of limitation and time limits in Rules of Procedure; Client and witness interview techniques.

**Class Four:** Fee agreement as contract; consideration; parties; different types of fees for different situations; the entity as a client; Can I take this case and stay out of bankruptcy?; Unauthorized practice of law.

Assignment- Prepare retainer agreement

**Class Five:** preparing the caption of the case. Considerations and strategies for obtaining personal jurisdiction; Considerations for correct venue; choice of subject matter jurisdiction.

**Class Six:-** Considerations of choosing parties to the suit; Discussion of Summons; Recognition of numerous causes of action; Explain factual scenarios that we will work with.

**Class Seven-** Breakdown of cause of action elements; common law vs. statutory cause of action; Requesting attorney's fees; stating a claim upon which relief can be granted; Preparation of simple Complaint; Discussion of Summons and Civil Cover Sheet Filing fees.

Assignment- Prepare Summons and Complaint.

**Class Eight:-** Discussion of Declaratory Judgments; Pre- Judgment interest; Preparing the multi-cause of action complaint.

Assignment- Prepare the multi cause of action Complaint.

**Class Nine:** Continue discussion of complaints and causes of action; Examination of Rule 65 Injunctions; discuss Motions for emergency relief, temporary restraining orders and injunctions; discuss ex-parte application for emergency relief.

**Class Ten:** Examination of Rule 6; What is a Motion; requirements of filing a motion; Discussion different types of motions; filing motions in different courts Arguing a motion before the court; preparing the motion coversheet;

Assignment- Prepare verified complaint for Injunction, Summons and Civil Cover Sheet; notice of motion and motion, motion Cover Sheet

**Class Eleven:** Taking on the role of the defense attorney. Understanding the meaning of a summons and calculating the time necessary to answer the complaint. Instruction on how to correctly obtain an extension of time.

**Class Twelve:** Understanding and pleading defenses raised in Rule 8-C. What is Plene Administravit? When does Res Judicata apply? Preparing a simple answer in accordance with Rule 8-b defenses. Answering a complaint and complying with Rule 11.

Assignment: Recognizing and applying affirmative defenses in factual scenarios.

**Class Thirteen:** In depth discussion of Rule 12-b defenses. Understanding the objections to personal jurisdiction and subject matter jurisdiction. Advising the foreign client to appear or not appear. Can you explain the difference between insufficiency of process and insufficient service of process?

**Class Fourteen:** How and when to raise Rule 12-b defenses by motion, or as a defense in the answer. Understanding Rule 12-b-6 in depth.

Assignment: prepare an Answer to Complaint; recognize and raise affirmative defenses.

**Class Fifteen:** How to construct an answer with multiple causes of action; Preparing a counterclaim or cross-claim; preparing the reply to counterclaim.

**Class Sixteen:** Pleadings as the road map to trial. What is the trial about? Are the issues contested or uncontested. In depth discussion of making and opposing Summary Judgment motions and supporting affidavits.

**Class Seventeen:** Review for mid-term exam.

**Class Eighteen:** Mid-term exam during class.

**Class Nineteen:** Overview of Discovery. Discussion of Rule 26(a) & (b)(1). Introduction to various discovery devices.

**Class Twenty:** Discussion of various tools of discovery; focus on standard interrogatories; service of discovery requests. Introduction to deposition civility.

**Class Twenty-One:** Scheduling of depositions; and preparation of Notice of Deposition. Where and when a deposition can be taken. Rule 30-b-6.

**Class Twenty Two:** Preparation and service of Subpoenas in South Carolina, including subpoenas duces tecum and depositions de bene esse.

**Class Twenty Three:** Summary of Notice of Deposition and Subpoenas. How to prepare for taking a deposition.

**Class Twenty Four:** Preparing for and taking the deposition of an adverse party or witness. Preparing your client and witnesses for deposition. What to do while your client is being deposed.

**Class Twenty Five:** Discuss Motions to Compel and Motions in Limine; Discuss pre-trial briefs and stipulations of fact; preparing for trial. Proving elements of cause of action. Directed verdicts, motions for judgment NOV and non-suit. Post-trial motions.

**Class Twenty Six:** Rules 59e and 60b; Motions to amend or alter judgment and motions for relief from judgment. Preparation of court orders; Findings of fact and Conclusions of law; Standards of appeal.

**Class Twenty Seven:** - Final Review.