

**STATE UNIVERSITY OF NEW YORK
COLLEGE OF TECHNOLOGY
CANTON, NEW YORK**



COURSE OUTLINE

LEST 350– CIVIL LITIGATION

Last Revised By: Alexander Lesyk

**SCHOOL OF
BUSINESS AND LIBERAL ARTS
March 2015**

- A. **TITLE:** Civil Litigation
- B. **COURSE NUMBER:** LEST 350
- C. **CREDIT HOURS:** 3
- D. **WRITING INTENSIVE COURSE:** No
- E. **COURSE LENGTH:** 15 weeks
- F. **SEMESTER(S) OFFERED:** Fall
- G. **HOURS OF LECTURE, LABORATORY, RECITATION, TUTORIAL, ACTIVITY:** 3 lecture hours per week
- H. **CATALOG DESCRIPTION:**
- Introduces students to substantive and procedural requirements for, and philosophical underpinnings of, civil litigation in state and federal courts at both the trial and appellate levels.
- I. **PRE-REQUISITES/CO-REQUISITES:** LEST 101 (American Legal System) and BSAD 202 (Business Law II), or permission of the instructor.
- J. **GOALS (STUDENT LEARNING OUTCOMES):**
By the end of this course, the student will be able to:

<u>Course Objective</u>	<u>Institutional SLO</u>
1. Understand and explain specific requirements for cases and litigants to enter the legal system including concepts of jurisdiction and standing.	1. Communication Skills 2. Critical Thinking 3. Professional Competence 4. Inter-Intra Personal Skills
2. Explain what remedies are available to litigants and determine the appropriate remedy in a given situation.	1. Communication 2. Critical Thinking 3. Professional Competence 4. Inter-Intra Personal Skills
3. Prepare pleadings, motions and responses to motions that conform to specific procedural requirements.	1. Communication Skills 2. Critical Thinking 3. Professional Competence
4. Explain pre-trial and trial procedures.	1. Communication Skills 2. Critical Thinking 3. Professional Competence
5. Discuss and critique the functions and limitations of judges, juries, and other workers in the legal system.	1. Communication Skills 2. Critical Thinking 3. Professional Competence

K. TEXTS:

Civil Litigation, 6th ed., Peggy Kerley, Joanne Banker Hames, and Paul Sukys. Delmar Cengage, Albany, NY (2011)

L. REFERENCES:

1. A Student's Guide to the Federal Rules of Civil Procedure; Student's guide 2011, Steven Baicker-McKee, William M. Janssen. John B. Corr. West Eagan, MN (2011)

2. Articles and other resources placed on online course site.

M. EQUIPMENT: Technology Enhanced Classroom/Internet access.

N. GRADING METHOD: A-F

O. MEASUREMENT CRITERIA/METHODS:

- Exams
- Quizzes
- Assignments
- Attendance/Participation
- Paper
- Final
- Projects as determined by the instructor

P. DETAILED COURSE OUTLINE:

I. Remedies

A. Post-Trial Remedies

1. At Law

a. Definition

b. Damages

i. General

ii. Special

iii. Punitive

iv. Costs and Fees

c. Uses

d. Limitations

2. At Equity

a. Definition

b. Injunctions

i. Definition

ii. Uses

iii. Limitations

c. Declaratory Relief

i. Definition

- ii. History
- iii. Uses
- iv. Limitations

- B. Provisional Remedies
 - 1. Definition
 - 2. Attachment
 - a. Definition
 - b. Uses
 - c. Limitations
 - 3. Temporary Restraining Order
 - a. Definition
 - b. Uses
 - c. Limitations
 - 4. Preliminary Injunctions

- II. Statutes of Limitation
 - A. Definition
 - B. Purpose
 - C. When Tolloed

- III. Types of Actions
 - A. Simple Litigation
 - B. Complex Litigation
 - C. Class-Action Suits

- IV. Territorial Jurisdiction
 - A. Definition
 - 1. In personam
 - 2. In Rem
 - B. Purpose
 - C. History
 - D. Minimum Contacts Doctrine
 - 1. Establishment
 - 2. Purpose
 - 3. Modifications
 - E. General vs. Specific Jurisdiction
 - F. Jurisdiction by Contract
 - G. Choice of Law

- V. Subject Matter Jurisdiction
 - A. Definition and Purpose
 - B. Trial Courts
 - 1. Federal
 - a. Federal Diversity
 - b. Diversity
 - 2. State
 - 3. Concurrent vs. Exclusive Jurisdiction

- C. Appellate Courts
 - 1. Jurisdiction
 - 2. Limitations
- D. Courts of Limited Jurisdiction
 - 1. Bankruptcy
 - 2. Family Law
 - 3. Military Law

- VI. Standing
 - A. Definition
 - B. History
 - C. Purpose

- VII. Pleadings
 - A. Definition
 - B. Purpose
 - C. Procedural Requirements and Elements
 - 1. Format
 - 2. Elements of a Claim
 - 3. Burden of Presumption
 - 4. Burden of Proof
 - 5. Specificity
 - 6. Prayer
 - D. Replying to a Complaint
 - 1. Motion to Dismiss
 - 2. Motion to Strike
 - E. Amending or Answering a Complaint
 - 1. Relation Back
 - 2. Supplemental Pleading

- VIII. Pre-Trial Actions
 - A. Definition, generally
 - B. Aspects of pre-trial period
 - 1. Privilege
 - a. Attorney-Client
 - b. Other professionals
 - 2. Discovery
 - a. Definition
 - b. Limitations
 - 3. Mandatory Examinations
 - 4. Witnesses
 - 5. Expert Witnesses
 - C. Settlement
 - 1. Definition
 - 2. When used
 - 3. Policy arguments for/against

- IX. Trial
 - A. Jury

1. Role
 - a. When used
 - b. When mandated
 - c. Strengths/weaknesses
2. Selection
 - a. Voir dire
 - b. Challenges
 1. Peremptory
 2. For Cause
 - c. Constitutional issues

B. Judge

1. Role
2. Requirements
3. Permissible acts in jury trials
 - a. Judgment notwithstanding the verdict
 - b. Directed verdict

X. Appellate Review

- A. Definition
- B. Purpose
- C. Standards of review
- D. Limitations
- E. Possible relief

XI. Professional Ethics

- A. Role of paralegals in litigation
 1. Professional duties
 2. Duties reserved for attorneys
 - a. Legal advice
 - b. Representation in court
- B. Ethical Issues in Litigation
 1. Confidentiality
 2. Fairness in litigation
 3. Candor in litigation
 4. Conflicts of interest
 - a. Paralegal-Client Conflicts
 - b. Client-Client Conflicts
 - c. Third-Party Representation

Q. **LABORATORY OUTLINE:** NONE