



TEXAS SOUTHERN UNIVERSITY  
THURGOOD MARSHALL SCHOOL *of* LAW

# **CIVIL TRIAL PRACTICE**

**LAW 932 – SEC 4**

**FALL 2021**

**T/TH**

**11:00 AM TO 11:50 AM**

**CLINIC CONFERENCE ROOM**

**THELMA L. HARMON**

**ASSOCIATE PROFESSOR**

*“BEING UNPREPARED  
IS  
PREPARATION FOR FAILURE”*

## PROFESSOR

**Name:** Thelma L. Harmon, Associate Professor  
**Email:** thelma.harmon@tmslaw.tsu.edu

**Telephone:** 713.313.1144  
**Office:** Room 100K

### Office Hours

MONDAY: 12:00 PM – 2:00 PM  
TUESDAY: 12:00 PM – 2:00 PM  
WEDNESDAY: 12:00 PM – 2:00 PM  
All Other Times by Appointment Only

### Required Textbooks

Stefan Krieger, et al., *Essential Lawyering Skills*, 6<sup>TH</sup> Edition (“Essential”)  
Joan Jenkins, et al., *O’Connor’s Family Code*, latest version (“Fam. Code”)  
Family Law Clinic Manual (“Manual”)

### Supplemental Materials (ON BLACKBOARD)

Articles and Videos

### Course Description

This course introduces the student to the fundamental concepts of family law. Specifically, it will cover Texas law regulating familial relations in the areas of divorce, property division, child custody and support. The course will also focus client interviewing, counseling, the “best interest of the child” standard, characterization of property, and child support calculations.

### Student Learning Outcomes:

#### Learning Outcomes

Students will demonstrate competence in client interviewing and counseling.  
Students will demonstrate the ability to organize facts using the Legal Elements Model.  
Recognize, analyze, and understand family issues presented by a fact pattern.

#### Assessment Description

Class Exercises-Pop Quiz(zes)  
Assignment  
Assignment, Exam, Pop Quiz(zes)

### Supplemental Materials/Videos

We will make extensive use of the course’s Blackboard site. Supplemental reading materials and videos will be available on Blackboard.

### Assignments. Completion of all assignments is a course requirement.

**1. Reading and Writing Assignments:** Writing assignments will form part of your class participation grade. Students are expected to complete the reading assignments from the textbook and supplemental materials before class. Students will submit all writing assignments **to Ms. Marilyn Epps, Legal Clinic--Room 100 by 3:00 PM CST** on the due date. **All writing assignments must be submitted via hard copy--emailed submissions will not be accepted. No exceptions.** Unless otherwise instructed, **all writing assignments must be typed, double-space, 12-point font and 1-inch margins.** As in the practice of law, the student must retain his or her own copy in case something should happen to the original.



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**Class Structure:** The class is divided into “Law Firms.” Each Firm will have primary responsibility for the materials in designated weeks. Although firms will be designated, you should always feel free to participate throughout the term. On occasions, **students outside of the designated Firm will be called upon during class.**

#### 3. Reading and Discussion Leaders:

CLASS	LAW FIRM
1 and 2	Jackson Law Firm
3 and 4	Penzina Law Firm
5 and 6	Harmon Law Firm
8	
9 and 10	
11	
12, 13, 14, and 15	
16 and 17	
18 and 19	
20	
21, 22, and 23	
24	
25	
26	
27	
28	

#### Course Expectations—Policies and Procedures

- 1. Class Preparation and Participation.** We will cover a lot of material and move quickly. It is in your best interest to stay on top of the material as the challenge to catch up can be almost insurmountable. The assigned reading for each class typically averages 20-30 pages of textbook material and secondary sources. The student’s preparation for each class is critically important to his or her learning experience in this course. Students are expected to complete the reading assignments from the text and supplemental materials, to attend each class on time, and to participate in class discussions of readings, videos, and assignments. Bring to every class your text and access to supplemental material. The student’s preparation for class is also critically important to his or her training for a career where adequate and timely preparation will be expected by clients, employers, and courts. Furthermore, the student’s adequate preparation for class will enable him or her to make valuable contributions to class discussions and questions that are raised by course materials that can then be addressed in class. Therefore, the student’s consistent and adequate preparation for class will be considered in the determination of his or her course grade.
- 2. Final Exam.** The final exam will be given on at the time and location assigned by the Dean’s Office, unless a student requires accommodation, and the accommodation is approved and arranged through the Dean’s Office. If Dean’s Office fails to provide a time and location, the Exam will be held on the last day of class. Exams will be based upon the reading materials, lecture(s), class discussion(s) and the Texas Family Code. The format of the exam is TBD.
- 3. Attendance and Admittance. Attendance is mandatory. There are no EXCUSED ABSENCES.** According to Article III.9 of the Student Rules and Regulations if a student misses more than the allotted number of classes under the said article, the student’s grade may be reduced. Attendance will be called each day; students who are present should so





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answer. The attendance sheet will be considered final; if you do not answer when your name is called, you will be marked and considered absent. **NO LATE ADMITTANCE. NO EXCEPTIONS.** Five (5) minutes after the start of class is the deadline for class admittance the class. Thus, if the class is scheduled to start at 1:00 p.m., there will be no admittance 1:05 p.m. You will be counted absent. Late arrivals disrupt the class and any activity currently taking place.

4. **Electronic Devices & Internet Usage.** Please turn off or silence your cell phone and do not take it out during class. Many of you use laptops in class to take notes and review statutes and cases. Such use of your laptops is permitted, however, PLEASE REFRAIN from internet surfing during class. Random surfing (involving anything other than materials directly related to that day's class) during class is not permitted; if you are discovered surfing during class, you will **LOSE** five (5) participation points for each infraction. Surfing during class is a distraction not only to you but also to everyone who can see your screen.
5. **ADA Policy.** Effective Fall 2021 semester, the TMSL administrative process for student disability accommodation will be carried out by the TSU Student Accessibility Services Office (SASO). SASO specializes in accommodation services and will provide efficient and professional services to Thurgood Law students who may need accommodations. The following is the transition process for accommodation services:
  - A. **Previously Approved Law Students** Law students who have been approved for accommodations in previous years by the Law School Student Affairs Office must complete the SASO Accommodation Request Form to request pre-approved accommodations for the Fall 2021 academic term. Students who have questions should contact SASO via email [DisabilityServices@tsu.edu](mailto:DisabilityServices@tsu.edu) or phone 713-313-4210. Accommodation Request Form link <http://www.tsu.edu/students-services/departments/disability-services/forms/student-accomodation-request-form.html>.
  - B. **New Accommodation Requests**
    1. Students must have a diagnosed disability and authentic documentation to apply. Once the applicant's disability information is received, SASO will contact the student to schedule an Intake (virtual) appointment for the student to self-report any disability challenges/barriers associated with the condition that impacts their functioning abilities in the learning environment.
    2. SASO will next determine the student's eligibility status and accommodation plan based on the disability, historical documentation, and self-reporting data. SASO will send a notification letter indicating the applicant's service status. The notification letter requires the applicant's signature. Upon receipt of the signed notification letter, SASO will forward a copy of the accommodation letter to the student, with instruction on how to complete the accommodation process.
  - C. Students must meet with their professor(s) to discuss how accommodations will be implemented. The student and professor(s) must sign the accommodation letter. The student will return a copy of the signed accommodation letter to SASO electronically.
  - D. **COVID Related Accommodations** TSU is completely re-opening for the Fall 2021 academic term for synchronous (in-person) courses. COVID accommodations will be processed for those who report testing positive or exposure to COVID. Documentation is required. Students will quarantine for 10 days. Students must submit Release of Care





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documentation from a licensed health care professional to Student Accessibility Services Office (SASO), return to class, and discuss missed assignment/exam make up plans with Instructors. Students will not engage in class activities during the quarantine period. Accommodation services are not to fundamentally alter course/program formats, requirements, standards, and/or guidelines. Consequently, no remote/online attendance or learning modalities will occur for synchronous (in-person) formatted courses for the Fall 2021 academic term.

- 6. Not a Contract.** This syllabus is NOT a contract and is subject to change. Changes will be announced in class with as much warning as possible.
- 7. Sensitivity.** The class will be discussing some sensitive topics, so it is especially important that we show civility and respect to one another as we discuss these matters.

#### Evaluation/Grading Policy

- 1/4 of the final grade will be based on 4 Home Assignments (each 100 max. points)
- 1/4 of the final grade will be based on attendance and class participation. (100 max. points)
- 2/4 of the final grade will be based on the final examination. (100 max. points)

#### Grading Rubric

##### 1. Class Participation & Attendance

TASK	EXCELLENT 90 to 100	GOOD 80 to 89	SATISFACTORY 70 to 79	POOR < 70
<b>Prepared</b>	Always comes to class on time, brings needed materials to class and is always in seat ready to work before start of class.	Rarely late, almost always brings needed material to class, almost always ready to work by start of class.	Sometimes late to class, often brings materials but sometimes needs to borrow/share. Usually in seat ready to work by start of class.	Frequently late to class, rarely brings needed materials and/or is rarely ready to get started by the start of class.
<b>Class Discussion</b>	Regularly asks or answers questions or makes relevant observation(s). Regularly volunteers.	Often asks or answers questions or makes relevant observations. Often volunteers	Sometimes asks or answers questions or make relevant observations. Sometimes volunteers.	Rarely or do not or unable to ask or answer questions or make relevant observations. Rarely, if ever volunteers.
<b>Class Absence</b>	Attends class regularly	Misses 1 class with prior arrangement	Misses no more than 2 classes w/o prior arrangement	Misses class often (up to the maximum amount)
<b>Writing Assignments</b>	Turned in at least 90% of Writing assignments.	Turned in least 80% of Writing assignments.	Turned in at least 70% of Writing assignments.	Turned in less than 70% Writing assignments.



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Final Grade Scale

Final Grade	Final Score
A	≥ 90%
B	≥ 80%
C	≥ 70%
D	≥ 60%
F	< 60%

**NOTE: HOME ASSIGNMENTS AND FINAL EXAMINATION MUST BE SUBMITTED VIA HARD COPY TO MS. MARILYN EPPS. DO NOT SUBMIT AN ELECTRONIC COPY TO THE PROFESSOR OR MS. EPPS. ABSOLUTELY NO EXCEPTION(S).**

### CLASS SCHEDULE

#### GENERAL INFORMATION

Class meets every Tuesday (T) and Thursday (TH). References to: “Reading Materials” means “secondary reading sources/materials” ; “Essential” mean the textbook Essential Lawyering Skills; “Fam. Code” means the Texas Family Law Code; “Video” means video.

#### Week 1:

FORMS COMPLETION: Class Schedule, Expectations, and Goals  
CLINIC WALKTHROUGH  
FAMILY LAW CLINIC OVERVIEW  
CASE ASSIGNMENTS  
CASE DISCUSSION and CASE ROUNDS

#### Week 2:

LAW OFFICE MANAGEMENT

**Marriages, Divorce, Filing Suit for Divorce**

**TOPICS COVERED:** (a) Types of Marriages; (b) Grounds for Divorce; (c) Filing Suit: Pleadings, Caption, Citation, Waiver of Service, Return of Service(d) Jurisdiction of Texas Courts.

**FAMILY LAW CODE SECTIONS:** §§ 2.001; 2.202; 2.401-2.404. §§ 6.001-6.007; §§ 5.301, 6.302, 6.305, 6.308. §§ 6.401—6.4035, 6.405, 6.406, 6.408, 6,409.

**TEXAS RULES OF CIVIL PROCEDURE:** §§ 103, 105, 106, 107, 109, 109A

**CLE ARTICLES:** Stephen J. Naylor, et al., “*Pleading in Family Law Cases,*” Sections III A-B; Section VII,

**TEXTBOOK:** N/A

#### Week 3:

**Marriages, Divorce, Filing Suit for Divorce**

**TOPICS COVERED:** (a) Types of Marriages; (b) Grounds for Divorce; (c) Filing Suit: Pleadings, Caption, Citation, Waiver of Service, Return of Service(d) Jurisdiction of Texas Courts.





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**FAMILY LAW CODE SECTIONS:** §§ 2.001; 2.202; 2.401-2.404. §§ 6.001-6.007; §§ 5.301, 6.302, 6.305, 6.308. §§ 6.401—6.4035, 6.405, 6.406, 6.408, 6.409.

**TEXAS RULES OF CIVIL PROCEDURE:** §§ 103, 105, 106, 107, 109, 109A

**CLE ARTICLES:** Stephen J. Naylor, et al., “*Pleading in Family Law Cases*,” Sections III A-B; Section VII,

**TEXTBOOK:** N/A

**Conservatorship, Presumptions**

**TOPICS COVERED:** (a) Conservatorship, Possession and Access; (b) Rights and Duties; (c) Parent Appointed as SMC or JMC or Possessory: Standard Possession Order and Child Under Three

**FAMILY LAW CODE SECTIONS:** §§ 153.002; §§ 153.005-153.006; 151.001; 153.073, 153.074; 153.131, 153.132, 153.191, 153.192; 153.3101 to 153.317, 153.254.

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**CLE ARTICLES:** Emily Miskel, “*SAPCR Overview: Presumptions, Burdens, Statutes, and Case Law*,” Sec. 2 A-D & Appendix A

**TEXTBOOK:** N/A

**Week 4:**

**Conservatorship, Presumptions**

**TOPICS COVERED:** (a) Conservatorship, Possession and Access; (b) Rights and Duties; (c) Parent Appointed as SMC or JMC or Possessory: Standard Possession Order and Child Under Three

**FAMILY LAW CODE SECTIONS:** §§ 153.002; §§ 153.005-153.006; 151.001; 153.073, 153.074; 153.131, 153.132, 153.191, 153.192; 153.3101 to 153.317, 153.254.

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**CLE ARTICLES:** Emily Miskel, “*SAPCR Overview: Presumptions, Burdens, Statutes, and Case Law*,” Sec. 2.A-D & Appendix A

**TEXTBOOK:** N/A

**Week 5:**

**Child Support**

**TOPICS COVERED:** (a) Child Support; (b) Computing Child Support; (c) Medical Support, (d) Dental Support (d) Withholding from Child Support

**FAMILY LAW CODE SECTIONS:** §§ 154.00, 154.002; §§ 154.061(a), 154.062, 154.125(b), 154.129; 154.181, 154.1815; 158.002

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**CLE ARTICLES:** Katherine Kinser, et al., *Pursue And Defend A Child Support Case*

**TEXTBOOK:** N/A

**Week 6:**

**Fact Investigation**

**TOPICS COVERED:** (a) Fact Investigation—Interviewing Client and Witness, (b) Discovery

**FAMILY LAW CODE SECTIONS:** N/A







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**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**CLE ARTICLES:** Kevin T. Segler, *Use Of "New Age" Discovery Tools In Family Law Cases*

**TEXTBOOK:** E/L Ch. 8 (Interviewing Client); E/L Ch.9 (Interviewing Witness); (Discovery); Investigating the Facts: E/L Ch. 16 (Informal Discovery); Legal Elements Model of Organizing Facts, E/L Ch. 11.

**Week 7:**

Interviewing Zara Smith Fact Pattern

**In-Class Exercise:** Organizing Facts Chart Exercise (Zara Smith Fact Pattern)

**Week 8:**

**Economic Consequences of Divorce**

**TOPICS COVERED:** (a) Marital Estate; (b) Characterization of Property, (c) Division of Property, (d) Claim for Reimbursement

**FAMILY LAW CODE SECTIONS:** §§3.001-3.003; 3.402; 4.001; §§7.001, 7.003

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**CLE ARTICLES:** Jim Penn, et al., *Characterization*, Sections I-III; Yale Law Firm, PC, *Texas Marital Property Law*

**TEXTBOOK:** N/A

**Week 9:**

**Economic Consequences of Divorce**

**TOPICS COVERED:** (a) Marital Estate; (b) Characterization of Property, (c) Division of Property, (d) Claim for Reimbursement

**FAMILY LAW CODE SECTIONS:** §§3.001-3.003; 3.402; 4.001; §§7.001, 7.003

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**CLE ARTICLES:** Jim Penn, et al., *Characterization*, Sections I-III; Yale Law Firm, PC, *Texas Marital Property Law*

**TEXTBOOK:** N/A

**Week 10 & 11**

**Parentage**

**TOPICS COVERED:** (a) Suit Affecting the Parent-Child Relationship; (b) Establishment of Parent-Child Relationship; (c) Types of Fathers; (d) Time Limitation for Child with Presumed Father; Child with Presumed, Acknowledged or Adjudicated Father Disproved by Genetic Testing Only

**FAMILY LAW CODE SECTIONS:** §§ 101.025; §§ 101.0010, 101.0015, 160.102(1), 160.201(b), 160.204, 160.301, 160.302, 160.505; 160.607; 160.631

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**CLE ARTICLES:** Angela P. England, *"The Uniform Parentage Act: Will the Real Parents Stand Up," Sections I – III*; Stephen J. Naylor, et al., *"Pleading in Family Law Cases,"* Sec. III A-B; Sec. VII.

**TEXTBOOK:** N/A







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**Week 12:**

**Best Interest of the Child**

**TOPICS COVERED:** (a) Best Interest of the Child; (b) Factors in Determining Best Interest

**FAMILY LAW CODE SECTIONS: §§** 153.002, 263.307

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**ARTICLE:** Robert Hazeltine-Shedo, "Proving the Best Interest of a Child," Sections I, II & III

**TEXTBOOK:** Southwest Reporter--*Holley v. Adams*, 544 S.W.2d 367 (Tex. 1976)

**IN-CLASS EXERCISE:** Jack and Nellie Fact Pattern Exercise

**Week 13:**

**Special Appointments: Amicus and Attorney ad litem:** Fam. Code §107.003, §107.004-.006

**TOPICS COVERED:** (a) Amicus; (b) Attorney ad litem

**FAMILY LAW CODE SECTIONS: §§** 107.003, 107.005, §107.006

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**ARTICLE:** Brian L. Webb, *Ad Litem*s

**TEXTBOOK:** N/A

**Week 14 & 15.**

**Laying the Proper Predicate to Get Evidence/Exhibits In**

**TOPICS COVERED:** (a) Laying the Proper Predicate

**FAMILY LAW CODE SECTIONS:** N/A

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**ARTICLE:** Sheldon J. Finkelstein, et al., *The "In" Place to Be: Getting That Document Into Evidence; Laying Foundation and Authenticating Evidence Script, Text Message; Introducing Facebook Posts and Text Messages; Admissibility of Writings (Emails, Text Messages, etc.*

**TEXTBOOK:** N/A

**Trial Notebook**

**TOPICS COVERED:** (a) Trial Notebook

**FAMILY LAW CODE SECTIONS:** N/A

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**ARTICLES:** Wendy Burgower, *Ultimate Div. Trial Notebook*; James Loveless, *Organizing the Trial Notebook*

**TEXTBOOK:** N/A

**Week 16**

**Practicing Family Law**

**TOPICS COVERED:** (a) Practicing Family Law

**FAMILY LAW CODE SECTIONS:** N/A

**TEXAS RULES OF CIVIL PROCEDURE:** N/A

**ARTICLES:** Stephen Naylor, *Practicing Family Law For Fun And Profit*

**TEXTBOOK:** N/A

**Week 17:**

**LAST DAY OF CLASS – Wrap Up**

