

Western State College of Law at Westcliff University

Community Property

Fall Semester 2022

Thursdays 06:30 p.m. – 09:40 p.m.,

The first class is on Thursday, January 19, 2023

Syllabus & Policies

Professor Andrew McKeown

Professor Contact Information:

Email: andrew@HarrisFamilyLawOC.com

Phone/Text: (949) 520-0597

Course Objectives:

1. To enhance the student's analytical skills through the use of cases and problems.
2. To enhance the student's statutory interpretation skills through the use of various family code statutes.
3. To prepare students for common issues and scenarios which may be encountered in the practice of family law.
4. Expose students to major issues in California family law matters. Give students understanding of changing areas of law and areas which deserve revision.

Required Text:

None.

Attendance:

Attendance is required for all classes. Any student with *more than two (2) absences will be academically disenrolled from the course and will receive a grade of "W" or "F" on their transcript* as provided under the applicable attendance policies in your Student Handbook. It is your responsibility to keep track of the number of your absences, so don't ask my secretary, the Records Office or me how many absences you have. Because this course is bar-tested, I will not waive or excuse any absences.

The courts, employers, clients and I expect punctuality. Students who arrive after class has begun will be responsible for the oral presentation of that day's lesson. If you are both tardy and unprepared, you will be dismissed from class and your dismissal will count as an absence.

Class Participation:

Class participation is required of all students. Your preparation and participation is necessary to advance the discussion. Class participation consists of being prepared when called upon, and bringing the casebook to class. I will call on students randomly throughout the semester to brief cases, answer questions, answer hypotheticals, etc.

Grading:

All students will receive a numeric grade for the course. Course grades will be based upon a point system. Your grade will be based upon:

- Class Participation: Maximum of 20 points;
- Midterm / Project: Maximum of 40 points;
- Final Examination: Maximum of 40 points.

ABA Standard 310

Please be aware that, on average, the expected work for law students is at least two hours of preparation for every one hour of class time. Therefore, it is estimated that, on average, the assigned reading and other classroom preparation should require six or more hours outside of class for each class session. Preparation is key for success in our class, as well as success as a lawyer.

Western State College of Law at Westcliff University – Programmatic Learning Outcomes

Western State College of Law at Westcliff University’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

DISABILITY SERVICES STATEMENT

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459- 1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Schedule:

Class 1 - January 19, 2023:

- **Topics:**
 - Introduction to Course
 - Client Intake: Mock Client Intake Interview
 - Dissolution, Legal Separation, Nullity, Summary Dissolution, Date of Separation
- **Skills:** Preparation, Filing and Service of initial dissolution documents.
- **Cases & Statutes:**
 - Family Code § 70
 - Marriage of Davis (2015) 61 Cal. App. 4th 846
 - Marriage of Norviel (2002) 102 Cal. App. 4th 1152
 - Marriage of Lee & Lin (2019) 41 Cal. App. 5th 698

Class 2 - January 26, 2023:

- **Topics:**
 - Jurisdiction, Venue, Declarations of Disclosure
- **Skills:** Preparation and Service of Preliminary Declaration of Disclosure
- **Cases & Statutes:**
 - Family Code §§ 200, 2010, 2100-2110, 2320; CCP §§ 395-397, 418.10
 - Williams v. North Carolina (1942) 317 US 287
 - Kulko v. Superior Court (1978) 426 US 84

Class 3 - February 2, 2023:

- Topics:
 - Discovery in Family Law Cases
- Skills: Preparation of various family law discovery mechanisms.
- Cases & Statutes:
 - Interrogatories: CCP § 2030.010 - 2030.410; Form FL145
 - Production of Documents: CCP § 2031.010 - 2031.510
 - Requests for Admission: CCP § 2033.010 - 2033.420
 - Depositions: CCP § 2025.010 - 2025.620
 - Subpoenas: CCP § 2020.210 - 2020.510

Class 4 - February 9, 2023:

- Topics:
 - Spousal support: temporary and permanent.
- Skills: Request For Order re: Temporary Spousal Support; Vocational Examination
- Cases & Statutes:
 - Family Code § 3600; 3651 4320; 4330; 4333; 4337; 4339
 - Marriage of Mendoza & Cuellar (2017) 14 Cal. App. 5th 939
 - Marriage of Dick (1993) 15 Cal. App. 4th 144
 - Marriage of Schulze (1997) 60 Cal. App. 4th 519
 - Marriage of Zywieciel (2000) 83 Cal. App. 4th 1078
 - Marriage of Gavron (1988) 203 Cal. App. 3d 705

Class 5 - February 16, 2023:

- Topics:
 - Child support: temporary and permanent.
- Skills: Request For Order re: Child Support. Use of Dissomaster.
- Cases & Statutes:
 - Family Code § 4053; 4055; 4057; 4057.5; 4058-59; 4070; 4071
 - DaSilva v. DaSilva (2004) 119 Cal. App. 4th 1030.
 - Marriage of Macilwaine (2018) 26 Cal. App. 5th 514.
 - Marriage of Schlafly (2007) 149 Cal. App. 4th 747.
 - Marriage of Wood (1995) 37 Cal. App. 4th 1059.
 - Marriage of Loh (2001) 93 Cal. App. 4th 325.
- Distribution of Midterm / Project Assignment

Class 6 - February 23, 2023:

- No Class Midterm/Project Work
- Midterm / Project to be emailed to Professor McKeown on or before 02/25/2023. Email: **andrew@HarrisFamilyLawOC.com**. All documents to be in .pdf format.

Class 7 - March 2, 2023:

- Topics:
 - Child Custody and Visitation
- Skills: Request For Order: Minor's Counsel; 730 evaluation; Reunification Therapy; CCI; and others
- Cases & Statutes:
 - Family Code § 3002-07; 3011; 3020-22; 3024 3040-44
 - Jamie G. v. H.L. (2018) 25 Cal. App. 5th 794.
 - Burchard v. Garay (1986) 42 Cal. App. 3d 531.
 - Marriage of Loyd (2003) 106 Cal. App. 4th 754.
 - Marriage of LaMusga (2004) 32 Cal.4th 1072.

Class 8 - March 9, 2023:

- Topics:
 - Restraining Orders and Actions Pursuant to the Domestic Violence Prevention Act.
- Skills: Preparing and filing of Request for Domestic Violence Restraining Order
- Cases & Statutes:
 - Family Code § 6200 - 6219; 6320; 6345
 - People v. Kovacich (2011) 201 Cal. App. 4th 863 (Holding Only)
 - Marriage of Nadkarni (2009) 173 Cal. App. 4th 1483 (Holding Only)
 - S.M. v. E.P. (2010) 184 Cal. App. 4th 1249 (Note implication of Section 3044)
 - Marriage of Davila & Mejia (2018) 29 Cal. App. 5th 220
 - Altafulla v. Ervin (2015) 238 Cal. App. 4th 571

March 16, 2023: No Class Spring Break

Class 9 - March 23, 2023:

- Topics:
 - Parentage Cases, Termination of Parental Rights, Step-Parent Adoptions
- Skills: Initiating Paternity cases in court; step parent adoption paperwork (generally)
- Cases & Statutes:
 - Family Code § 7610-11; 7620
 - Remaining TBD

Class 10 - March 30, 2023:

- Topics:
 - Trial Preparation and Trial Practice
- Skills: Review of Judges standing orders and Local Rules of Court. Preparation of Witness List, Exhibit List, Exhibits, Notices of Lodging, Transcripts of Recordings; Motions in Limine.
- Cases & Statutes:
 - Exchange re Experts: CCP § 2034.010 - 2034.730.
 - Transcript of Audio/Video: Cal. Rule Court 2.1040.

Class 11 - April 6, 2023:

- Topics:
 - Evidentiary burdens of proof in family law actions
 - Catch up and expand upon previous weeks issues.
- Cases: TBD

Class 12 - April 13, 2023:

- Topics:
 - Attorney's Fees; Sanctions
- Skills: Request For Order re: Attorney's Fees; Notice of Intent to Seek Sanctions
- Cases & Statutes:
 - Family Code § 2030 - 2032, 7605, 1101, 271
 - Marriage of Tharp (2010) 188 Cal. App. 4th 1295.
 - Marriage of Davenport (2011) 194 Cal. App. 4th 1507.
 - Perow v. Uzelac (2019) 31 Cal. App. 5th 984.
 - Marriage of Keech (1999) 75 Ca. App. 4th 860.

Class 13 - April 20, 2023:

- Buffer Class and Additional Topics. TBD.

Class 14 - April 27, 2023:

- Topics: Review.
 - Explanation and Assignment of Final Examination