

PRE-TRIAL CRIMINAL LITIGATION
SECTION 519 A
6:30 p.m. – 9:45 p.m.
February 11, 2015 – April 22, 2015
(10 WEEKS – off March 11th for Break)

COURSE SYLLABUS

WESTERN STATE UNIVERSITY
COLLEGE OF LAW
Spring 2015

ADJUNCT PROFESSOR, Tracy C. Miller
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CLASS MATERIALS:

REQUIRED:

TEXT: Marilyn J. Berger, John B. Mitchell, Ronald H. Clark, **Pretrial Advocacy: Planning, Analysis, and Strategy** (2013) 4th Edition, Wolters Kluwer Law & Business. (also referred to as **Text A below**)

With 2 discs*:

Disc #1: "Pretrial Advocacy: Planning, Analysis, and Strategy – 4th Edition DVD" and

Disc #2: "Pretrial Advocacy: Planning, Analysis, and Strategy – 4th Edition CD Case Files and Exemplary Forms

TEXT: Marilyn J. Berger, John B. Mitchell, Ronald H. Clark, **Evidence: Skills, Strategies, and Assignments for Pretrial and Trial** (2012) Wolters Kluwer Law & Business. (also referred to as **Text B below**)

With 2 discs*:

Disc #3: "Evidence: Skills, Strategies, and Assignments for Pretrial and Trial: *Freck Point Trial* and *Reenactment Video* and

Disc #4: "Evidence: Skills, Strategies, and Assignments for Pretrial and Trial – CD with Case Files"

*There are **4 discs** total for your use during this course. The **Discs** will also be referred to as **#1, #2, #3, and #4** in this syllabus. Please refer to the disc titles corresponding to the disc number above.

HANDOUTS: Attached and additional per Professor discretion.

OBJECTIVES:

The course is designed to provide students interested in criminal litigation practical skills in the context of representing a client during different phases of the pre-trial process. By utilizing hypotheticals and applying skills training to particular fact patterns, students will engage in the simulated practice of law. The goal is for students to gain an understanding beyond theory by meaningfully engaging in role-playing exercises in class pertaining to the criminal pre-trial practice.

EXAMINATION AND GRADING:

There will not be a midterm exam or a final examination in this course.

Students will be graded upon the following general precepts:

- The timely preparation and submission of written assignments.
- Adequate preparation to meaningfully participate in the in-class exercises.
- Professionalism.

This is a 10-week course. Each week will be considered a different component of the course and your score in attendance, participation, assignment completion, presentation of skills-based projects, and decorum will be tallied weekly by the professor. Each weeks' total will be added up at the end of the course for your final grade. Note however that each weeks' components may build upon the next to create a fluid Skills learning process.

Due to the in-class practical skill role-playing exercises frequently used in this course, attendance is very important. Any student who misses more than **2 class sessions** will be dropped. Your preparation for these in-class simulations should be taken seriously as it will be carefully considered by the professor in the grading process.

Professor may provide supplemental exercises and/or reference materials during the course of the semester.

Grading

Your academic performance in this course will be measured and recorded using a numeric grade system on a scale of 0.0 to 4.0. Please also read that portion of the current edition of the Student Handbook regarding the "Grading System and Student Honors."

To earn a numeric grade of 4.0, your course grade points must equal 90 or better. The total of 89 course grade points results in a 3.9 course grade; 88 course grade points results in a 3.8 course grade and so forth.

There are a total of 10 written assignments and 10 oral assignments. The written assignments will be completed outside of class. The oral assignments will be completed in class. Each written assignment is valued at 5 points maximum. Each oral (in class) assignment is valued at 5 points maximum. There are, therefore, a maximum total of 100 points for the entire class. Therefore, as an example, if a student earns 90 points (90%), that student will earn a grade of 4.0.

The foregoing illustrates that the highest accumulation of raw points earned by a student enrolled in this course is **not** automatically regarded as a "4.0." For example, if the best aggregate, graded student work product in this class results in a total of 85 course grade points, then the highest grade in the class will be a 3.5. On the other hand, if the points awarded for the work product of **every** student in the class results in total course grade points for each student that is 90 or better, then the course grade of each student will be 4.0.

The individual written and oral assignments that will be produced and submitted or performed in class for a grade are shown below.

Written/Out of Class & In-Class Oral Assignments

WRITTEN/OUT OF CLASS: There will be a total of **10 written assignments**. Each has a maximum point value of 5 points. Each is due when noted as "**hand in**" in the schedule shown below. **No late submissions will be accepted. Any not received in a timely fashion will be given a point value of "0."**

IN-CLASS: There will be a total of **10 in-class assignments**. Each has a maximum point value of 5 points. Each is due at each class just prior to class commencement. There are no "make-up's." Any assignment not completed will receive a point total of "0." The in-class assignments include topics and assignments in this Syllabus as well as expansion of said assignments and new materials presented in class via student role-play with simulated "Judge/Courtroom process." **Student professionalism, proper etiquette and decorum toward the simulated "Judge/Courtroom process" and class participation are critical and shall be considered heavily regarding your in-class participation grade.** Note: in order to provide the best Courtroom and Court process skill experience, you will be challenged with some of the most difficult tangible and intangible

Court "Rules." These challenges are implemented in this course in order to prepare you as best possible concerning some "worst case" scenarios you may encounter when engaged in actual legal practice. It may take years for you to encounter difficult situations or you may face a rare pleasantry and never experience disgruntled Court staff, Judicial Officers, or the like. Regardless, you will be expected to embrace and work through the simulated Courtroom process with professionalism and your best efforts.

In addition, concerning IN-CLASS work expected: YOU MUST PRINT OUT AND BRING WITH YOU the PEER EVALUATION forms provided with the course handouts. Said Evaluations shall be completed by you for EACH one of your peers DURING each and every class. These EVALUATIONS WILL BE COLLECTED BY THE PROFESSOR AT THE END OF EACH COURSE. This task will also be counted toward your "In-Class" grade. To be clear, you shall commence completion at the start and continue completion during each respective class and shall submit the Evaluations to Professor at the end of class. There will be NO make-ups.

Note: concerning Week #1, you will be provided the Peer Evaluation handouts. For Weeks #2 - #10 you are responsible to print out and bring one for each student to each class and submit to Professor as indicated above. ALSO, you are expected to PRINT AND BRING ALL HANDOUTS TO CLASS, regardless of any perceived conflict with the instant instructions to the other language in this Syllabus.

READING ASSIGNMENTS, WRITTEN ASSIGNMENT SCHEDULE AND ORAL IN CLASS EXERCISE SCHEDULE:

A summary of your assignments for Weeks 1 – 10 are listed in the table below. Also, see below the "ASSIGNMENTS & HANDOUTS" headings under "ASSIGNMENT DETAILS" for further information. Handouts you need are attached to this syllabus. Additional handouts for your review and attention to direction(s) may be provided prior or during class throughout the semester.

Students should complete their reading assignments and view also audio/video material in advance of the beginning of each class session. Internet searches and/or browsing during the course are discouraged as unprofessional/discourteous, unless directed by professor. The professor may disseminate the hypothetical, hypothetical expansions, supplemental materials, and written assignment exemplars via electronic means and/or prior to and/or during class as this is a "Skills" course and skills applied as a lawyer in practice are not static but fluid. Students will be expected to be conversant with the assigned supplemental materials. Students shall set forth best efforts concerning ethical, polite and professional participation regarding any materials presented during class. As set forth above, student professionalism, proper etiquette and decorum during class will be weighed considerably.

ASSIGNMENT SUMMARY

(See details for further reading assignments below)

Week	Date	Assignments	Written/out of class	In class
1	2-11-15	Written Assignment: instructions in Handout(s) & see Syllabus (also see herein/below) In class Assignment: Client meeting (re: plan of action/retention) & see Syllabus (also see herein/below)	For Prof. Use	For Prof. Use (incl. professionalism)
2	2-18-15	Written Assignment: Instructions in Handout(s) & see Syllabus (also see herein/below) In class Assignment: Client meeting (re: letter/notice to appear, defenses, CPO, Arraignment, etc.) & see Syllabus (also see herein/below)	For Prof. Use	For Prof. Use (incl. professionalism)

3	2-25-15	<p>Written Assignment: Instructions in Handout(s) & see Syllabus (also see herein/below)</p> <p>In class Assignment: Client meetings (re: Arraignment (part 2) & initial Pre-Trial Conference) (also see herein/below)</p>	For Prof. Use	For Prof. Use (incl. professionalism)
4	3-4-15	<p>Written Assignment: Instructions in Syllabus & Handout(s) – prepare “977 waiver” (written) (also see herein/below)</p> <p>In class Assignment: Argue issues related to 977 waiver to Court; be prepared to file document with clerk; be prepared for Skill Practice re: trial and hearing questions, depositions, use of local forms (see Syllabus) (also see herein/below)</p>	For Prof. Use	For Prof. Use (incl. professionalism)
5	3-18-15	<p>Written Assignment: Instructions in Syllabus & Handout(s) – prepare supplemental discovery request. (also see herein/below)</p> <p>In class Assignment: Be prepared to discuss with the District Attorney’s Office the items you are requesting and consider arguments from their perspective (see Syllabus); be prepared for Skill Practice re (a) supplemental discovery request (b) creating revised case plan after visiting scene of crime. (also see herein/below)</p>	For Prof. Use	For Prof. Use (incl. professionalism)
6	3-25-15	<p>Written Assignment: Instructions in Syllabus & Handout(s) – submit formal Motion to Suppress Evidence (prepared by you outside of class). (also see herein/below)</p> <p>In class Assignment: Be prepared to discuss the choices you made re the content of your Motion. (see Syllabus). Be prepared for Skill Practice re proper procedure for Motion filing with the Court and appropriate Clerk interaction. (also see herein/below)</p>	For Prof. Use	For Prof. Use (incl. professionalism)
7	4-1-15	<p>Written Assignment: Instructions in Syllabus & Handout(s) – submit formal Motion to Compel Discovery (prepared by you outside of class). (also see herein/below)</p> <p>In class Assignment: Be prepared for Skill Practice from Defense and Prosecution perspective re oral arguments concerning motions and items requested. (also see herein/below)</p>	For Prof. Use	For Prof. Use (incl. professionalism)
8	4-8-15	<p>Written Assignment: Instructions in Syllabus & Handout(s) – submit formal Motion to Disqualify Judge and Motion for Continuance (prepared by you outside of class); also prepare, in writing,</p>	For Prof. Use	For Prof. Use (incl. professionalism)

		<p>answers to the areas listed in the Memo (Handout A). (also see herein/below)</p> <p>In class Assignment: Be prepared for Skill Practice concerning the Court's reactions to your motions and related procedural / legal issues. (also see herein/below)</p>		
9	4-15-15	<p>Written Assignment: Instructions in Syllabus & Handout(s) – submit written responses to areas addressed in Memo(s); complete Restitution (proposed) Order, etc.. (also see herein/below)</p> <p>In class Assignment: Be prepared for Skill Practice concerning presentation of an offer by the District Attorney's Office and be ready with alternative dispositions. Be further prepared to engage in lengthy negotiations with varying terms with the District Attorney's Office. You should be prepared to handle this skill both from the Defense and Prosecution perspective. (also see herein/below)</p>	For Prof. Use	For Prof. Use (incl. professionalism)
10	4-22-15	<p>Written Assignment: Instructions in Syllabus & Handout(s) – submit written answers to the inquiries / issues raised in the Memo; complete misdemeanor plea form, etc. (also see herein/below)</p> <p>In class Assignment: Be prepared for Skill Practice concerning your performance in a potential chambers conference, further "last opportunity" negotiations with the District Attorney and facing the possibility of picking a jury the same day if no final disposition is reached. (also see herein/below)</p>	For Prof. Use	For Prof. Use (incl. professionalism)

ASSIGNMENT DETAILS

Week #1: Pre-accusatory / pre-filing representation (client interview & case theory)
(2/11/15)

ASSIGNMENTS & HANDOUTS:

OUT OF CLASS: Review Memo from Sr. Partner and be prepared to meet with potential client in class on 2/11/15. (see instructions for assignment in **Handouts**)

Reading:

Text A: p. 12-15, p. 39-47, p. 60-64, p. 91-114, p. 217-228, p. 301-302

Text B: p. 62-72

Video:

Disc #2: In the *File of Exemplary Forms* located on Disc #2 is 9.1, a Sample Subpoena Duces Tecum (SDT) – review this form and bring a copy to class for reference.

Also in the *File of Exemplary Forms* located on Disc #2 is "Full Case File" – skim and reference this entire file throughout the semester, especially concerning topics covered in this Syllabus, your assignments and reading materials.

Handouts:

- Out of Class:**
- Handout A:** Memo from Sr. Partner dated 2/11/15
 - Handout B:** Instructions/Week #1 Assignment
 - Handout C:** Subpoena Duces Tecum
 - Handout D:** Flash cards (print, cut, bring to class on 2/11/15)
 - Handout E:** Business cards (print, cut, bring to class on 2/11/15)
 - Handout F:** Court calendar – *for prof. use only*
 - Handout G:** EVIDENCE (to assist with pre-trial motion presentation) – 14 pages (please print and bring with you to every class for reference)
**PEER EVALUATION, WEEK #1* copies provided at beginning of class (Week #1 only)*

Assignment due today 2/11/15):

Per instructions in **Handouts** submit written answers and be prepared to meet with potential client in Week #2. BE SURE TO PRINT AND CUT INFORMATION ON HANDOUTS D AND E IN "INDEX CARD STYLE" AND BRING TO CLASS FOR USE.

Assignment due in class on Week #2 (2/18/15):

Prepare to meet with client in class (Week #2) and submit written assignments listed in **Handout(s)** for Week #2.

**Week #2: Charging, Protective Orders, Bail, Arraignment (Part 1 of 2)
(2/18/15)**

ASSIGNMENTS & HANDOUTS:

OUT OF CLASS: Review **Handout A**, Memo from Sr. Partner and related handouts/attachments (B and C): Emergency Protective Order (**EPO**) and Criminal Protective Order (**CPO**). Be prepared to meet with potential client in class on 2/18/15 to discuss these orders and prepare client for **Arraignment** and **Bail** issues. Also be create checklists and be prepared to orally argue related issues. (see **Handout D** for instructions)

Reading:

Text A: p. 13-15 (review), p. 39-40 (review)

Video:

Disc #2: view Entry 68. Bail (bring a copy to class)

Handouts:

- Out of Class:**
- Handout A:** Memo from Associate Attorney dated Feb. 16, 2015
(referencing related attachments/handouts: EPO, CPO)
 - Handout B:** Emergency Protective Order (EPO)
 - Handout C:** Criminal Protective Order (CPO)
 - Handout D:** Instructions/Week #2 Assignment
 - Handout E:** 2015 Uniform Bail Schedule*
<http://www.occourts.org/directory/criminal/felonybailsched.pdf>
**Note: concerning all Local Rules, Rules of Court, Jury Instructions you are responsible to familiarize yourself with these materials as much as possible as we will be referring back to these items throughout the course.*
 - Handout F:** Arraignment language

In Class: ****PEER EVALUATION, WEEK #2* print & bring enough copies to class for your evaluation of each student.***

Assignment due today (2/18/15):

Prepare to meet with client in class (Week #2) and submit written assignments listed in **Handout(s)** for Week #2.

Assignment due in class on Week #3 (2/25/15):

Prepare to handle part 2 of 2 of the Arraignment as well as the initial Pre-trial Conference (see Week#3's **Handouts** for instructions).

Week #3: Arraignment (continued - Part 2 of 2) & Initial Pre-trial Conference (2/25/15)

ASSIGNMENTS & HANDOUTS:

OUT OF CLASS: Review **Handouts**. Follow instructions for the assignments listed therein.

Reading:

Text A: p. 465-482, p. 543-557
p. 579-580 (Assignment 8 – be prepared to discuss in class)

Video:

Disc #2: View Criminal Case file entries State v. Hard
Entry 3. Information (bring a copy to class)
Entry 4. Ruston Police Report, etc. (bring a copy to class)

Handouts:

Out of Class:

- Handout A:** Memo from Associate Attorney to file dated Feb. 16th, 18th, 25th 2015
- Handout B:** Instructions/Week #3 Assignment (Arraignment part 2 of 2)
- Handout C:** Instructions/Week #3 Assignment (Initial Pre-Trial)
- Handout D:** Initial criminal complaint & *initial* discovery packet (including police report)
- Handout E:** Court calendar – *for prof. use only*

In Class: ****PEER EVALUATION, WEEK #3* print & bring enough copies to class for your evaluation of each student.***

Assignment due today (2/25/15):

Prepare to discuss with your client part 2 of 2 of the Arraignment whereby you must review the Initial Criminal Complaint & Discovery Packet (Week #3's **Handout**) with your client and discuss options before moving forward with his plea at the Arraignment phase (instructions for this assignment in are Week #3's **Handout B**). Once the Arraignment is "complete" you will be appearing during the same class (Week #3) at the initial Pre-Trial Conference (instructions for this assignment in are Week #3's **Handout C**).

Assignment due in class on Week #4 (3/4/15):

Prepare formal version of written waiver of appearance in a criminal matter pursuant to *Penal Code* Section 977. Be prepared to request, on the record, that the Court allow Defendant's appearance be waived for future court dates and make appropriate arguments to the Court as needed. If the Court agrees with your position you must then meet the technicalities required by the Court clerk to file the original document with the Court. Do not forget to obtain a conformed copy of the waiver for your file.

Week #4: Investigation / witness questioning / further discovery request & plan (3/4/15)

ASSIGNMENTS & HANDOUTS:

Reading:

Text A: p. 135-162, p. 237-243, p. 282-296, p. 299-363

Video:

Disc #1: "Taking and Using a Deposition" (entire section – 6 total)
1. Bagshaw Case Background
2. Beginning a Deposition

3. Adverse Witness Deposition
4. Discovery/Adverse Witness Deposition
5. Ending a Deposition
6. Courtroom Use of a Deposition

Other: Review Orange County Superior Court's website concerning access Judicial Council Forms*
<http://www.courts.ca.gov/formname.htm>

**Note: concerning all Local Rules, Rules of Court, Jury Instructions, Judicial Council Forms, you are responsible to familiarize yourself with these materials as much as possible as we will be referring back to these items throughout the course.*

Handouts:

Out of Class: **Handout A:** deposition (explanation)
 Handout B: deposition (closing)
 Handout C: flash cards – print and bring to class
 Handout D: Skill: Using prior testimony/statement to impeach at trial or hearing

In Class: ****PEER EVALUATION, WEEK #4* print & bring enough copies to class for your evaluation of each student.***

Assignment due today (3/4/15):

Per Week #3 instructions submit formal version of written waiver of appearance in a criminal matter pursuant to Penal Code Section 977 on Week #4 (3/4/15). Orally argue to the court your position, file the original with the court clerk and maintain a conformed copy for your file.

SEMESTER BREAK: NO CLASS ON 3/11/15

Assignment due in class on Week #5 (3/18/15):

Prepare supplemental discovery request using "sample" format (Handout A for Week #5). List further items needed REGARDING THE PROSECUTION'S CASE IN YOUR TEXT based upon your review of the "Scene of a Crime" – "The Garage" video (Disc #1). Be specific. Be prepared to discuss with the District Attorney's Office why you need the items you list. Also be prepared to consider the items from the Deputy District Attorney's point-of-view.

Week #5: Creating Visuals – going to the scene & creating revised case/discovery plan (3/18/15)

ASSIGNMENTS & HANDOUTS:

Reading:

Text A: p. 367-389

Video:

Disc #1: "Scene of a Crime" – "The Garage" (prosecutor's investigator)

Handouts:

Out of Class: **Handout A:** supplemental discovery request (OC sample)
 Handout B: motion to suppress (framework) – *FIND THE "TYPO" IN THE STATEMENT OF FACTS AND PROPOSE HOW TO ADDRESS ISSUE IN CLASS.*

In Class: **Handout 1:** skill practice – after scene of crime review (revised case plan/supplemental discovery request)

****PEER EVALUATION, WEEK #5* print & bring enough copies to class for your evaluation of each student.***

Assignment due today (3/18/15):

Per Week #4 instructions, submit supplemental discovery request using "sample" format (**Handout A** for Week #5). List further items needed REGARDING THE PROSECUTION'S CASE IN YOUR TEXT based upon your review of the "Scene of a Crime" – "The Garage" video (**Disc #1**). Be specific. Be prepared to discuss with the District Attorney's Office in Week #5 class why you need the items you list. Also be prepared to consider the items from the Deputy District Attorney's point-of-view.

Assignment due in class on Week #6 (3/25/15):

Prepare formal Motion to Suppress Evidence. In completing this assignment you should consider and include:

1. Add facts to "Statement of Facts" provided in Week #5's **Handout B**. These should be facts you believe could possibly be uncovered during your and your investigator's investigation or further analysis of the case situation presented.
2. Complete the legal portion of the sample motion (**Handout B**). Include arguments and conclusion.
3. Attach exhibits.
4. Make entire document "file ready" to submit to the clerk's office for filing on Week #6 (3/25/15).
5. Be ready to "present" your documents to the clerk and act professionally and follow appropriate Rules of Court and Local Rules.

**Week #6: Pre-trial hearings / negotiating (planning)
(3/25/15)**

ASSIGNMENTS & HANDOUTS:

Reading:

Text A: p. 484-496

Text B: p. 73-95

Handouts:

Out of Class: **Handout A: Local Rules – Superior Ct. of CA, County of Orange (Division 8 – Criminal):**
Rules 800-866

*Also note: other Orange County Local Rules you believe important re: filing document and setting hearing may be found online:
<http://www.occourts.org/directory/local-rules/local-rules-of-court/>*

**Note: concerning all Local Rules, Rules of Court, Jury Instructions, Judicial Council Forms, you are responsible to familiarize yourself with these materials as much as possible as we will be referring back to these items throughout the course.*

In Class: ***PEER EVALUATION, WEEK #6* print & bring enough copies to class for your evaluation of each student.**

Video:

Disc #2: "Individual Case File Documents" – "Criminal Case File Entries: State v. Hard":

-View Entries 26 to 33 and Entry 69: Suppression Hearing Testimony

"Exemplary Forms": View Forms: 11.1, 11.2, 11.4, 11.5

Assignment due today (3/25/15):

Per Week #5 instructions, submit formal Motion to Suppress Evidence. Be prepared to discuss:

1. The facts you added to the "Statement of Facts" provided in Week #5's Handout B and why you added said facts.
2. Explain your legal arguments and supporting law.
3. Explain why you attached the exhibits that you included.

4. Illustrate by way of performance in class on Week #6 (3/25/15) your "filing" of the document and setting your motion date with the Court clerk's office in accordance with the Orange County Court's Local Rules.

Assignment due in class on Week #7 (4/1/15):

Prepare formal Motion to Compel Discovery (see instructions below and listed on associated Handouts).

**Week #7: Motion to Compel Discovery
(4/1/15)**

ASSIGNMENTS & HANDOUTS:

Reading:

Text A: p. 580-581 (Assignment 9 – be prepared to discuss in class)

Text B: p. 23-54, 227-238

Video:

Disc #2: "Exemplary Forms" View Forms: 8.3, 8.4

Handouts:

Out of Class: **Handout A:** instructions re: Motion to Compel Discovery assignment (including hypothetical initial and supplemental written defense informal discovery requests); also reference **Handout D** from Week #3.

In Class: **Handout 1:** *Defense v. Prosecution* oral arguments

****PEER EVALUATION, WEEK #7* print & bring enough copies to class for your evaluation of each student.***

Other: http://www.aspenadvocacybooks.com/pretrial_bonus.php
(read sample motions and other materials online in the Pretrial Bonus Materials section)

Assignment due today (4/1/15):

Submit formal Motion to Compel Discovery referencing the handouts and information provided in Weeks #3 and #7. In completing this assignment you should consider and include:

1. Documents/formatting required under the Local Rules and any other Rules of Court.
2. Memorandum of Points and Authorities.
3. List specific items you believe the Prosecution must be ordered to disclose to the Defense.
4. Attach Exhibits.
5. Be prepared to argue to the Court why you believe the Defense is entitled to the information requested.
6. Be prepared to argue to the Court why the Prosecution believes the Defense is not entitled to the information requested.

Assignment due Week #8 (4/8/15):

Submit formal draft of Motion to Disqualify and formal Motion for Continuance. Be prepared to discuss the Court's reaction, related procedural and legal issues.

**Week #8: Court sets "back-up" jury trial date
(4/8/15)**

Reading:

Text A: p. 639-640 (Assignment 67 - be prepared to discuss in class)

Video:

Disc #2: "Exemplary Forms" View Form: 14.1 (Omnibus checklist)

Handouts:

Out of Class: **Handout A:** Memo from Sr. Partner dated April 1, 2015
 Handout B: Assignment of Commissioner, etc. for your reference.

In Class: ***PEER EVALUATION, WEEK #8* print & bring enough copies to class for your evaluation of each student.**

Other: http://www.aspenadvocacybooks.com/pretrial_bonus.php
(as noted under "preparation" on p. 639 of Text A, read sample motions and other materials online in the Pretrial Bonus Materials section)

Assignment due today (4/8/15):

Submit formal draft of Motion to Disqualify and formal Motion for Continuance. (see instructions in **Handout A, Week #8**) . Be prepared to discuss the "Court's" reaction, related procedural and legal issues.

Assignment due Week #9 (4/15/15):

Complete assignment in Week #9's **Handout A**. Be prepared to use skills related to final pre-trial conference with DA's Office and chamber's conference with the Court.

Week #9: "FINAL OFFER" by prosecution. Discovery tools exhausted, motions decided.
(4/15/15)

ASSIGNMENTS & HANDOUTS:

Reading:

Text A: p. 445-464, 483-484, 553-557 (review)

Text B: p. 41-42, 86-85 (review)

Video:

Disc #2: "Exemplary Forms" View Form: 14.1 (Omnibus checklist) – (review)

Handouts:

Out of Class: **Handout A:** Memo from Sr. Partner dated April 8, 2015
 Handout B: email from prosecutor
 Handout C: "From the Experts" article – read and prepare to discuss in class.
 Handout D: Trial Date Notice – bring copy to class
 Handout E: Order for Victim Restitution (with instructions) – complete "proposed" order and bring copy to class for submission to Professor at start of class. Be prepared to discuss.

In Class: ***PEER EVALUATION, WEEK #9* print & bring enough copies to class for your evaluation of each student.**

Other: Review Jury Instructions and related Code sections concerning the charge on the Misdemeanor Complaint. Consider lesser included offenses and other possible lesser charges/punishments.

Assignment due today (4/15/15):

Per **Handout A's** instructions submit answers to questions of Senior Partner in writing. Be prepared to discuss alternative offers and attempt to reach a final disposition concerning Defendant's case by way of conferences with the DA's Office and/or Chambers conferences with the Court and the Deputy District Attorney.

Week #10: "FORK IN THE ROAD." Defendant takes offer, is sentenced, or moves forward with Jury Trial.
(4/22/15)

ASSIGNMENTS & HANDOUTS:

Reading:

Text A: p. 56-69 (tunnel vision)

Text B: p. 169-170 (Assignment 3 – be prepared to discuss in class)

Video:

Disc #3: "Evidence – Skills, Strategies, and Assignments for Pretrial and Trial: Freck Point Trial and Reenactment Video"

Review: Introduction, Jury Selection (Plaintiff and Defendant), Defense Opening Statement, Closing Arguments

Handouts:

Out of Class: **Handout A:** Memo from Sr. Partner dated April 16, 2015

Handout B: Misdemeanor Plea Form with attachments (10 pages total) – *complete this form regardless of existing handwritten notes; use independent and creative thought to FULLY complete the form with the case disposition you envision for your client. Bring completed copy to class (Week #10) and submit for grading.*

Handout C: Felony plea form (sample for reference only)

Handout D: Court referral form (for use in class – print as always and bring)

In Class: ****PEER EVALUATION, WEEK #10* print & bring enough copies to class for your evaluation of each student.***

Other: Review Jury Instructions and related Code sections concerning the charge on the Misdemeanor Complaint. Consider lesser included offenses and other possible lesser charges/punishments.

Assignment due today (4/22/15):

Per **Handout A's** instructions (Memo dated April 16, 2015), submit written answers to questions of Senior Partner. Be prepared to discuss your best plan of action to try to settle Client's case before commencing jury trial.

CONTACT INFORMATION, CONFERENCES, EMAIL:

Professor Miller is engaged in the full-time practice of law. As such, Professor Miller has no regularly scheduled office hours. However, she may be contacted through her office by telephone or by email. Contact information for each is shown below. Email is the preferred method of contact as she may be out of her office for extended periods of time yet will likely be able to respond to email inquiries.

TRACY C. MILLER, ESQ.
Domestic Violence Legal Center®
Founder & Former Prosecutor
Tel: 949-429-8098 Fax: 949-542-3867
Email: tracymiller@dvlegalcenter.com
Website: www.dvlegalcenter.com
4000 MacArthur Blvd., #600 | East Tower
Newport Beach, California 92660

Questions will be responded to when possible by telephone conference or email message. Where, in the discretion of the Professor, a face-to-face conference is felt to be necessary, such a conference will be scheduled.

ATTENDANCE, CLASS PARTICIPATION, DECORUM, AND SEATING:

Attendance in class is mandatory. As stated above, attendance in this class is particularly vital to the in-class exercises. Also lectures will sometimes provide information regarding the “out of class” assignment for that class, as well as future or next assignments.

Students should be prepared to participate in class on a regular basis.

Each student is expected to maintain proper decorum when entering the classroom, while attending and participating in each class session, and when departing the classroom. Professionalism will be considered in grading. Students are also required to adhere to the College of Law’s “Principles of Community.”

PRE-TRIAL CRIMINAL LITIGATION
SECTION 519 A
6:30 p.m. – 9:45 p.m.
February 11, 2015 – April 22, 2015
(10 WEEKS – off March 11th for Break)

HANDOUTS

WESTERN STATE UNIVERSITY
COLLEGE OF LAW
Spring 2015

ADJUNCT PROFESSOR, Tracy C. Miller
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