



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

CIVIL TRIAL PRACTICE

LAW 932 – SEC 4

FALL 2019

T/TH

1:00 PM TO 1:50 PM

CLINIC CONFERENCE ROOM

THELMA L. HARMON

ASSOCIATE PROFESSOR

***“BEING UNPREPARED
IS
PREPARATION FOR FAILURE”***



The Professor

NAME: Thelma L. Harmon, Associate Professor

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LOCATION: Suite 100K

OFFICE HOURS:

Tuesday: 10:00 AM – 12:00 PM

Wednesday: 10:00 AM – 1:00 PM

Thursday: 10:00 AM – 12:00 PM

All Other Times by Appointment Only

Course Books & Materials

Required:

Stefan Krieger, et al., *Essential Lawyering Skills* 5TH Edition (“ESL”),

Joan Jenkins, *O'Connor's Family Code 2019* (“TFC”)

Family Law Clinic Manual (“Manual”)

Supplemental Reading:

Holley v. Adams, 544 S.W.2d 367 (Tex. 1976)

In re Stephanie Lee, 411 S.W.3d 445, 450 (Tex. 2013).

Cheryl L. Alsandor, *Preparing for Mediation: Memos, Checklists, and Essential Documents*

Jonathan J. Bates, *Rule 11 Agreements, MSAs, and ISAs-What You Can And Cannot Do*

Wendy Burgower, *Ultimate Divorce Trial Notebook*

Angela P. England, *The Uniform Parentage Act: Will the Real Parents Stand Up*

Robert Hazeltine-Shedo, “Proving the Best Interest of a Child,”

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

James M. Loveless, *Organizing the Trial Notebook*

Emily Miskel, *SAPCR Overview: Presumptions, Burdens, Statutes, and Case Law*

Stephen J. Naylor, et al., *Pleading in Family Law Cases*

Jim Penn et al., *Characterization*

Yale Law Firm, PC, *Texas Marital Property Law*

Recommended Websites:

Texaslawhelp.org - <https://texaslawhelp.org>

TYLA-Pro Se Divorce Handbook - <https://tyla.org/resource/pro-se-divorce-handbook>

Texas State Library - <https://guides.sll.texas.gov/child-custody-and-support>

Harris County Law Library - <http://www.harriscountylawlibrary.org/self-help>

Course Description

This course introduces the student to the fundamental concepts of family law. The covered topics include divorce, property characterization and division, child custody and support, and establishing the parent-child relationship. The course integrates substantive law instruction with the development of critical skills required to represent clients effectively with family law problems.

Course Objective

The objective of this course is to introduce students to Texas’ laws regulating familial relations and provide an overview of divorce law, property division, custody, and support. This course focuses on the “best interest of the child standard, the characterization, and division of marital property, calculating child support, and client interviewing.



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Student Learning Outcomes/Assessments

Upon completion of this course, students will be able to:

SLO #1: Identify, understand, and apply the “best interest of the child” standard for determining conservatorship between parents in Texas.

SLO #2: Elicit facts through interviewing to determine legal issues.

SLO #3: Characterize and divide marital property under Texas law.

SLO #4: Calculate child support (single and multiple households) under Texas law.

Grading

Task	Weight	Due Date	Assessment Description
Assignment 1	See CPAs Table below	08/27/2019	Take home/short answers
Assignment 2	See CPAs Table below	09/03/2019	Take home/short answers
Assignment 3	See CPAs Table below	09/10/2019	Take home/short answers
Assignment 4	See CPAs Table below	09/17/2019	Take home/short answers
Assignment 5	See CPAs Table below	09/24/2019	Take home/short answers
Assignment 6	See CPAs Table below	10/08/2019	Take home/short answers
Assignment 7	See CPAs Table below	10/22/2019	Take home/short answers
Assignment 8	See CPAs Table below	10/29/2019	Take home/short answers
Assignment 9	See CPAs Table below	11/12/2019	Take home/short answers
Assignment 10	See CPAs Table below	11/19/2019	Take home/short answers
Mid-Term Exam	See CPAs Table below	10/17/2019	Multiple Choice/Timed
Final Exam	See CPAs Table below	TBD	Essay/Timed

Mid-Term/Final Exam Grade	Mid-Term/Final Exam Score	Mid-Term/Final Exam Average
A	$\geq 90\%$	A average
B	$\geq 80\%$	B average
C	$\geq 70\%$	C average
D	$\geq 60\%$	D average
F	$< 60\%$	F average

Note The mid-term and final exam are each worth 100 points. Thus, if a student scores 95% on the mid-term and scores an 85% on the final exam the students’ average would be 90% percent, giving the student a course grade of an “A” before use of the CPA definitional grading system discussed below.

Class Preparation Assignments (CPAs)

This class will use class preparation assignments (CPAs) to inform and stimulate class discussion and a definitional grading system that makes preparation for class non-negotiable. The CPAs are reading assignments accompanied by informal writing assignments consisting of five to ten questions. The CPA questions serve as a guide to students in their reading, prepares students for class, and serves as a basis for class discussion.

CPAs are graded. Each CPA is worth 10 points for a total score of 100 points for the ten CPAs. Students must bring two copies of their CPA answers to class—one that they provide to the professor as they come into class and the other that they keep for class discussion. To earn credit for a CPA, a student needs to show a reasonable faith effort in their answers to each question, and they need to attend class to contribute to class discussion. **Students only get credit if they come to class.**

In a definitional grading, a student must meet or exceed the standards for each category of work to earn a particular course grade. The pedagogical assumption is that different categories of work are each important, and the professor does not want one category to compensate for the other in any way. In the table below, there are two distinct categories of work: the CPAs and the exams.





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Course Grade	Class Preparation Assignments (CPAs)	Exams
A	Credit \geq 90%	A average
B	Credit \geq 80%	B average
C	Credit \geq 70%	C average
D	Credit \geq 60%	D average
F	Credit $<$ 60%	F average

For a student to get a particular course grade, the student must meet or exceed the standard for each category of work. If a student gets an A average on the exams but earns credit for only 75 percent of the CPAs, the student receives a C for her grade. If a student earns credit for 90 percent or more of the CPAs but gets a C average on the exams, the student receives a C for her course grade. The definition of an A student is one who not only does A work on the exams but who also comes to class prepared at least 90 percent of the time.

POLICIES AND PROCEDURES

- Mid-Term/Final Review:** The supervising attorney will provide students with model answers to the mid-term and final exams.
- Preparation:** Students are expected to attend each class prepared. To be prepared, a student must: (1) read all assigned Family Law Code sections, cases, sections/chapters in the textbook, and handouts, and (2) answer questions on the Class Participation Assignments.
- 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 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 admittance in the class. Thus, if the class is scheduled to start at 1:00 p.m., there will be no admittance after 1:05 p.m. You will be counted absent. Late arrivals disrupt the class and any activity currently taking place.
- Prohibited Use of Electronic Devices:** **Use of Laptop computers, e-tablets, cell phones, or any other electronic devices for ANY PURPOSE (i.e., notetaking, on-line textbook, etc.) are PROHIBITED during class.** Students are asked not to engage in text messaging, surfing the internet, or checking or sending personal emails during any official component of the Clinic. The use of such items during class will result in your being asked to leave the class with you considered and marked absent for that day. All cell phones must be turned off before entering class.
- ADA Policy:** The Law School will make reasonable accommodations to individuals with documented disabilities. Such accommodations will not be provided, however, if they fundamentally alter the nature of the program or if they would be unduly burdensome either financially or administratively. The term "disability" is defined by the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and Section 504 of the Rehabilitation Act of 1973. These federal acts mandate equal opportunities for qualified persons with disabilities in all public facilities, programs, activities, services, and benefits derived from them. In order to receive accommodations, a student must have a documented mental or physical disability that substantially limits a significant life activity. Some examples of major life activities that would impact learning are: seeing, hearing, concentrating, communicating, reading, and writing. Reasonable accommodations are recommended based on the application review process and supporting documentation. For more information about the accommodation process, please contact the Office of Assistant Dean for Student Development.
- 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.





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CLASS SCHEDULE

Classes are scheduled to meet every Tuesday (T) and Thursday (TH). This seminar is devoted to both instruction in substantive and procedural law and skills training. References to "Handouts," "E/L," "Fam. Code" and italicized titles to articles are required reading assignments. This schedule is subject to change due to court dates.

Week 1: August 20 & 22

HANDOUTS: Syllabus; Goals & Expectations

Family Law Manual; E-file Instructions; ProDoc, Clio

(T) Family Law Clinic Overview

Syllabus/Goals & Expectations/Tour of Clinic

Family Law Manual

(TH) Family Law Clinic Overview

E-file; ProDoc; CLIO

Week 2: August 27 & 29

(T/TH) Entering Marriage/ Divorce

Ceremonial: Fam. Code §§2.001; Common Law: Fam. Code §§ 2.401-2.404

Grounds for Divorce: Fam. Code §§ 6.001-6.007

Pleadings, Jurisdiction, Venue, Residence Requirements: Fam. Code §§ 6.301-6.302; 6.305;6.308; 6.402

Service: Fam. Code §§ 6.408-6.409; TRCP 103, 106, 107, 109, 109a

Failure to Answer: Fam. Code §§ 6.701-6.702

Stephen J. Naylor, et al., "*Pleading in Family Law Cases*," Sections I, II A-B

Week 3: September 3 & 5

NOTE: In Texas, when court orders are required to address the needs of a child, the law suit is called a Suit Affecting the Parent-Child Relationship ("SAPCR"). If a divorce case is filed and the parties have a child, their divorce case automatically includes a SAPCR.

NOTE: In Texas, the standard for determining any issue involving a child is the "best interest of the child." s

(T/TH) SAPCR: Conservatorship, Possession, Access

Standard for Determining: Fam. Code §153.002

Appointment of Conservator: Fam. Code §§153.003-153.006

Rights and Duties of Parents

1. Rights and Duties: Fam. Code §1151.001; 2. At All Times: Fam. Code §153.073

3. During Periods of Possession: Fam. Code §153.074; 4. Appointed SMC: Fam. Code §153.132

5. Appointed JMC: Fam. Code §§153.133 & 153.134; See §153.134 (b)(4); 6. Possessory Conservator: Fam. Code §153.006; Emily Miskel, "*SAPCR Overview: Presumptions, burdens, Statutes, and Case Law*;" Section 2. A-D & Appendix A

Week 4: September 10 & 12

(T) Parentage/SAPCR: Fam. Code 102.008; 102.009;152.209; 60.105; 160.201; 160.204; 160.301-160.302; 160.601-160.602; 160.606-160.607;

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*," Sections III A-B; Section VII,

(TH) Child Support

Types: Current Support of Child: §154.001 & Medical Support: §154.008

Computing CS: Atty General Tax Charts--§154.061; Net Resources--§154.062; CS Guidelines-- §154.125(b);

Child Support Guidelines-Children in More Than One Household--§154.129

Withholding from Earnings for Child Support--§158.002

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





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Week 5: September 17 & 19

(T) Facts

Organizing Facts: E/L Ch. 11

Investigating the Facts: E/L Ch. 16

(TH) Organizing Facts Chart Exercise (Jack v. Jill Fact Pattern)

Week 6: September 24 & 26

(T/TH) Interviewing the Client – E/L Ch. 8

Week 7: October 1 & 3

(T) Interviewing Zara Smith Fact Pattern

(TH) Organizing Zara Smith Facts Chart

Week 8: October 8 & 10

(T/TH) Economic Consequences of Divorce

Marital Estate: Fam. Code §§3.001-3.003

Characterization of Property: Jim Penn, et al., *Characterization*, Sections I-III, V.A, C, D, F., M, N, O, P & Q, & VI

Division of Property: Fam. Code §§7.001 and 7.003; Yale Law Firm, PC, *Texas Marital Property Law*

Week 9: October 15 & 17

(T) Review

(TH) MID-TERM EXAM

Week 10: October 22 & 24

(T/TH) Counseling

What Happens When A Lawyer Counsels a Client: E/L, p. 233-41

Preparing for Counseling: E/L, p. 249-56; p. 260-61

The Counseling Meeting with the Client: E/L, p. 279-87

Week 11: October 29 & 31

(T/TH) Best Interest of the Child; *Holley v. Adams*, 544 S.W.2d 367 (Tex. 1976)

Robert Hazeltine-Shedo, "Proving the Best Interest of a Child," Sections I, II. A & G; Section III

Week 12: November 5 & 7

(T/TH) Best Interest of the Child; *Holley v. Adams*, 544 S.W.2d 367 (Tex. 1976)

Jack and Jill Fact Pattern Exercise

Robert Hazeltine-Shedo, "Proving the Best Interest of a Child," Sections I, II. A & G; Section III

Week 13: November 12 & 14

(T) Family Mediation: Cheryl L. Alsandor, "*Preparing for Mediation: Memos, Checklists, and Essential Documents*"; Jonathan J. Bates, "*Rule 11 Agreements, MSAs, and ISAs-What You Can And Cannot Do.*" *In re Stephanie Lee*, 411 S.W.3d 445, 450 (Tex. 2013).

(TH) Evidence: Getting It In & Keeping It Out

Guest Speaker—Todd Dupont

Week 14: November 19 & 21

(T/TH) Trial Notebook (T)

Wendy Burgower, *Ultimate Divorce Trial Notebook*

James M. Loveless, *Organizing the Trial Notebook*

Week 15: November 26 (LAST DAY OF CLASS)

(T) Last Day of Class

