

# THE UNIVERSITY OF TOLEDO COLLEGE OF LAW LEGAL CLINIC

## SPRING 2009 SYLLABUS

**INSTRUCTOR:** ROBERT S. SALEM, [ROBERT.SALEM@UTOLEDO.EDU](mailto:ROBERT.SALEM@UTOLEDO.EDU)  
 LC 1035--OFFICE: (419) 530-4272, CELL: (419) 509-8332

**CLASS TIME:** LC 1008, M & W, 3:50-5:50 PM

**REQUIRED TEXT:** KRIEGER, NEUMANN, ET. AL., *ESSENTIAL LAWYERING SKILLS: INTERVIEWING, COUNSELING, NEGOTIATION, AND PERSUASIVE FACT ANALYSIS, THIRD EDITION.*

Monday, January 12th	Orientation/Introduction to Experiential Learning
Wednesday, January 14 <sup>th</sup>	Individual Case Conference, <b>Self Assessment Due</b>
Monday, January 19 <sup>th</sup>	MLK Day-No classes
Wednesday, January 21 <sup>st</sup>	Client-Centered Lawyering, <b>Chapters 3, 5</b>
Monday, January 26 <sup>th</sup>	Case Conference
Wednesday, January 28 <sup>th</sup>	Interviewing & Counseling, <b>Chapters 18, 20, 22</b>
Monday, February 2 <sup>nd</sup>	Case Conference
Wednesday, February 4 <sup>th</sup>	Ethics and Professionalism, <b>Chapter 2</b>
Monday, February 9 <sup>th</sup>	Case Conference, <b>Journal One Due</b>
Wednesday, February 11 <sup>th</sup>	Case Theory Formation, <b>Chapters 4, 10-13</b>
Monday, February 16 <sup>th</sup>	Case Conference
Wednesday, February 18 <sup>th</sup>	Persuasive Communication for Lawyers, <b>Chapters 14, 15</b>
Monday, February 23 <sup>rd</sup>	Case Conference
Wednesday, February 25 <sup>th</sup>	Discovery/Fact Investigation, <b>Chapter 16, 17</b>
Monday, March 2 <sup>nd</sup>	Discovery Exercises
Wednesday, March 4 <sup>th</sup>	Case Conference
Monday, March 9 <sup>th</sup>	Spring Break-No classes
Wednesday, March 11 <sup>th</sup>	Spring Break-No classes
Monday, March 16 <sup>th</sup>	Case Conference, <b>Journal Two Due</b>
Wednesday, March 18 <sup>th</sup>	Multicultural Lawyering, <b>Chapter 6</b>
Monday, March 23 <sup>rd</sup>	Case Conference
Wednesday, March 25 <sup>th</sup>	Case Conference
Monday, March 30 <sup>th</sup>	Case Conference
Wednesday, April 1 <sup>st</sup>	Case Conference
Monday, April 6 <sup>th</sup>	Case Conference
Wednesday, April 8 <sup>th</sup>	Case Conference
Monday, April 13 <sup>th</sup>	Case Conference
Wednesday, April 15 <sup>th</sup>	Case Conference, <b>Journal Three Due</b>
Monday, April 20 <sup>th</sup>	Case Conference
Wednesday, April 22 <sup>nd</sup>	Final Evaluations

## COURSE REQUIREMENTS

- 1. Class Attendance.**

The American Bar Association, the College of Law, and I require regular and punctual class attendance. At the beginning of each class meeting, I will circulate an attendance sheet for you to sign. It is your responsibility to ensure that you have signed the sheet. **I WILL WITHDRAW YOU FROM THIS COURSE IF YOU ARE ABSENT FOR MORE THAN FOUR CLASSES.** NOTE: IT IS AN HONOR CODE VIOLATION FOR A STUDENT TO MISREPRESENT THE STUDENT'S ATTENDANCE OR THE ATTENDANCE OF ANOTHER STUDENT.
- 2. Case Conferences.**

Periodic case conferences are scheduled throughout the semester. Attendance is mandatory. Students should be prepared to make a thorough presentation of their pending cases at each case conference.
- 3. Office Hours.**

Students are required to complete 6 hours (for 4 credit hours) of scheduled office hours per week during the course of the semester. Office hours need not be kept when the law school is not in session. Attendance is mandatory, except in the case of emergency or unavoidable absence. Whenever possible, absences should be arranged in advance of scheduled office hours. The purpose of keeping regularly scheduled office hours is to insure that students are available at definite times to respond to inquiries from clients, court personnel, opposing counsel and clinical faculty. *The demands of a particular caseload will likely require that students spend more than six hours per week on their clinic work.* Students may spend as much time on their cases outside of the clinic as is necessary to competently discharge their duties to their clients. Students need only report to the clinic, however, during their scheduled office hours.
- 4. Self Assessment**

Students will be asked to submit a goals statement early in the semester. The statement should be in a narrative form and should include the reasons you enrolled in the Clinic, your self-identified strengths and weaknesses in relation to law practice, your goals for the semester and how you expect to achieve those goals. Please keep the goals statement short and concise (between 1 and 3 pages, typed and double-spaced). **The Self Assessment due on Wednesday, January 14<sup>th</sup>.**
- 5. Weekly Status Conferences.**

Students are required to meet with their instructor at least once a week during the course of the semester to discuss the status of their pending cases. Students are responsible for scheduling (and setting the agendas for) weekly status conferences in advance.
- 6. Case Management.**

Students are required to competently manage every aspect of their casework. To that end, students are required, among other things, to schedule all meetings; obtain all necessary consents and releases; develop and implement written action plans; conduct background investigations; gather relevant facts; conduct appropriate legal research; develop, test and implement viable legal theories; draft appropriate correspondence, pleadings, motions, legal memoranda and discovery; file all necessary court papers; serve all required subpoenas; appear at all scheduled pretrials, hearings and trials; keep clients abreast of the status of their cases; document all case activities; prepare case summary sheets; and maintain complete and organized case files.
- 7. Case Action Sheets.**

Students are required to keep current and accurate track of their time on case action sheets. Case action sheets should appear on the inside left hand cover of each client file. They should contain a detailed description of all services rendered to the client and a record of all time spent on each case.

**8. Live Court Observations.**

Students are strongly encouraged, but not required, to attend at least one live court proceeding over the course of the semester. Students may wish to observe a proceeding in any local court, including the Lucas County Court of Common Pleas, the Toledo Municipal Court, the 6<sup>th</sup> District Court of Appeals, or the U.S. District Court for the Northern District of Ohio, Western Division.

**9. Journals.**

Journal entries are designed to assist students to reflect upon their clinical experience. Guidelines for journals are contained in the Clinic packet. Journal entries are due on the following dates:

- |                           |   |
|---------------------------|---|
| <b>i. Journal One</b>     | <b>Monday, February 9<sup>th</sup></b>  |
| <b>ii. Journal Two</b>    | <b>Monday, March 16<sup>th</sup></b>    |
| <b>iii. Journal Three</b> | <b>Wednesday, April 15<sup>th</sup></b> |

**10. Clinic Portfolios.**

Students are required to maintain a portfolio of all of their written work, including drafts, completed during the semester. Clinic portfolios must be maintained separately from individual case files. Clinic portfolios will be reviewed periodically by the clinical faculty and evaluated at the end of the semester. Students are eligible to receive one upper level writing unit (either practical or research) depending on the extent of their writing and the quality of their work.

**11. Case Summation Memos.**

Students are required to prepare and submit a written case summation for each case that has not been concluded by the end of the semester. Guidelines for case summation memos are contained in the clinic packet.

**12. End of Semester Conference.**

Students are required to schedule an end of the semester conference with the clinical faculty on **Wednesday, April 22<sup>nd</sup>**. The purpose of the conference is for students to critique their overall clinical experience.

## JOURNAL GUIDELINES

Journals should be an exercise in self-exploration and reflection. While you are given some guidelines below, you are not expected to write something under each of those categories. Rather, they are simply provided to give you topical ideas for your journals. Journals are kept confidential so as to encourage honest reflection on your experience and performance. Students should use the journal exercise to discuss broad themes related to the Clinic experience (e.g. fears, ambitions, doubts, revelations, obstacles to effective lawyering, etc.). Below are some guidelines to help you in that process.

**1. Attorney-Client Interactions**

Consider whether you fostered an effective attorney-client relationship with your clients; whether you instilled confidence in your clients; whether you kept your clients abreast of significant dates and developments; whether you assisted your clients in making all significant decisions in their cases by providing relevant information and structuring the decision-making process; and whether you educated your clients so that they might be better able to protect their own interests in the future.

**2. Case Development**

Consider how creative you were in developing theories of the case to accomplish your client's goals; whether you conducted sufficient legal research to identify all possible theories; whether your legal research was comprehensive and reliable; whether you utilized the full range of legal authorities available; whether you developed sufficient facts to identify all appropriate theories; whether you acquired sufficient substantive knowledge to develop all appropriate legal theories; whether you developed sufficient legal precedents to establish legally persuasive theories; whether you effectively implemented the theories of the case;

whether you anticipated legal and factual arguments from adversaries and others; whether you identified all applicable rules of procedure; and whether you were able to use procedural and evidentiary rules to your clients' advantage.

**3. Oral and Written Advocacy**

Consider whether you expressed your thoughts with precision, clarity and economy; whether you presented your thoughts in an organized and intelligible manner; whether you expressed your thoughts in a format targeted to your intended audience; whether you identified and used appropriate non-verbal aspects of oral communication; whether you identified and responded to verbal and non-verbal cues from others; whether your oral advocacy advanced your clients' immediate and long-term objectives; whether you used proper grammar, vocabulary and pronunciation; whether you articulated and enunciated clearly; whether you identified and used appropriate non-verbal aspects of written communication; whether you responded effectively to positions expressed by others; whether your written advocacy advanced your clients' immediate and long-term objectives; and whether you used proper grammar, vocabulary and sentence structure.

**4. Practice Management**

Consider whether you coordinated your efforts with others; whether you consistently followed office procedures; whether you properly maintained case files and documented case activities; whether you committed the time required to effectively manage your caseload; whether you maintained an acceptable level of productivity; whether you met all deadlines; whether you attended to casework in a timely manner or waited until the last minute; and whether you allocated all of the time, effort and other resources necessary to meet your obligations to your clients.

**5. Professional Relationships**

Consider whether you interacted effectively with adversaries, court personnel, and witnesses; whether you responded courteously and with due consideration; whether you responded from positions of strength rather than from positions of weakness; whether you interacted in a considerate and respectful manner with office staff; and whether you interacted effectively with co-counsel (i.e., did you simply divide all tasks or did real collaboration take place).

**6. Professional Responsibility**

Consider whether you identified and addressed all possible conflicts, including ethical, ideological, or personal conflicts that might have had a bearing on your cases or the attorney-client relationship; whether you consulted with your clinical supervisor appropriately; whether you advised your clinical supervisor of all sensitive and significant matters; and whether you advised your clinical supervisor of all delays and schedule changes.

**7. Reflective Skills Development**

Consider whether you are able to effectively criticize your own performance; whether you are able to identify your strengths and weaknesses in the various areas of your legal work; whether you gained insights about your future role as an attorney; whether you identified the aspects of lawyering that are important to you and the aspects of lawyering that you find distasteful; whether you learned about the kinds of legal work that you would like to do; whether you learned about the ways in which the legal system enforces norms; whether you learned about the value and limitations of lawyers in our legal system; whether you learned about the political and social contexts in which effective individual case analysis must take place; and whether you gained any insights about your future identity as an attorney.

**8. Class Participation**

Consider whether you regularly attended class; whether you regularly read class assignments; whether you analyzed the issues raised in the readings prior to class; whether you participated regularly in class discussions; and whether you were prepared to discuss developments in your cases in an effective manner during case conferences.

**9. Personal Development**

Consider whether you grew as an advocate during the course of the semester; whether you learned as much as you could have about yourself as an attorney; and whether you did all you could have done to maximize the benefits you obtained from your clinical experience.

**10. Special Recognition**

Consider whether there are any aspects of your work in the clinic that are not otherwise described above that deserve special recognition.

## GRADING CRITERIA

**1. Grade Scale**

- Grades will be assessed on the following scale: A, B+, B, C+, C, D+, D, or F.
- Grades for the Clinic will be based on student performance in the following areas:

Case Work	50%
Class Preparation and Participation	20%
Journals	20%
Professionalism	<u>10%</u>
<b>Total:</b>	<b>100%</b>

- An A represents *exemplary* quality in all aspects of the student’s work. To earn an A, a student must attend and actively participate in all classes and case conferences; demonstrate a complete and thorough understanding of the facts and legal issues involved in each of her cases; show that all of her files and case action sheets are complete, up-to-date and well-documented; conduct herself in a courteous, respectful and professional manner at all times; demonstrate initiative and significant case development; adopt a genuinely client-centered approach to her case work; develop the habits of a reflective practitioner; arrive at all appointments, including interviews and court appearances, on time and thoroughly prepared; collaborate well with colleagues; fulfill each and every core course requirement; support every decision with sound research, critical analysis, and consideration for all reasonably foreseeable consequences; and keep the clinical faculty fully and completely advised of all matters pertinent to her representation –all in an *exemplary* manner.
- A B+ represents *outstanding* quality in all aspects of the student’s work. To earn a B+, a student must demonstrate that she achieved all of the goals that an A represents in a manner worthy of special recognition but not perfect in every respect.
- A B represents *excellent* quality in all aspects of the student’s work. To earn a B, a student must demonstrate that she strived to achieve all of the goals that an A represents.
- A C+ represents *above-average* quality in most aspects of the student’s work. To earn a C+, a student must make substantial progress towards the attainment of the goals set forth above.
- A C represents *average* quality work. To earn a C, a student must fulfill every core course requirement.
- A D+ represents *below-average* work. To earn a D, a student must have failed to fulfill one or more core course requirement.
- A D represents *unacceptable* work. To earn a D, a student must not only have failed to fulfill one or more core course requirement, but must also have neglected a client or a legal matter in a non-fatal manner.
- An F represents *failing* work. To earn an F, a student must have knowingly or recklessly committed an act that would constitute malpractice if the student were licensed to practice law.

**2. Case Work (50%)**

Fifty percent of the grade will be based on the student’s representation of his or her clinic clients. Clinic faculty will evaluate student performance in the areas of professional competence, legal analysis, productivity, resourcefulness, independent thinking, and skills development.

**3. Class Preparation and Participation (20%)**

Twenty percent of the grade will be based on the student's preparation for and participation in classroom sessions and case conferences. Students are expected to attend all sessions, complete all readings and classroom assignments, and actively engage in all class discussions and exercises.

**4. Journals (20%)**

Twenty percent of the grade will be based on the quality and timeliness of the student's journals. Journals will be assessed on the basis of the student's development of the following thinking skills:

Comprehension: the ability to explain, interpret, and make use of information;

Application: the ability to solve problems by applying law to facts;

Analysis: the ability to break down information into constituent parts in order to make the relationship among the parts clear;

Synthesis: the ability to pull together a variety of ideas, viewpoints, problems, or concepts into a single framework or pattern;

Synthesis Evaluation: the ability to make sound judgments about the use, value, and implications of information.

**5. Professionalism (10%)**

Ten percent of the grade will be based on the level of professionalism the student demonstrates over the course of the semester. Clinical faculty will evaluate each student's degree of professionalism in terms of working relationships, reliability, accountability, self-motivation, and professional responsibility.

# OFFICE PROCEDURES

## 1. The Intake Process-What happens prior to the Initial Client Interview?

As an introduction to the clinic, it is helpful to understand how our intake process works. The majority of applications are taken by phone with occasional walk-ins. Information is gathered by completing a prospective client application, a process typically handled by the secretary. Callers should have a response to the applications within a week or so of having submitted the application. **Interns are reminded that all communications with clients of the Legal Clinic are subject to the attorney/client privilege and the confidentiality provisions of the Code of Professional Responsibility. Students are expected to comply with all statutory and regulatory confidentiality requirements both during and after their tenure in the Legal Clinic.** The Clinic does not accept criminal or bankruptcy cases; UT students are referred to Student Legal Services, x7230.

Clients who are rejected receive a formal non-engagement letter from the clinical instructor who reviewed their application. This action is documented in the Intake log, and a copy of the letter and the original application are kept on file. **If you are assigned an application by your instructor and a decision is made not to pursue, please return the application to the secretary for processing.**

## 2. The Initial Client Interview

The clinical instructor will assign a case or will ask you to contact a prospective client to arrange a meeting. Prior to every initial interview or phone call, interns should review the case file and/or the intake application. Please note that **Long-distance telephone calls may only be made from the telephone located in the Clinic conference room; be sure to log these calls.**

Prior to the initial interview, interns should **prepare a packet that will include:** an interview sheet (general or domestic relations); consent to representation by a legal intern form; and a release form (for divorce, please assemble the relevant court schedules). These forms are located in the work area. Students are responsible for completing each of the foregoing forms. **Please remember to obtain clients' signature(s) on the release form.** Please discuss questions or concerns with your instructors.

## 3. Opening a New Client File

Depending on the results of conversations had with the prospective client, a new file will be opened or a non-engagement letter declining the application will be sent. **If a case file is opened, the intern should forward all completed forms, i.e. client interview form, consent forms, etc., to the secretary.** All new client information is entered into time matters (software that tracks caseload), and also, to the case file log maintained for the academic year.

**Conflict Clearance process must be initiated every time a new client file is opened.** The conflict clearance sheet lists our client's name, address, matter, opposing party, and opposing attorney. It is the responsibility of the intern to circulate the sheet. Any conflict that may arise must be discussed with the instructor.

A new **Case File** contains 4 legal sized folders (Client Matters--paper fasteners on right and left sides, Correspondence--paper fastener on right side only), Pleadings--paper fastener on right side only, Research--paper fastener on right side only). During the course of the semester, all letters, and memos should be placed in the correspondence file, in reverse chronological order. All pleadings, and other court papers, should be placed in the pleadings file, also in reverse chronological order. All documents provided by clients should be placed in the client matters file. Additional file folders may be used for notes and drafts, exhibits, discovery, etc. as appropriate. A detailed log of all of your activity on a file should be completed on a case action sheet, included on the left side of the client matters folder in, reverse chronological order.

## 4. File Management

**Case Action Sheets**--Students are required to keep current and accurate track of their time on a case action sheet. Provide a detailed description of all services rendered.

**Calendar Memos**--Students are required to record all important case deadlines and court dates, e.g. answer due dates, hearings, pretrials, trials, discovery deadlines, meetings, etc.) on a calendar memo. Submit to your instructor and then the secretary.

**Letters, Pleadings, and Memoranda**--All draft letters, pleadings, and other memoranda should be placed in your instructor's mailbox. The instructor will review. Upon making suggested changes, save the final draft to your flash drive. Return the draft copy and the drive to the Secretary for final print copy. All final documents (and file copies) will be placed in your clinic mailbox for signature. **NOTHING WILL LEAVE THE OFFICE WITHOUT THE APPROVAL AND SIGNATURE OF AN INSTRUCTOR.** An extra copy of all drafts, revisions, and final writing projects should be placed in the student's clinic portfolio—copies for your portfolio will be provided. There is a binder in the work area (and a flash drive) containing sample letters and some sample documents. Be certain to place a copy of any final document in the correspondence folder. Any draft copies that you don't need containing client information must be shredded.

**Client Funds** All funds received from clients shall be deposited into the College of Law Client Trust Account as soon as practical. Document transactions; receipts should be copied to the secretary.

**Closing Letters**--Every time a case is closed, students are required to send a closing letter to the client indicating, among other things, that our representation of the client's interest has been concluded.

**E-mails**—E-mails are an important part of communication. Please carbon copy your professors on all e-mail correspondences related to your case assignments. Also, please be sure to place file copies in your case files of all incoming and outgoing e-mails.

**End of the Semester Letters**--At the end of the semester, students are required to send a letter to each of their clients advising that a new intern will be assigned to the case and that a clinical instructor will be available in the interim to answer any questions. Students are required to complete a case summation memo for every active case., **due at the end of the semester.**

## 5. Communication with the Courts

**Court Papers**--Students are responsible for copying and filing all court papers with the appropriate court. A file-stamped copy must be placed in the client file. A stamped copy must be sent to the client.

**Service Letters**--Students are responsible for ensuring that a copy of every court paper is served upon the opposing party or counsel, as indicated on the certificate of service appended to the court paper. Students are responsible for ensuring that service letters are mailed on the date indicated on the certificate of service.

**Fax filing**--please review the rules for the court you are filing in before you rely on this option—check web or style binder. **Every facsimile transmission must be recorded on the fax log situated near the fax machine.**