**ESSEX COUNTY COLLEGE**

**Social Sciences Division**

**PLS 206 *–* Litigation Procedures**

**Course Outline**

**Course Number & Name:**  PLS 206 Litigation Procedures

**Credit Hours:**  3.0 **Contact Hours:**  3.0 **Lecture:** 3.0 **Lab:**  N/A **Other:**  N/A

**Prerequisites**:  Grade of “C” or better in PLS 101

**Co-requisites:** None **Concurrent Courses:** None

**Course Outline Revision Date:**  Fall 2010

**Course Description**: This course examines the rules governing a case as it moves through the courts and basic litigation procedures. Topics covered include state and federal court rules and procedures, client interviews, pleadings, discovery proceedings, trial preparation, and the appellate process. The course also examines the role of the paralegal, the Code of Professional Ethics, and other related standards of proper conduct.

**Course Goals:** Upon successful completion of this course, students should be able to do the following:

1. discuss codes of professional conduct;
2. describe the litigation process;
3. describe the investigation and information gathering process;
4. describe case evaluation and strategy;
5. define and describe parties and jurisdiction;
6. identify and describe pleadings;
7. describe and explain the motions process;
8. identify and describe provisional remedies;
9. identify and describe the rules of evidence;
10. describe the various methods and purposes of discovery;
11. describe the process of a settlement agreement;
12. describe the trial preparation, trial, and appeal process;
13. describe the process involved in enforcing judgments; and
14. describe the alternative dispute resolution.

**Measurable Course Performance Objectives (MPOs)**: Upon successful completion of this course, students should specifically be able to do the following:

1. Discuss and examine the codes of professional conduct:

1.1 *discuss and examine judicial conduct;*

1.2 *discuss and examine attorney ethical standards;* and

1.3 *discuss and examine paralegal professionalism*

2. Describe the litigation process:

2.1 *describe and examine the litigation process;*

2.2 *describe the paralegal’s role in the litigation process;*

2.3 *describe and examine the use of computers in litigation;* and

2.4 *identify, describe, and explain ethical considerations in the litigation process*

3. Describe the investigation and information gathering process:

3.1 *discuss the structuring of fact investigations;*

3.2 *describe the various techniques involved in performing client interviews*;

3.3 *describe and explain the process of exhibits acquisition;*

3.4 *discuss the purpose of witness interviews;*

3.5 *discuss the importance of expert reviews;* and

3.6 *describe computerized fact gathering*

4. Describe case evaluation and strategy:

4.1 *discuss the necessity and process of establishing the terms of the attorney-client relationship*;

4.2 *identify the reasons for declining representation*;

4.3 *describe the process of planning the litigation;*

4.4 *develop an example litigation plan;* and

4.5 *discuss the pre-filing requirements law*

5. Define and describe parties and jurisdiction:

5.1 *identify the parties to the action*;

5.2 *discuss and identify joinder of parties and claims*;

5.3 *define subject matter jurisdiction;*

5.4 *discuss and examine personal jurisdiction;*

5.5 *compare and contrast federal versus state court;*

5.6 *discuss and examine venue;* and

5.7 *discuss the options available in choosing a court based on choice of law*

6. Identify and describe pleadings:

6.1 *identify and discuss the requirements for general pleading*;

6.2 *identify the various types of complaints*;

6.3 *define statement of claims;*

6.4 *discuss prayer for relief;*

6.5 *discuss jury demand;*

**Measurable Course Performance Objectives (MPOs)** (continued):

6.6 *discuss the process involved in filing and service of summons;*

6.7 *identify Rule 12 responses;*

6.8 *discuss and examine the various answers to a complaint;*

6.9 *define and identify counterclaims and the process by which to initiate a counterclaim;*

6.10 *discuss and identify various replies;*

6.11 *discuss and examine cross-claims;*

6.12 *describe third-party practice (impleader);*

6.13 *discuss and define interpleader;*

6.14 *discuss and describe intervention;*

6.15 *examine class actions;* and

6.16 *discuss and examine the various requirements for amendments of pleadings and supplemental pleadings*

7. Describe and explain the motions process:

7.1 *discuss and explain the general requirements for motions;*

7.2 *describe the requirements and process for obtaining extensions of time and continuances;*

7.3 *describe the process for substituting parties;*

7.4 *define removal;*

7.5 *identify judgment on the pleadings;*

7.6 *discuss and define summary judgment;*

7.7 *discuss dismissals and defaults;* and

7.8 *discuss the process of consolidation and separate trials*

8. Identify and describe provisional remedies:

8.1 *identify the requirements of obtaining temporary restraining orders and preliminary injunctions;*

8.2 *discuss and define Writs of Attachment;*

8.3 *discuss and define Writs of Possession;* and

8.4 *discuss and define Lis Pendens*

9. Identify and describe the rules of evidence:

9.1 *describe the paralegal’s role;*

9.2 *discuss the issue of relevance;*

9.3 *define hearsay;*

9.4 *identify and discuss hearsay exceptions;*

9.5 *discuss witnesses, exhibits, judicial notice, and objectives;* and

9.6 *identify privileges*

10. Describe the various methods and purposes of discovery:

10.1 *discuss scope of discovery;*

10.2 *identify the seven-step process of discovery strategy;*

10.3 *discuss, examine, and draft interrogatories;*

10.4 *discuss requests to produce documents and subpoenas;*

10.5 *discuss and examine the depositions process;*

10.6 *discuss various reasons for physical and mental examinations;*

10.7 *discuss and examine requests for admission;* and

10.8 *identify and discuss discover motions*

11. Describe the process of a settlement agreement:

11.1 *discuss the process of preparing a settlement brochure;* and

11.2 *discuss and examine settlement contracts*

12. Describe the trial preparation, trial, and appeal process:

12.1 *discuss and examine the paralegal’s role in* *trial preparation, trial, and appeal process;*

12.2 *discuss and examine pretrial conferences;*

12.3 *identify the methods of organization of files;*

12.4 *identify trial materials;*

12.5 *discuss the importance of the theory of the case;*

12.6 *discuss the process of preparation of witnesses;*

12.7 *discuss the requirements for preparation of exhibits;*

12.8 *discuss the order of trial;*

12.9 *discuss and examine assistance during trial;*

12.10 *discuss the paralegal’s role and conduct during trial;* and

12.11 *discuss the process of appeal*

13. Describe the process involved in enforcing judgments:

13.1 *draft a demand letter;*

13.2 *identify abstracts of judgment;*

13.3 *discuss the writs of execution;*

13.4 *discuss and explain wage garnishments;* and

13.5 *discuss the process of locating assets*

14. Describe the alternative dispute resolution:

14.1 *discuss the process of mediation;*

14.2 *discuss and examine the arbitration process;*

14.3 *discuss the process of preparing for arbitration;* and

14.4 *discuss and examine the arbitration hearing*

**Methods of Instruction**: Instruction will consist of a combination of any of the following instructional methods: legal case reviews, lectures, group activities, role play, oral presentations, document drafting, essays, research assignments, films, cable, news, websites, television programs, field trips, and community outreach projects.

**Outcome Assessment:** Quiz and exam questions (if applicable) are blueprinted to course objectives. Checklist rubrics are used to evaluate non-test type assessment instruments (e.g., reaction papers, oral/written presentations, debates, and projects), for the presence of course objectives. Data collected will be analyzed to provide direction for the improvement of program instruction, viability of class assignments, relevancy of assigned course materials, and evaluation of instructional time spent on specific topics.

**Course Requirements:** All students are required to:

1. Maintain regular and prompt attendance to all class sessions.
2. Complete homework assignments and quizzes (if applicable).
3. Complete all written and oral exercises (scored grading) inside and outside of class as assigned.
4. Complete the Midterm and Final Assessment Activities (e.g., paper, presentation, and/or project).
5. Voluntarily participate in class discussions, class exercises, and group projects.
6. Complete all assessment activities as scheduled.
7. Follow any specific class requirements mandated by the instructor.

**Methods of Evaluation:** Final course grades will be computed as follows:

**% of**

**Grading Components final course grade**

* Attendance/Class Participation **15 – 25%**

Attendance points will be computed based on the ratio of the number of days attending the course during a regular semester (i.e., 28 contact days). A similar procedure will be used to determine participation points.

* **Notebook containing Course Handouts, Program Summaries** 5 – 10%

**and Table of Contents**

The notebook is a practical exercise designed to assess students’ abilities to organize large volumes of information and allows students to create a reference source of all material related to course objectives for themselves.

* Topic Sentence Outlines **5 – 10%**

Topic sentence outlines are practical exercises designed to enhance students’ reading comprehension and study skills.

* Oral Report **0 – 5%**

The brief oral report is designed to provide students with an opportunity during each class session to report on a fact pattern taken either from a newspaper, local news or cable program, or paralegal or legal publication and using the torts that are currently addressed in class to perform a legal analysis.

* **Legal Case Brief in PowerPoint**  15 – 25%

The PowerPoint presentation first requires students to provide an economic, historical, political, and social context for the development of law or legislation addressed in the legal case brief including the role of the paralegal in the particular case. It also provides students with the opportunity to enhance their technological skills in an academic environment while engaging in legal analysis related to course objectives.

**Methods of Evaluation** (continued)**:**

**% of**

**Grading Components final course grade**

* **Programs, Lectures, Seminars and/or Workshops** 5 – 10%

Internal or external relevant programs, lectures, seminars and workshops, which are related to the course objectives, are informational for the student, who will be required to prepare brief written summary of the event/program. These opportunities provide students with a chance to engage in academic scholarship.

* **Debate** 5 – 10%

Debates are oral arguments designed to provide students with an opportunity to enhance their oral communication skills while engaging in legal analysis related to course objectives.

* **Legal Letter** 5 – 10%

Legal letters are designed to enhance students’ written communication skills while engaging in legal analysis related to course objectives.

* **Extra Credit Opportunities**  5 – 10%
  + Voter registration – The student should provide written evidence of participation in the electoral process.
  + Notary Public – Students are encouraged to research, process, and complete a notary public application for approval to include on their resumes to enhance their marketability.
  + Membership in Paralegal Association of New Jersey (PANJ) – Students are encouraged to join the Paralegal Association of New Jersey to include on their resume to enhance their marketability.

**Note**: The instructor will determine (as appropriate) the specific component(s) appropriate for the course and provide specific weights which lie in the above-given ranges at the beginning of the semester.

**Academic Integrity:** Dishonesty disrupts the search for truth that is inherent in the learning process and so devalues the purpose and the mission of the College. Academic dishonesty includes, but is not limited to, the following:

* plagiarism – the failure to acknowledge another writer’s words or ideas or to give proper credit to sources of information;
* cheating – knowingly obtaining or giving unauthorized information on any test/exam or any other academic assignment;
* interference – any interruption of the academic process that prevents others from the proper engagement in learning or teaching; and
* fraud – any act or instance of willful deceit or trickery.

**Academic Integrity** (continued)**:**

Violations of academic integrity will be dealt with by imposing appropriate sanctions.  Sanctions for acts of academic dishonesty could include the resubmission of an assignment, failure of the test/exam, failure in the course, probation, suspension from the College, and even expulsion from the College.

**Student Code of Conduct:** All students are expected to conduct themselves as responsible and considerate adults who respect the rights of others. Disruptive behavior will not be tolerated. All students are also expected to attend and be on time for all class meetings. No cell phones or similar electronic devices are permitted in class. Please refer to the Essex County College student handbook, *Lifeline*, for more specific information about the College’s Code of Conduct and attendance requirements.

Note: Students shall conduct themselves in a professional manner at all times. See National Federation of Paralegals Associations, Inc. Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement.**Course Content Outline:** based on the text **Fundamental of Litigation for Paralegals**, 6th edition, by Maerowitz & Mauet; published by Aspen Publishers.

**Unit Topics to be Covered**

1 Introduction to Litigation & Course Overview – Visit to the library for an introduction to Virtual Academic Library Environment (VALE); library literacy session; the litigation process; the paralegal’s role; use of computers in litigation; ethical considerations

2 Informal Fact Gathering and Investigation – Structuring fact investigations; client interviews; exhibits acquisition; witness interviews; expert reviews; computerized fact gathering

3 Case Evaluation and Strategy – Establishing the terms of the attorney-client; declining representation; planning the litigation; examples of litigation planning; pre-filing requirements

4 Parties and Jurisdiction – Parties to the action; joinder of parties and claims; subject matter jurisdiction; personal jurisdiction; federal versus state court; venue; choice of court based on choice of law

5 Pleadings – General pleading requirements; complaints; statement of claims; prayer for relief; jury demand; filing and service of summons; Rule 12 responses and answers; counterclaims; replies; cross-claims; third-party practice (impleader); interpleader; intervention; class actions; amendments of pleadings and supplemental pleadings

6 Law and Motions – General requirements for motions; extensions of time and continuances; substitution of parties; removal

7 Motion Practice – Judgment on the pleadings; summary judgment; dismissals and defaults; consolidation and separate trials

8 Provisional Remedies – Temporary restraining orders and preliminary injunctions; writs of attachment; writs of possession; Lis Pendens

9 Evidence – The paralegal’s role; relevance; hearsay; hearsay exceptions; witnesses, exhibits, judicial notice, and objectives; privileges

10 Discovery – Scope of discovery; discovery strategy: a seven-step process; interrogatories; requests to produce documents and subpoenas; depositions; physical and mental examinations; requests for admission; discovery motions

11 Settlements – Preparing a settlement brochure; settlement contracts

**Unit Topics to be Covered**

12 Trial Preparation, Trial, and Appeal – The paralegal’s role; pretrial conferences; organization of files; trial materials; theory of the case; preparation of witnesses; preparation of exhibits; order of trial; assistance during trial; the paralegal’s conduct during trial; appeal

13 Enforcement of Judgments – Demand letter; abstracts of judgment; writs of execution; wage garnishments; locating assets

14 Alternative Dispute Resolution – Mediation; the arbitration process; preparing for arbitration; the arbitration hearing

Note**:** In PLS 206, the instructor must cover the 14 units listed above minimally in any reasonable order throughout the duration of the semester/term. In addition, the instructor must provide economic, historic, political, and social context for the relevant aspects of the legal process. Suggested assessment activities to be performed at midterm and at the conclusion of the course are listed below.

Suggested Midterm Assessment Activities – Prepare topic sentence outlines of each chapter of the first half of the textbook including answers to questions in each chapter; examine a removal case; submit preliminary arguments for a final project; complete a legal terminology assessment evaluation

**Suggested Final Assessment Activities** – Prepare topic sentence outlines of each chapter of the second half of the textbook including answers to questions in each chapter; research economic, historical, social, and political background of a legal case to be briefed; draft interrogatories, answers to interrogatories, requests for production of documents, and answers to requests for production of documents based on uniform fact pattern; complete a legal terminology assessment evaluation