

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



MASTER SYLLABUS

CIVIL LITIGATION

LEST 350

Last Updated by: Jondavid DeLong

**SCHOOL OF BUSINESS AND LIBERAL ARTS
BUSINESS
SPRING 2019**

- A. **TITLE: CIVIL LITIGATION**
- B. **COURSE NUMBER: LEST 350**
- C. **CREDIT HOURS: 3**
- D. **WRITING INTENSIVE COURSE: NO**
- E. **GER CATEGORY: NONE**
- F. **SEMESTER(S) OFFERED: FALL**
- G. **COURSE 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.

H. **PRE-REQUISITES/CO-REQUISITES:**

- a. Pre-requisite(s): LEST 101 (American Legal System) and BSAD 202 (Business Law II), or permission of the instructor.
- b. Co-requisite(s): NONE

I. **STUDENT LEARNING OUTCOMES:**

<u>Course Student Learning Outcome [SLO]</u>	<u>PSLO</u>	<u>GER</u>	<u>ISLO</u>
1. Understand and explain specific requirements for cases and litigants to enter the legal system including concepts of jurisdiction and standing.	<p>Demonstrate ability to effectively and professionally communicate in writing.</p> <p>Demonstrate ability to effectively and professionally communicate orally.</p> <p>Understand and explain the structure and functions of the American legal system, including the interplay of constitutions, statutes, common law and administrative law.</p> <p>Understand and explain the jurisdictional requirements of</p>		<p>Industry, Professional, Discipline Specific Knowledge and Skills</p> <p>Communication Skills Written [W]</p>

	<p>federal and state courts</p> <p>Demonstrate knowledge of Constitutional Law, Criminal Law and Procedure, Civil Litigation, and at least three of:</p> <ul style="list-style-type: none"> • Negligence and Intentional Torts • Family Law • Real Property • Immigration Law and Border Control • Wills, Estates and Trusts • Environmental Law • American Indian Law and Fed. Policy • Trial Courts and Rules of Evidence 		<p>Critical Thinking <i>Critical Analysis</i> [CA]</p>
<p>2. Explain what remedies are available to litigants and determine the appropriate remedy in a given situation.</p>	<p>Demonstrate ability to effectively and professionally communicate in writing.</p> <p>Demonstrate ability to effectively and professionally communicate orally.</p> <p>Understand and explain the roles of judges, attorneys, mediators, legal assistants, and others who act within the legal system.</p> <p>Understand and articulate the role of common law in the American legal system, including concepts of mandatory (stare decisis) and persuasive authority.</p>		<p>Industry, Professional, Discipline Specific Knowledge and Skills</p> <p>Communication Skills Written [W]</p>

	<p>Demonstrate knowledge of Constitutional Law, Criminal Law and Procedure, Civil Litigation, and at least three of:</p> <ul style="list-style-type: none"> • Negligence and Intentional Torts • Family Law • Real Property • Immigration Law and Border Control • Wills, Estates and Trusts • Environmental Law • American Indian Law and Fed. Policy • Trial Courts and Rules of Evidence 		<p>Critical Thinking <i>Critical Analysis [CA]</i></p>
<p>3. Prepare pleadings, motions and responses to motions that conform to specific procedural requirements.</p>	<p>Demonstrate ability to effectively and professionally communicate in writing.</p> <p>Demonstrate knowledge of Constitutional Law, Criminal Law and Procedure, Civil Litigation, and at least three of:</p> <ul style="list-style-type: none"> • Negligence and Intentional Torts • Family Law • Real Property • Immigration Law and Border Control • Wills, Estates and Trusts • Environmental Law • American Indian Law and Fed. Policy • Trial Courts and 		<p>Industry, Professional, Discipline Specific Knowledge and Skills.</p> <p>Communication Skills Written [W]</p>

	<p>Rules of Evidence</p> <p>Integrate substantive and procedural elements of laws, regulations, and rules relating to specialized areas of law such as (but not limited to) business activities, contracts, criminal law, family relationships, immigration, real estate, the environment and wills and estates.</p> <p>Evaluate the credibility, reliability or relevance of legal authority to determine whether and how it applies to the legal issues.</p> <p>Create both objective and persuasive legal documents of varying complexity including client letters, memoranda of law, pleadings, and briefs while properly citing both print and electronic sources of law.</p>		<p>Critical Thinking <i>Critical Analysis</i> [CA]</p>
<p>4. Explain pre-trial and trial procedures.</p>	<p>Demonstrate ability to effectively and professionally communicate in writing.</p> <p>Demonstrate ability to effectively and professionally communicate orally.</p> <p>Understand and explain the structure and functions of the American legal system, including the</p>		<p>Industry, Professional, Discipline Specific Knowledge and Skills</p> <p>Communication Skills Oral [O], Written [W]</p>

interplay of constitutions, statutes, common law and administrative law.

Understand and explain the roles of judges, attorneys, mediators, legal assistants, and others who act within the legal system.

Understand and explain the jurisdictional requirements of federal and state courts

Understand and articulate the role of common law in the American legal system, including concepts of mandatory (*stare decisis*) and persuasive authority.

Identify the ethical implications inherent in a particular situation, and evaluate the particular course of action to be taken in the face of countervailing pressures.

Demonstrate knowledge of Constitutional Law, Criminal Law and Procedure, Civil Litigation, and at least three of:

- Negligence and Intentional Torts

Critical Thinking
Critical Analysis
[CA]

	<ul style="list-style-type: none"> • Family Law • Real Property • Immigration Law and Border Control • Wills, Estates and Trusts • Environmental Law • American Indian Law and Fed. Policy • Trial Courts and Rules of Evidence 		
5. Discuss and critique the functions and limitations of judges, juries, and other workers in the legal system.	<p>Demonstrate ability to effectively and professionally communicate in writing.</p> <p>Understand and explain the roles of judges, attorneys, mediators, legal assistants, and others who act within the legal system.</p>		<p>Industry, Professional, Discipline Specific Knowledge and Skills</p> <p>Communication Skills Written [W]</p>

KEY	<u>Institutional Student Learning Outcomes [ISLO 1 – 5]</u>
ISLO #	ISLO & Subsets
1	Communication Skills Oral [O], Written [W]
2	Critical Thinking <i>Critical Analysis [CA], Inquiry & Analysis [IA], Problem Solving [PS]</i>
3	Foundational Skills <i>Information Management [IM], Quantitative Lit./Reasoning [QTR]</i>
4	Social Responsibility <i>Ethical Reasoning [ER], Global Learning [GL], Intercultural Knowledge [IK], Teamwork [T]</i>
5	Industry, Professional, Discipline Specific Knowledge and Skills

J. APPLIED LEARNING COMPONENT: Yes X No _____

K. TEXTS: Peggy Kerley, Joanne Banker Hames, and Paul Sukys. (2014) Civil Litigation. 7th ed. Delmar Cengage Learning ISBN 9781285449180

L. **REFERENCES:** Articles of current interest and other resources placed on the course online learning site.

M. **EQUIPMENT:** Technology Enhanced Classroom.

N. **GRADING METHOD:** A-F

O. **SUGGESTED MEASUREMENT CRITERIA/METHODS:** Participation, in-class exams, final exam, and assignments.

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 Tolled
- 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:** N/A