

I. GENERAL RULES

A. ADMINISTRATION

Rule 1 Course Goals

The overall goal of the two week skills immersion is to expose students to the range of core skills central to a law career and to help students become competent, ethical lawyers sensitive to their various roles as attorney, counselor, officer of the court, and public servant. The course seeks to augment more traditional academic approaches by presenting students with a lawyer's perspective on law, the legal system and law practice.

Rule 2 Cooperation

(a) In General

A significant portion of legal education accrues from interaction among students. Similarly, the quality of legal work in practice is often enriched by collegial assistance. Accordingly, unless otherwise prohibited, assignments permit consultation with other associates from the same group, with the instructor of that group and the paired group.

Consultation may include review of written drafts, and the receipt of editing and other incidental assistance. "Assistance" does not permit a person, however, to complete substantial portions of an assignment for another, and improper assistance of this type, as well as other help not permitted by this rule, may constitute violations of the Honor Code.

When members of the same group are instructed to complete an identical assignment individually, consultation and assistance is permitted. However, no explicit division of labor within the group of either research or writing is permitted. Nor can students include in their individual assignments the written work of another [e.g. a statement of facts prepared by one student cannot be incorporated verbatim by all students in their motion memos].

Rule 3 Submission of Assignments

Unless otherwise instructed, all course assignments are to be submitted to the instructor by email.

Rule 4 Non-Compliance with Course Requirements

(a) Requirements in General

Course requirements will be set forth in this document and in separate memoranda to be circulated throughout the course.



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At a minimum, course requirements include:

- (1) Ethical conduct and performance at all times;
- (2) Prepared attendance in class (including large and small group meetings, various drills and performance activities);
- (3) Timely and competent preparation and submission of all assignments;
- (4) Competent service as a client or witness as assigned.

Please note, do NOT provide counsel with confidential role-player fact patterns. Such an action will destroy the educational effectiveness of the assignment

(b) Evaluation Criteria

The two week immersion involves a number of instructors and also a broad range of activities, which themselves vary greatly in nature; the activities include a spectrum of practice-oriented activities. As a result of the course's multi-faceted nature, evaluating students' work objectively and consistently is one of the major challenges for faculty.

In an effort to make the administration of these evaluative judgments as consistent as possible, we have adopted criteria that will be used by all instructors in their evaluation of students' work. The evaluation criteria for the various assignments will be distributed.

These criteria are not purely meant for evaluation in the skills immersion. Rather, they are articulations of the performance goals toward which instruction is aimed. In evaluating students' work, instructors look for evidence that students understand and are working toward these goals. Passing grades are given to all students who complete their assignments and who show satisfactory progress toward achieving the goals.

Rule 5 Grading Policy

Two credits are awarded for successful completion of each two-week skills immersion. Those credits will be recorded as one of three grades:

Honors

Pass

Fail

A maximum of 20% of the students in each group (2 of either 9 or 10 in the current configuration) may be awarded an Honors grade. The instructor is not required to give any grade of Honors.



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The "honors" grade is given to the student whose work viewed as a whole has demonstrated excellence during the two week immersion.

A "pass" grade is given to the student who has completed all assignments, activities, and responsibilities during the two week immersion and has made satisfactory progress toward lawyer competence at a level that would be expected of a student completing the immersion.

A "fail" grade is given to the student who has not made satisfactory progress toward lawyer competence at a level that would be expected of a student completing the immersion, who has committed a gross breach of ethics, or who has failed to comply with course rules.

Students will be evaluated based on initiative, effort, and diligence as well as competent performance of the activities associated with their immersion case. Progress toward lawyer competence is evaluated by examining the quality of the student's performance of all assignments, activities, and responsibilities, based on the evaluation criteria. A student may fail for lack of effort, for lack of demonstrated progress toward competence despite best efforts, for gross ethical breach, or major non-compliance with course rules.

Failure because of lack of effort might be indicated, for example, when a student fails to submit assignments or participate in activities, is late in submitting assignments, fails to carry out responsibilities, or does inadequate work that results from minimal effort.

Failure is also indicated when a student, despite best efforts, fails to demonstrate the necessary development toward lawyer competence that would be expected of a student at the relevant grading period's stage of development. Failure because of gross ethical breach is indicated, for example, when a student suborns perjury, commits a gross breach of the duty of client loyalty or confidentiality, or commits other similar conduct.

Rule 6 Amendment of Rules

The staff may amend these Rules, issue additional rules, or provide for such procedures as may be necessary from time to time. No rule or order may be given retroactive effect unless explicitly directed, and no student may be penalized for conduct that violates a retroactive rule.

B. RULES RELATING TO CLIENT REPRESENTATION

Rule 7 Course Time



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Timing of events, activities, and deadlines within simulated practice will not always correspond to real time.

Rule 8

After completing the initial client interview, each student will prepare an opening file memo.

The opening memorandum need only contain:

- (1) The client's name
- (2) Any identified opposing parties
- (3) A factual summary of the initial interview
- (4) The client's goals
- (5) Any steps the law office must take initially and any initial thoughts about the case.

Rule 9 Form of Written Assignments

Unless otherwise instructed by an instructor, all written materials that are to be submitted shall be typed, double-spaced, on 8 ½ x 11 inch white paper with at least one inch margins on all sides with left justification only (please do not use full justification), and twelve point type.

Rule 10 Representation Activities

Instructions for the conduct of a representation activity (e.g. interview, negotiation, trial, etc.) will come in the form of a memorandum from an instructor/supervisor.

C. RULES OF ETHICS

Rule 11 In General

(a) Applicable Standards

All students, when acting in the role of lawyer in the two-week immersion, are governed by the American Bar Association's Model Rules of Professional Conduct (Model Rules). Complaints of lawyer misconduct shall be considered pursuant to the procedures detailed in Rule 20. Associates are required to comply with the ethical standards of the legal profession. This remains, however, a law school program in which students are "learning" the ethical standards of the profession; therefore, while no explicit reduction in the standard is made, authorities empowered to receive and act upon complaints of student-lawyer conduct that violates the standards shall consider the student's level of education as to the applicable standards when evaluating the student's conduct. When a student is in doubt as to the



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propriety of a contemplated course of action, the student should seek the advice of an instructor. Non-compliance with the ethical standards of the legal profession found to have resulted from intentional conduct or gross negligence constitutes cause for the award of an “F” in the course. Grade decisions are made by the student's instructor.

(b) The Role of “Lawyer” in the Immersion

Within the client representation scenario, students act in the role of lawyer for purposes of Rule 11(a). In other respects, (such as, for example, preparation for and attendance in class, and playing the role of client or witness) students are students, and are not lawyers for purposes of Rule 11(a). Students, as opposed to lawyer, conduct is subject to the Honor Code of the Law School and to other Law School academic regulations. Only lawyer conduct is subject to Rule 11(a). If a conflict exists between these Rules and the Honor Code, the Honor Code takes precedence.

Rule 12 Procedures

(a) Reports of Violation

Reports of violation of Rule 11(a) shall be made in writing and signed by the person or persons making the report. Such report shall be addressed to any course instructor.

(b) Investigations

Upon receipt of a report, one member of the staff (the investigator) will be appointed by the staff. The investigator may not be the respondent's instructor in the immersion. The investigator shall, as expeditiously as possible, make a determination whether the alleged facts, if true, would constitute a violation of the Model Rules and whether the violation is of consequence. If the investigator determines that such allegations, if true, would constitute a violation, and the violation is of consequence, written notice shall be given to the respondent of the allegations, affording him or her 10 days within which to respond in writing to the investigator. The investigator shall then prepare a report that includes a recommended disposition, copies of which shall go to the respondent, and the complainant. The recommended disposition shall be adopted by the staff, and the investigator's report concludes the matter, unless the complainant or the respondent appeal the report and recommended disposition within 10 days of receiving those documents from the investigator. Written appeal of the investigator's findings and recommendations should be made to the same staff member to whom the complaint was originally directed.

(c) Disposition Following Investigation

Violations of the Model Rules will be treated in a way that will enhance the educational experience of the people involved and as closely as possible have the repercussions on the case as would happen in



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practice. Any other effects of such a violation will be determined by the respondent's instructor as the teacher in the course.

II. RULES OF TRIAL COURT PROCEDURE AND EVIDENCE

Rule 1 Name of Rules

These Rules shall be known as the Rules of Trial Court Procedure and Evidence (RTCPE) and may be cited as RTCPE __.

Rule 2 Purpose and Interpretation

These Rules shall be construed to secure the just, speedy, and inexpensive determination of every action and to advance the educational mission of the immersion weeks. Insofar as may be practicable and consistent with the purpose of this course, these Rules shall be interpreted in such fashion as they would be in realistic situations, subject to such factors as may be inherent in their simulated nature. In the interests of expediting a decision or for other good cause, the court may suspend any of these Rules in a particular case and proceed in accordance with its direction.

Rule 3 Scope and Application

These Rules, in conjunction with applicable Federal Rules of Civil Procedure and Evidence, govern the pre-trial and trial procedure in all civil actions. If there is any conflict between these Rules and an applicable federal rule, these Rules preempt the federal provision.

The following federal rules have no application to immersion litigation:

Fed. R. Civ. P. 1, 4, 6, 19, 20, 21-25, 38-40, 42-45, 47-49, 50(b)-(d), 51, 53, 62-67, 69-77, 79-83, 85, 86;

Fed. R. Evid. 101, 706.

Rule 4 Filing and Service

(a) Filing

Any paper to be filed under these rules shall be filed by email directed to the student's immersion instructor.

(b) Service of all Papers Required



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Copies of all papers filed by any party shall, at or before the time of filing, be served by a party or person acting for him or her on all other parties to the action. Service on a party represented by counsel shall be made on all counsel of record.

(c) Manner of Service

Service may be personal or made by email directed to counsel.

(d) Proof of Service

Each document filed shall contain proof of service in the form of a certificate of service including the date and manner of service, the document(s) served, and the names of the persons served, certified by the person who made service (see example below). A certificate of service shall appear on or be affixed to all documents filed with the court.

[SAMPLE] CERTIFICATE OF SERVICE

I certify that I served the foregoing Complaint on counsel for Defendant Jones: Bill Davis, Esq., to DavisW@wlu.edu on this 3rd day of April 2009.

WILLIAMS AND ALLEN

By: _____

Martha Williams, Esquire

700 So. Henry Street

Lexington, VA 24450

(616) 555-1111

Attorneys for Plaintiff

Rule 5 Required Stipulations

In order to control the length and complexity of trials, course supervisors will limit the number of witnesses that may be called at trial and require the parties to enter certain stipulations. These required stipulations shall be distributed to the parties' counsel in advance of trial.

Rule 6 Motions

(a) Motion Defined



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The term "motion" as used in these Rules is defined as it is in Fed. R. Civ. P. 7(b). No motion which has not been assigned may be filed unless the filing is approved by the course instructor.

(b) Submission of Written Motion Close in Time to Trial

Any issue raised by written motion less than 120 hours prior to a bench trial shall be referred to the attention of the trial judge.

Rule 7 Form of Motions

In all actions, any motion shall conform to the following standards:

(a) Motions shall state the grounds upon which relief is sought. A motion shall be supported by a written memorandum of law which shall include a statement of issues or introduction, statement of facts, argument and conclusion.

(b) Reference to any rule of procedure or evidence (whether a federal rule or a course rule) shall be specific, including citation to any section, subsection or other part of such rule.

(c) A proposed order shall be filed with every motion.

(d) Motions must be signed by counsel representing a party and must be served on opposing counsel, with proof of service attached.

Rule 8 Response to Motions

(a) Form and Service

The form, service, and filing of any response to any motion shall be governed by RTCPE 4, 6, and 7.

Rule 9 Decision of Motions, Oral Argument

(a) Rulings

Motions may be ruled upon prior to trial by the motion judge. In the discretion of the motion judge, motions may be reserved in whole or in part for resolution by the trial judge.

(b) Oral Argument

Oral argument on motions shall be ten minutes per side, with the moving party beginning the argument and reserving time for rebuttal as requested of the judge.



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Rule 11 Discovery: Civil Cases

(a) In any civil action, except when so instructed by staff, counsel is prohibited from using any formal discovery procedure.

(b) When discovery is had, the duty to supplement answers under Fed. R. Civ. P. 26(e) applies.

Rule 12 Pretrial Motions heard by the Trial Judge

Motions that have been filed under Rule 6(b) or that have otherwise been held for ruling by the trial judge shall be heard by the trial judge prior to opening statements. In order to ensure that adequate time remains for trial, no more than ten minutes may be allotted by the trial judge for the presentation of such motions.

Rule 13 Opening Statements

Each party must present an opening statement, but opening statements should not ordinarily exceed 5 minutes.

Rule 14 Evidence

(a) Exhibits

Documents provided by immersion staff or witnesses which are supposed to be originals will be regarded as accurate photocopies of the originals, and no best evidence objection may be made to them.

[ASK TRIAL FOLKS IF WE WANT THIS PROVISION] For purposes of trial, all such documents are to be considered as authentic and authenticated; opposing counsel may not object to them on grounds of authenticity. Further, no counsel may object to the documents on first level hearsay grounds. However, opposing counsel may object to material within the documents that would constitute inadmissible second level hearsay. In other words, if an affidavit includes a statement like, "My friend Joe told me that the defendant did . . .," that statement will be inadmissible hearsay if offered for its truth and if it fails to qualify as an exemption or exception to the hearsay rule.

Counsel may also object to material within the documents on other grounds, such as relevance, character evidence, and so forth. Thus, in a given case, portions of a document may be inadmissible, and the fact finder will be required to consider only the admissible portions. An inadvertently mistaken reference to a party or affiant's gender in affidavits should be read to agree with the gender of the roleplayer.

All exhibits shall be marked and shall be show to opposing counsel in advance of trial.



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(b) Calling of Witnesses

In a two witness case, counsel may not call the opposing party's witness.

Rule 15 Motion for Judgment as a Matter of Law

Motions for judgment as a matter of law may be made orally during the trial of any case. To effectuate educational goals, a decision to grant the motion will normally be reserved until the completion of the presentation of evidence by both parties. The provisions of Federal Rule of Civil Procedure 50(a) and 52(c) do not apply.

Rule 16 Closing Arguments

(a) Order of Arguments

In any action, after the closing of evidence, the plaintiff shall open the argument. The defense shall be permitted to reply. The plaintiff shall then be permitted to reply in rebuttal; counsel need not request or reserve rebuttal time

(b) Length of Arguments

In any action, closing arguments should not ordinarily exceed 5 minutes by each party, and rebuttal should not ordinarily exceed 2 minutes.



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