

LITIGATION LAB INTRODUCTION
Theory of the Class and Syllabus
Professor James A. Clark

The Litigation Laboratory is based upon a two-part theory. The first is that good lawyers need and will use law students for collaborative help with open cases. The second is that law students learn litigation skills from working on these cases with the lawyers. A different lawyer with a different case participates in almost every class. The lawyer provides materials for the students to review before the class. During the class, students discuss, argue, debate and work with the lawyer to focus on the toughest issues. Lawyers credit Litigation Lab for ideas, themes and information leading to successful results in their cases.

Warning!

Students looking for a traditional, pre-packaged, passive class should look elsewhere. Litigation Lab is an entirely new idea. It is for students who are interested both in litigation and in trying new things even beyond their student comfort zone. The laboratory, like litigation itself, is often intense and challenging. Everyone has to talk; everyone has to ask questions; everyone also has to listen and learn from everyone else. Any person who comes to this class, including the professor and the visiting lawyer, should be there because he or she wants both to teach and to learn.

Confidentiality and Conflicts

Because these are open cases, strict confidentiality is required. Students must sign and abide by confidentiality agreements and must understand that they may never discuss a case with anyone who was not in that session. That requirement is important to the lawyers that participate in the Lab and must be observed even – particularly – when the case involves dramatic, compelling or graphic facts or evidence. Even years later, no matter where students end up working, they may not discuss or work on that case.

Students are also screened for conflicts before each class. Students who think they may have a potential conflict must bring it to the attention of the professor as soon as possible and arrangements will be made. Students need to keep a list of cases they worked on for future reference. Case materials must be disposed of responsibly after the class. Students are requested to provide a resume to the professor at the start of the class. Students who currently hold a job must make arrangements to insure that there are no conflicts by their employer with the cases brought to the Lab. Students must comply with all ethical rules and any issues in that regard should be promptly raised with the professor. In this regard and others, students in Litigation Lab must see this class as a transition from student to lawyer and accept the responsibilities of a lawyer.

What Work is Required?

Lawyers provide us with materials in advance of the sessions and everyone is expected to read and review those materials. After each class, students are required to complete a journal along the lines of the format enclosed. Journals are the only written record of our class and they should be candid, thoughtful and complete. At the end of each class, any additional thoughts, ideas or other suggestions for the lawyer should be turned into the PD who will collect them and pass them on to the lawyer. Contributions are meaningful to the lawyers and are encouraged. It is usually best to wait a day or two before preparing the journal for any given session. This gives you the chance to see what From time-to-time, students will be asked to write mini reports on issues that come up in class and will be collected on the assigned turn-in date. Furthermore, the professor will assign a soon to be announced final presentation the last class of the semester and may assign a mid-semester project or presentation at his discretion. Journal entries can be completed and turned in the following week before the class session begins. Each student should make two copies of his or her journal entry, one to turn into the professor, one to turn in to the PD to deliver to the lawyer. In addition, students should carefully file a copy of each journal so that a full portfolio is available at the end of the semester.

Format of an Actual Class

We do a wide variety of work in our classes. We usually work in the conference room but sometimes we work in the Ring courtroom. We could work anywhere the lawyer wants and the class agrees including court or a lawyer's office. The format of the class will vary. In one scenario, we have one short (10-15 minutes) presentation from the lawyer and one from a student (usually the PD) giving the other side. It sometimes works well for the lawyer to present the case of his or her opposing side. After initial presentations, we may circulate questionnaires for everyone to write their thoughts and reactions to the presentations. Next, we may go around the room and express our opinions. Then we may argue, debate and discuss particular issues. At some point, we narrow the discussion to one or several issues and work collaboratively to help the lawyer find the best solutions. Students are invited to find additional information, websites, standards, or other references of any kind. Often attorneys have not fully researched these possibilities and appreciate hearing them. We look to our trial consultants for help and guidance. We ask the lawyer whether we are working on the issues he or she wants. The two hours usually goes quickly so we want to cover the lawyer's requests. Lawyers sometimes bring in their clients or adjusters. We are open to whatever works for them. What we do and the formats we use are limited only by our imagination. We should encourage new and different methods. Remember this is a lab! We experiment.

Teamwork

In this class, students get to know their classmates. Students are expected to work collaboratively with their classmates in preparing for and during the sessions. In class, students should refer to each other by name and react to and respond to each others' ideas. Good students help classmates break into the conversation when needed. Students should recognize that their classmates are an invaluable resource for their careers.

Punctuality and Attendance

Attendance and punctuality are particularly important in this class and is required. Lawyers are paying to get input from each student.

Textbooks and Miscellaneous

No textbook has been specifically assigned for this class. However, the Project Director will distribute relevant case material to the entire class to read and review prior to each session. Everyone is expected to have ready access to the Illinois Jury Instructions with comments. Students should have a name tag in every class. Lawyers ask about contacting students so students want the lawyers to know their names.

Project Director

Each session with a lawyer has a student Project Director (“PD”). The PD is a liaison between the class and the lawyer. Every student should look at being PD as an opportunity to meet and work with a practicing attorney. Here is an outline of the role of the PD:

1. The PD contacts the lawyer as soon as we have the lawyer’s name. The PD introduces him/herself to the lawyer and explains what we can do. The PD is responsible for getting all necessary information from the lawyer to do an appropriate conflict of interest check. As soon as the PD has received conflict information from the lawyer, the PD must circulate it to the entire class and confirm that there are no conflicts. If anyone has a conflict, direct them to the professor immediately.
2. The PD coordinates plans for the class with Professor Clark and the attorney and works with both of them to design an appropriate format for the session. No two cases are alike so no two lab sessions are alike. The PD usually prepares at least one case-specific questionnaire to solicit the views of the class. In most instances we use several questionnaires, one to solicit initial views and another to ascertain how views change after our discussion. In some cases a follow-up, after-class questionnaire will be prepared to ask students what impressions tended to remain with the student after class. Challenges arise in dealing with lawyers who have never done a session before. Some lawyers think they are coming to teach a class. We need to show them that we are here to help them. The PD has to make sure that the lawyer understands what to expect in a two-hour session. Lawyers’ presentations should usually not be lengthy because they deprive the lawyers of valuable input from the students. Sometimes lawyers want a second session to finish or re-do a case. If there are any questions or issues, the PD should contact the professor immediately.
3. The PD collects the case materials from the lawyer and circulates them to the other students as soon as each completes the conflict check. PDs need to encourage their attorneys to make these materials available as soon as possible so the class can prepare. The PD may also assign any readings or research that will help the class understand the project and assist the attorney. If there are any issues or problems, the PD is to contact the professor immediately.
4. The PD collects the forms from the attorney and makes sure that the attorney has paid for the session.

5. The PD makes sure to get the attorney's ARDC numbers to get MCLE credit.
6. The PD tells the lawyers to bring marketing materials to distribute at the end of the class. This is an important networking opportunity for the lawyer. At the end of every class, we welcome and thank our lawyers.
7. The PD has to find out if a trial consultant is going to participate in the session and if so, the PD has to make sure he/she screens the case and gets the materials.
8. The PD is responsible for making sure that the lawyer knows exactly when class starts and when it ends, and that the lawyer shows up at the correct time and place. The lawyer should know his session usually begins when the warm-up ends unless there is some other arrangement. The PD must give the lawyer clear directions.
9. In class, the PD is responsible for helping to run the session. PDs frequently give a presentation of one side of the case (it often works well for the lawyer to give his/her opposing side). PDs work with their classmates and the professor to make sure that the lawyers' expectations are met.
10. The PD is responsible for making sure that the lawyer receives MCLE credit.
11. The PD is also responsible for making sure that a full evaluation is completed by the lawyer.
12. The PD will draft a report or paper on the lawyer's session. The PD collects all of the materials including a copy of everyone's journal entry and makes sure that they are delivered to the lawyer after class. The PD should later follow up with the lawyer to see what happens to the case and whether there is any other work that the class could possibly provide to the lawyer. Every student should look at being PD as an opportunity to meet and work with practicing attorneys.

Classes Without Lawyers

There will be classes without lawyers for different reasons. Sometimes we have other guests. Sometimes we work on presentations. Sometimes we review issues that come up in cases. Cancellations also happen and we need to be prepared.

Trial Consultants

We are fortunate to have a number of well-known trial consultants helping us with this course. Trial consultants work with lawyers to help them prepare, strategize and try their cases. Usually, our consultants are happy to talk to you outside of class about communication issues, public speaking, case analysis or other issues. Students should consider our trial consultants as an ongoing resource now and for the rest of their careers. It is important to remember that these consultants are volunteers that are foregoing lucrative work to help in the lab. They should be treated as guests.

Warm-Up, Announcements

We usually reserve the first one-half hour of every class before the lawyer arrives for exercises, announcements and presentations. These exercises are meant to get the class involved and active before the lawyers enter the session. PDs should tell the lawyers that, usually, we should not be interrupted during this time.

Media

Articles on this course are available on request.

Grades

This course provides students many opportunities for learning and I am looking to see how those opportunities are taken. Grades are based on oral and written performance in the class throughout the semester. That means participation in the class, mid-semester and final semester presentations, written journals and reports, and work as PD. There is no final exam and grading is necessarily subjective. Students are invited to show enthusiasm, energy and engagement in every class. Participation in class is vital. Teamwork and willingness to listen carefully to others' opinions is required. I want students to show progress in understanding how to collaborate with each other and with the attorney and how to think about and strategize case issues. Preparation and review of pre-class materials is important and it is apparent when students have prepared. I am looking to develop substantive knowledge, procedural knowledge and improvement in communication and persuasion skills. Students who do not learn anything about themselves from this class probably have not put everything into it that they could. Again, this class is transitional. The best grades are reserved for those students who would be the best members of a litigation team on the cases that come to the laboratory. Make yourself the student/lawyer that the visiting attorneys would want to come back to for further help.

Administrative Aide

Patrick Tran is my administrative aide for the laboratory. He participated in the Litigation Lab in the Fall and has been principally responsible for recruiting lawyers to participate in the laboratory this semester. He is available to answer you questions and to assist you, particularly when you are the PD. He can be reached at (614) 596-9669 or patrickxtran@gmail.com.

Professor Clark's contacts

You may reach me at 312-258-5632 or jclark@schiffhardin.com. My secretary is Una Cox and she may be reached at 312-258-4869 or ucox@schiffhardin.com.

Ideas and Suggestions Are Welcome!

Students are key to the development of this class for themselves and for future students. Students are encouraged to contribute ideas and suggestions as the class proceeds.

Tentative Class Schedule

Jan. 13	FIRST CLASS (NO OUTSIDE LAWYER)
Jan. 20	Exercises
Jan. 27	Session 1
Feb. 3	Session 2
Feb. 10	Session 3
Feb. 17	Session 4
Feb. 24	Session 5
Mar. 3	Session 6
Mar. 10	Session 7
Mar. 17	Session 8
Mar. 24	NO CLASS (SPRING BREAK)
Mar. 31	Session 9
Apr. 7	Session 10
Apr. 14	Session 11
Apr. 21	FINAL CLASS PRESENTATION (NO SESSION)

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