

ADVANCED FAMILY LAW LITIGATION

Spring 2010

Professor Dalton

617-373-8882

claredalton@comcast.net

SYLLABUS AND COURSE ORGANIZATION

N.B:

- **CLASSES AND ACCOMPANYING ASSIGNMENTS MAY BE CHANGED TO REFLECT NEW DEVELOPMENTS IN THE CASE, OR NEW STRATEGIC PRIORITIES. READING ASSIGNMENTS WILL BE SPECIFIED IN MORE DETAIL IN THE SYLLABUS DISTRIBUTED IN THE FIRST CLASS AND POSTED ON TWEN.**
- **WE WILL OFTEN HAVE GUESTS WITH US IN CLASS, EITHER TO DISCUSS THEIR PRACTICES, OR TO PLAY THE PARTS OF COUNSEL, EXPERT WITNESSES OR JUDGES.**

CLASS ONE: March 2

3:30 – 4:00

- Introduction: course overview; course requirements; scheduling
- Orientation to Law School Clinics: ground rules for use

4:10 – 5:25

- THE FIRST CLIENT INTERVIEW: ROLE PLAY
- FOLLOW-UP: ROLE PLAY DISCUSSION
 - Basic interviewing skills
 - Lawyering in domestic violence cases: beginning reflections
 - Recording the interview: memo to file

5:30 – 6:30

- Resources: Review of printed resources; research tips; introduction to www.dvihelpsite.com
- Wrap up and discussion of week two: class plan and assignments

ASSIGNMENTS FOR WEEK TWO

Journaling:

- *Reflections on the initial client interview*

Readings:

- *To be decided*

Writing:

- *Memo to file: Initial interview*

CLASS TWO: March 9

3:30 – 4:50

- Family law practice continued:
 - Client-defined service, client empowerment – a theory of the lawyer/client relationship.
 - Self care: personal and professional boundaries; knowing your limits; sources of support.
 - Making a living as a family lawyer: charging for your services; negotiating payment.
 - Managing a case, and a case file.

5:00 – 5:45

- Anatomy of a Massachusetts divorce case: the bare bones of sequence and timing.
- “Theory of the case:” grounds for divorce, money and children. (What more do we need to know from Meg in order to talk with her about her choices, the potential pitfalls and the possible outcomes?)

5:45 -6:30

- Abuse Prevention in Massachusetts: an introduction to Chapter 209A

ASSIGNMENTS FOR WEEK THREE

Journaling:

- *Reflections on family law practice: what aspects do you think you would find most challenging and/or rewarding?*

Reading:

- *The Abuse Prevention Statute, and Obtaining Abuse Prevention Orders*
- *Visitation Issues*
- *Any case update postings or emails received during the week*

Writing/Class preparation:

- *Any preparation required in response to postings/emails*

CLASS THREE: March 16

3:30-4:20

- Discussion of urgent phone call from client
(including discussion of evidence to support abuse finding, writing of affidavit, scope of order, child support, visitation, guns)

4:30-5:30

- Filling out paperwork for (*ex parte*) restraining order application
- Role play of *ex parte* hearing

5:40-6:30

- Debriefing of *ex parte* hearing
- Planning for ten-day hearing:
 - Documenting abuse
 - Preparing client to testify

ASSIGNMENTS FOR WEEK FOUR

ALL: Journaling:

- *Reflections on ex parte hearing*

MEG'S TEAM:

Reading:

- *Review of relevant portions of Chapter 208 and whatever commentary/caselaw will support preparation for discussion with client about separation/divorce choices*

Writing:

- *Memo to file: plan for ten day hearing (outline only)*
- *Memo to file: looking forward to a possible separation/divorce: questions for Meg about children, money, and choices about how to proceed (outline only)*

STEVE'S TEAM:

Reading:

- *Memo to file from partner summarizing initial conversation with Steve*
- *Review of relevant portions of Chapter 208 and Chapter 209, along with whatever commentary/caselaw will support preparation for discussion with client about contesting 209A order, about custody/visitation in connection with order, , and about separation/divorce choices*

Writing:

- *Draft of motion for visitation and contact, to be offered by Steve at the 10-day hearing*

CLASS FOUR: March 23 (2 hour class for those representing Meg)

3:30 – 4:10

- *Feedback on your memos; preparation for client meeting*

4:15- 5:30

- *Meeting with client:*
 - *Planning for ten day hearing*
 - *Planning for divorce: children, money, and how to proceed*

ASSIGNMENTS FOR WEEK FIVE:

Journaling:

- *Reflections on week four, experience of client meeting*

Thinking:

- *Preparing for ten-day hearing*

Reading:

- *Whatever will support your participation in ten-day hearing*
- *Any update postings or emails received during the week*

Writing/Class preparation:

- *Any preparation required in response to postings/emails*

CLASS FOUR: March 29 or 30 (TBD) (2 hour class for those representing Steve)

- Preparation for client meeting
- Meeting with client:
 - Responding to ex parte order, preparation for ten day hearing
 - Other strategic choices

ASSIGNMENTS FOR WEEK FIVE:

Journaling:

- *Reflections on week four, experience of client meeting*
- *(to be completed before meeting with Steve) what do you anticipate from this meeting, based on what you've already learned about Steve?*

Thinking:

- *Preparing for ten-day hearing*

Reading:

- *Your choice: whatever will support your participation in ten-day hearing*

CLASS FIVE: March 30

3:30 -4:20

- Ten-day hearing

4:30-5:30

- Debriefing of ten-day hearing
- Representing an abusive partner: practical and ethical considerations

5:40-6:30:

- Discussion of next developments in case:
 - Steve's filing complaint for divorce and temporary custody motion
 - Kathy's motion for appointment of a GAL

ASSIGNMENTS FOR WEEK SIX

Journaling:

- *Reflections on week FIVE, including experience of ten-day hearing*

Writing:

- *Preliminary work on motions, responses and affidavits*

Reading:

- *Materials supportive of preparation and argument of motions*

CLASS SIX: April 6

3:30-6:30 (with breaks)

- Continued work on motions:
 - developing arguments
 - thinking about evidentiary support
 - review and critique of models

ASSIGNMENTS FOR WEEK SEVEN

Journaling

- *Reflections on motions preparation and hearings, including lessons learned*

Writing

- *Final preparation of motions, responses and affidavits*

Research and Reading

- *Another look at Section 34; analysis of financial statements*

CLASS SEVEN: April 13

- Motion arguments:
 - Motions for custody and for modification of visitation
 - Motion for appointment of GAL
- Discovery and Negotiation with respect to finances – strategy discussion

ASSIGNMENTS FOR WEEK EIGHT

Journaling:

- *Reflections on week SEVEN, including experience of motion hearings*

Case Development:

- *First Interviews with clients re financial settlement*
- *Preparation for negotiations*

CLASS EIGHT: April 20

- Settlement Negotiations: First Round
- Pretrial memorandum preparation
- Witness selection/ preparation

ASSIGNMENTS FOR WEEK NINE

Journaling:

- *Reflections on week EIGHT, including experience of settlement negotiations*

Case Development:

- *First correspondence with clients re financial settlement negotiations*
- *Second round of settlement negotiations*
- *Second correspondence with clients re proposed settlement*

Writing

- *Pretrial memoranda: team production*

CLASS NINE: April 27

- Pretrial conference discussion with Susan Elsen and Lois Kanter
- Pretrial conference hearing before Judge Kanter, Team 2

- Pretrial conference debriefing, led by Team 1
- Trial preparation: strategy and process

ASSIGNMENTS FOR WEEK TEN

Journaling:

- *Reflections on week NINE, including experience of pretrial hearing*

Case Development:

- *Preparing questions for direct and cross of witnesses*
- *Witness preparation*
- *Preparation of opening and closing statements*

Reading:

- *From Mauet, TRIAL TECHNIQUES*

CLASS TEN: May 4

- Trial of contested issues

ASSIGNMENTS FOR WEEK ELEVEN

Journaling:

- *Reflections on week TEN, including experience of TRIAL*
- *Final reflections on your experience of course, and your learning*

CLASS ELEVEN: May 11

- Debriefing of trial
- Debriefing experience of quarter
- Farewell Feast