

## PRETRIAL CIVIL LITIGATION

Syllabus  
Fall Semester 2008

Adjunct Professor: Brian M. Nach

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### I. REQUIRED MATERIALS

Texts<sup>1</sup>: Mauet, Pretrial (6<sup>th</sup> Ed. 2004)

Federal Rules of Civil Procedure (any edition)

Illinois Code of Civil Procedure and Illinois Supreme Court Rules (any edition)

Other: You will need at least one 11" accordion file folder and at least twenty manila file inserts. You will use this to create your litigation file, which will count as part of your grade.

### II. COURSE GOALS AND OBJECTIVES

This course will focus on pretrial civil litigation procedure, practice and strategy. The class will be taught with an emphasis on participation, development of advocacy skills in the pretrial process and on obtaining a working knowledge of the pretrial procedural rules governing the pretrial process.

Students will be expected to complete the required readings and assignments with the goal of achieving a working knowledge of the Illinois and federal pretrial rules. In addition to weekly reading assignments and in class lectures, students will participate in the representation of a mock client involved in a civil lawsuit in which the student will be required to prepare and respond to pleadings, motions and discovery filed by other classmates and prepare for and engage in a final pre-trial conference.

Attendance is required and inadequate attendance will be reflected in the final grade.

In sum, this course will achieve the following objectives:

1. Developing advocacy skills with particular emphasis on the pretrial phase of litigation including pleading and motion practice;

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<sup>1</sup> Supplemental readings may be recommended from time to time.

2. Develop skills and knowledge in the civil discovery process including both written and oral discovery;
3. Provide a working knowledge of the state and federal pre-trial rules of Court.

### III. STRUCTURE OF THE CLASS

This class will be based on a tort lawsuit. On the first day of class each student will be assigned a particular case for which the student will act as counsel for the plaintiff or defendant. That student will be responsible for that single case throughout the semester and will be opposed by another student in the class who will be assigned to represent the other party to that case.

### IV. METHOD OF INSTRUCTION

This class will focus on the practical aspects of pretrial litigation with an emphasis on hands-on experience and real-world problem solving. The class will be divided into three sections. The first and second sections will be devoted to reviewing the prior week's work and a discussion/lecture on the current week's materials. The third segment will be a workshop/court appearance in which students can work on their next filing or assignment as well "appear" before the judge on their case to resolve any issues with discovery or to report to the court on the progress of your case.

### V. LITIGATION FILE

Each firm must maintain a case file as it will be an important component of the grading process. An important aspect of the real-world practice of law is organization and through the creation of the litigation file the students will learn how to maintain the file in an orderly manner.

### VI. GRADING

There will not be a final examination. The students overall grade will be made up of his/her performance on the following components:

Pleadings	5%
Motion Practice	10%
Written Discovery Requests	10%
Responses to written discovery	5%
Depositions of fact witnesses	15%
Report of expert witness	5%
Depositions of expert witnesses	5%
Summary Judgment Motion	5%
Final Pre-trial conference	10%
Summary Judgment Oral Argument	5%
Litigation File	10%
Court appearances	5%
Class Participation/Attendance/Professionalism/ Ethical Conduct	<u>10%</u>
	100%

For all written material, the grading criteria include choice of content, accuracy of information, grammar, punctuation and spelling.

For all oral portions of the class (i.e., depositions, court appearances) the grading criteria include knowledge of the material, professionalism, persuasiveness, form and proper use and responses to objections.

## VII. WEEKLY SCHEDULE

August 26<sup>th</sup>

Segment I: Introduction  
Segment II: Law Firm assignments and client assignments  
Segment III: Litigation File / Purpose of pretrial  
Assignment: TBA

September 2<sup>nd</sup>

Segment I: Pre-filing Investigation / counseling  
Segment II: Overview of pretrial process - timetable  
Segment III: Complaint / Summons  
Assignment: TBA

September 9<sup>th</sup>

Segment I: Service/ Initial court appearance  
Segment II: Answer or otherwise plead / Motions responding to the complaint  
Segment III: Drafting motion to dismiss and supporting memorandum  
Assignment: TBA

September 16<sup>th</sup>

Segment I: Amendments to pleadings / Initial disclosures  
Segment II: Overview of discovery  
Segment III: Court appearances on motions to dismiss / Draft written discovery  
Assignment: TBA

September 23<sup>rd</sup>

Segment I: Responses to discovery / Resolving disputes  
Segment II: Discovery motions – compelling orders, protective orders  
Segment III: Court appearance – all cases up for case management conference (“CMC”) / Answer written discovery  
Assignment: TBA

September 30<sup>th</sup>

Segment I: Taking and defending fact witness depositions  
Segment II: Objections and dealing with a difficult witness  
Segment III: Workshop – preparing for fact witness depositions  
Assignment: TBA

October 7<sup>th</sup>

Segment I: Fact witness depositions  
Segment II: Fact witness depositions  
Segment III: Ct appearances: all cases for CMC Fact witness depositions  
Assignment: TBA

October 14<sup>th</sup>

Segment I: Preparing the expert (opinion) witness report  
Segment II: Taking and defending expert (opinion witness) depositions  
Segment III: Workshop: preparing outline for expert witness deposition  
Assignment: TBA

October 21<sup>st</sup>

Segment I: Other discovery tools / Trial Strategy / File Reviews  
Segment II: Expert depositions  
Segment III: Expert depositions  
Assignment: TBA

October 28<sup>th</sup>

Segment I: Preparing motions for summary judgment  
Segment II: Preparing response to summary judgment  
Segment III: Workshop: draft motions for summary judgment  
Assignment: TBA

November 4<sup>th</sup>

Segment I: Drafting reply brief in support of summary judgment motion  
Segment II: Preparing for oral arguments / Settlement and ADR  
Segment III: Workshop: Drafting responses to summary judgment  
Assignment: TBA

November 11<sup>th</sup>

Segment I: Oral arguments on summary judgment  
Segment II: Oral arguments on summary judgment  
Segment III: Oral arguments on summary judgment  
Assignment: TBA

November 18<sup>th</sup>

Segment I: Motions in limine  
Segment II: Final Pretrial orders and pre-trial conferences  
Segment III: Oral arguments for summary judgment  
Assignment: TBA

November 25<sup>th</sup>

No class

December 2<sup>nd</sup>

Segment I: Final Pre-Trial Conferences  
Segment II: Final Pre-Trial Conferences  
Segment III: Final Pre-Trial Conferences