

Civil Litigation

This course examines the processes of investigating, developing and presenting a civil case. The focus is on fact development, formulation of theory of a case, strategic use of motions and discovery, and trial presentation. Attention is given to issues of fact interpretation and how cognitive processes affect how witnesses perceive and recount facts. Students work with a single simulated set of facts throughout the course, beginning with exercises in questioning a witness and preparation of direct examination. The course then explores the early stages of civil litigation through a simulated exercise in responding to a motion for summary judgment, which involves consideration of tentative theories of the case and strategic choices in drafting affidavits and memoranda. The course then proceeds to a more advanced stage of civil litigation, looking at the implications of discovery and depositions for trial strategy. All students serve as attorneys in one of the simulated trials.

Criminal Litigation

The course examines the process of investigating, researching, preparing and presenting the defense of a criminal charge. The focus is on litigation planning, particularly the development of a coherent strategy of defense and theories of the case. Witness interviewing and examination get considerable attention; some attention is devoted to briefing that requires the integration of factual and legal argumentation. Students work with a single simulated case throughout the course and predominately deal with the case from the defense perspective. Students research applicable law, investigate facts (by planning and conducting a series of investigative interviews), devise an overall litigation strategy (including a suppression motion), think through the defense and prosecution theories of the case at both the suppression motion and the trial, and examine some witnesses at both proceedings. In the trial simulation, half the class acts as defense counsel and half the class acts as prosecutors.