

Fundamentals of Law Practice
Clark Cunningham & Tiffany Roberts -- Spring Semester 2017
Syllabus as of 03/24/2017

Free course materials handed out in class.

(1) "Starting Your Georgia Law Practice," Law Practice Management (State Bar of Georgia) = "LPM"
(handed out in class on March 7)

(2) Georgia Rules of Professional Conduct = GRPC mailed before start of semester

(3) Domestic Violence Manual = "Binder" handed out at first class

(2) and (3) can also be downloaded from the "Course Materials Not Linked to Syllabus" folder in TWEN.

Week 1 - Class on January 10 & January 12

Tuesday, January 10: Classroom 244

Course Objectives

1. Complete short, [on-line student questionnaire](#), preferably by noon, Jan 9, so instructors can review before first class.
2. Charlotte Alexander, "[Learning to Be Lawyers: Professional Identity and the Law School Curriculum](#)," 70 Maryland L. Rev. 465 (2011) (excerpts that describe this course as first taught in Spring 2010) (pdf) (10 pages)

Unauthorized Practice of Law and Student Practice

3. [OCGA 15-19-51](#) Unauthorized practice of law forbidden
4. [GRPC 5.5](#) (Unauthorized Practice of Law)
5. [FAO 00-3](#) (use of paralegal in real estate closing)
6. [FAO 00-2](#) (legal advice by non-lawyer staff of law firm)
7. [Student Practice Rule](#)
8. [Georgia Bar Journal article about new student practice rule](#)

Domestic Violence Casework

9. [Slain woman predicted her own death](#)
10. [Stacey Dougan, Waiting for the bad guys to do more; Stephen D. Kelley & Peggy H. Walker Orders can protect, but help is needed](#) (Atlanta Journal Constitution January 11, 2013 Page A14)
11. [Domestic Violence and Murder in Metro Atlanta](#) (read at least 5 newspaper articles)

Case Management

12. [History of the Clio web-based practice management tool](#)
13. [Clio Student Handbook](#) (35 pp with illustrations)
14. [U.S. Accuses Chinese Citizens of Hacking Law Firms](#), NY Times (Dec. 27, 2016)
15. [Florida Bar Opinion 12-3](#) (Jan. 25, 2013) (lawyers may use cloud computing if they take reasonable precautions)
16. [Clio – Two Factor Authentication Procedures](#)
17. [Clio Privacy Policy](#)

18. [Clio Terms of Service](http://www.goclio.com/legal/tos/) [excerpts]: Complete terms of service available at: <http://www.goclio.com/legal/tos/>
19. Bilinsky & Best, *Drafting Bills Clients Love to Pay*, **Law Practice Today: The Monthly Webzine of the ABA Law Practice Management Section** (Nov. 2008) (6 pages)
20. [Georgia Formal Advisory Opinion 01-1](#): Is it ethically permissible to charge for a standard unit of time without regard to actual time expended? (2 pages)
21. [Galvez v Cuevas](#) (S.D. Fla. 2009) (lawyer failed to keep meticulous, contemporaneous time records that revealed how hours were allotted to specific tasks; attorney fee award reduced by \$11,250) (5 pages)

The Fieldwork Component

22. Read [excerpts from fieldwork reports](#) written in prior semesters.
23. G.M. Filisko, "[Turn-Around: Solos Seek Advice to Survive a Struggling Economy](#)," ABA Journal 51-55 (March 2010)(note especially profile of Marietta solo practitioner at 54-55).
24. Meredith Hobbs, [Justice Café Adds Offices, Expands a la Carte Services: Manely firm slowly rolls out experiment in making lawyers available for \\$75 per hour](#) (Fulton County Daily Report Nov. 21, 2013)

Developing Professional Judgment

25. [Scenario: Protective Order and Child Abuse Matter](#) **Before class, print and fill this out. Bring to class.**
26. [GRPC 1.2](#) and Comments 4-5 (scope of representation)
27. [GRCP 1.4](#) (Communication)
28. [GRPC 1.6](#) (Confidentiality)
29. [GRPC 1.7](#) (Conflict of interest - general rule)
30. [GRPC 1.8\(f\)](#) (Conflict of interest - when not paid directly by client)
31. [GRCP 1.14](#) (Client with Diminished Capacity)
32. [GRPC 1.16](#) (Terminating representation)
33. [GRCP 2.1](#) (Advisor)
34. [GRCP 3.1](#) (Meritorious Claims & Contentions)
35. [GRPC 3.3](#) (Duties of candor to the court -- note exceptions to duty of confidentiality)
36. [GRPC 3.4](#) (Fairness to Opposing Party and Counsel)
37. [GRCP 4.1](#) (Truthfulness in Statements to Others)
38. [GRCP 4.2](#) (Communication with Person Represented by Counsel)
39. [GRPC 4.3](#) (Dealing with Unrepresented Person)
40. [GRCP 4.4](#) (Respect for Rights of Third Persons)

Thursday, January 12:

DV Workshop I Kate Gaffney & Kylee Elliott

Manely Law Firm, 211 Roswell Street, Marietta 30070 (Justice Café entrance)

<https://www.surveymonkey.com/r/FoodOrderJan12>

41. [Emory Law Grad, Rising Fulton County Prosecutor Shot by Husband, Who Then Kills Himself](#)
42. American Bar Association [Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases: Ethical Duties](#)

43. Domestic Violence Manual (handed out at first class)

Familiarize yourself with the contents of the Manual

Read:

Chapter 4: Statutes

1. OCGA: Title 19: Chapter 13: Family Violence Act (4:1 – 4:10)
4. 18 USC 922(g) – prohibition on possessing firearm (Brady Bill) (4:39)
5. 18 USC 2265 Full Faith & Credit Act to protection orders (4:40)

Chapter 6: Domestic Violence Benchbook & Forms

8 . Georgia Domestic Violence Benchbook

- a. Table of Contents (6:59 – 6:64)
- b. App E: Firearms (6:65 – 6:70)
- c. App G: Family Violence Intervention Program (6:71 – 6:74)
- d. App H: Immigrants and Refugees (6:75 – 6:89)
- e. App T: Strangulation (6:90 – 6:94)

Week 2 – Class on January 17 & January 19

Tuesday, January 17: Marietta

By 10pm on Jan 17

- **record in Class-YourName all time spent since class on Jan 12 doing class readings, assignments, and during class time**
- **Fill in all other courses and other recurring time commitments on your Calendar**

Court Observation. Arrive at Manley Firm parking lot at 8:30 and walk to courtroom.

Walking Tour of Marietta Square & Courthouse complex

44. [Sample: Temporary Protection Order Docket](#)
45. [Court Observation Report Form: Docket](#)
46. [Court Observation Report Form: Individual Cases](#)
47. DV Manual Readings

Chapter 4: Statutes

- Georgia Criminal Statutes Relevant to Family Violence and Stalking (4:11 – 4:33)
- OCGA 19-9-3 Custody Disputes (4:34 – 4:38)

Thursday, January 19: GSU

Bring to class your completed court observation docket report and individual case reports, either handwritten or filled in as Word documents. You are encouraged to also upload your reports to the TWEN assignment drop box on or before 8am on Jan 19.

By 10pm on Jan 19:

- **record in Class-YourName all time spent since class on Jan 17, doing class readings, assignments, and during class time**
- **post in Journal-YourName a two paragraph journal entry regarding two different things you observed in your courtroom observation on Jan 17 (See Nicolson, Guidelines on Writing Journal Entries, Reading # 60)**

Preparing for your fieldwork

How to handle your domestic violence case

Fundamental Skill: Interviewing

48. DV Manual Readings

1. Chapter 3: Handling Your DV Case
 - DV case procedures (3:31 – 3:42)
 - Criminal prosecution flowchart (3:43)
 - Obtaining warrants, GA DOC, and Cobb jail inmate information (3:44 – 3:52)
 - Obtaining Police Reports (3:53 – 3:67)
 - Obtaining 911 Recordings (3:68 – 3:76)
 - Obtaining medical records (3:77 – 3:78)
 - Obtaining Private Cell Phone Records (3:79 – 3:81)
 - Sample opening statement; sample direct examinations (3:82 – 3:95)
 - Closing letters (3:96 – 3:97)
2. Chapter 4: Statutes
 - 24 OCGA 24-13-21 et seq. – subpoenas (4:41 – 4:43)
 - Georgia Open Records Act (4:44 – 4:47)
3. Chapter 6: Domestic Violence Bench Book & Forms: skim the following
 1. Petition for Temporary Protective Order (Family Violence) (6:1 – 6:8)
 2. Family Violence Ex Parte Protective Order (6:9 – 6:15)
 3. Family Violence Twelve Month Protective Order (6:16 – 6:30)
 4. Petition for Stalking Protective Order (6:31 – 6:35)
 5. Stalking Ex Parte Temporary Protective Order (6:35 – 6:39)
 6. Stalking Twelve Month Protective Order (6:40 – 6:44)
 7. Child Support Worksheets (6:45 – 6:58)

49. Mary C. Ashcroft, "[Unbundling Legal Services: Delivering What Your Client Wants at a Price She Can Afford](#)," Vermont Bar Journal 1-3 (Winter 2010) (pdf)
50. John T. Phipps, [New "limited scope legal representation" rule gives solo and small firm practitioners special opportunity to expand practice with "unbundled legal services"](#), 38 General Practice, Solo & Small Firm Section Newsletter No. 5 (Illinois State Bar Association March 2010)
51. [Client Agreement form used by Cobb County Legal Aid for domestic violence cases](#)
52. [Rainwater-Consent TPO](#)
53. [Thompson-ConsentTPO](#)

Fundamental Skill: Interviewing

54. "[Taking Notes](#)," from Foonberg, **How to Start & Build a Law Practice** (pdf) (1 page)
55. "[Asking Questions](#)," from **Conference Skills** (Inns of Court School of Law)
56. Smith, [Patient-Centered Interviewing](#): Foreword, Chapter 1 (all), Chapter 2 (all), and Chapter 3: pp 35-65 (2d edition)/ pp 29-55 (3rd edition) – also handed out at Class 2
57. [Price Exercise 1 Instructions](#)
58. [Price Exercise: Petition, TRP, Intake Memo](#)
59. Bennett, [Doing Oral History](#)
60. Nicolson, [Guidance on Writing Journal Entries](#)

61. Prepare to practice your upcoming fieldwork interview by interviewing Prof. Roberts about her solo practice; review her [firm website](#) and [GSU biography](#).

Week 3 - Class on January 24 & January 26

Monday, January 23: Fieldwork period begins

You may email your attorney to set up your first meeting as soon as you receive a “cc” of Professor Cunningham’s email to your attorney confirming the fieldwork assignment. Please use the “[Letter to Field Attorney format](#)” found in the Fieldwork folder on TWEN, cc your letter to both Professor Cunningham and Roberts, and cc to your Fieldwork-Name matter.

Before your initial meeting carefully review the [Fieldwork Instructions](#) and print two copies of the [Fieldwork Agreement](#) to take to the meeting.

Tuesday, January 24: Marietta

DV Workshop II (Law Enforcement, Other Agencies & Fact Investigation)

62. Chapter 5: Georgia Evidence Code

1. Evidence Code (5:1 – 5:29): Review the following rules:
 - 24-1-106 Rule of Completeness
 - 24-2-221 Certified County and Municipal Records
 - 24-4-404 Character Evidence
 - 24-4-405 Methods of Proving Character
 - 24-4-406 Habit or Routine
 - 24-5-509 Family Violence Center – Agent Privilege
 - 24-6-602 Personal Knowledge Requirement
 - 24-6-608 Impeachment – Character for Untruthfulness
 - 24-6-609 Impeachment – Prior Convictions
 - 24-6-611 Examination of Witnesses
 - 24-6-612 Refreshing Recollection
 - 24-6-613 Prior Inconsistent Statements
 - 24-6-615 Sequestration
 - 24-8-801 to 24-8-8-826 Hearsay
 - 24-9-901 to 24-9-923 Authentication
 - [24-10-1002 to 24-10-1007 Best Evidence Rule](#) (to be added to binder at 5:29(a))
2. Milich, *Georgia Evidence Essentials* (5:33 – 5:36)
3. Harper, *Changes affecting hearsay under the new Georgia Evidence Code* (5:37 – 5:40)
4. Milich, *Authentication of Photos and Recordings* (5:41- 5:48)
5. [Milich on Police Reports](#) (to be added to binder)
6. [Milich on Medical Records](#) (to be added to binder)

Thursday, January 26: Class cancelled for fieldwork

Week 4 - Class on January 31 & February 2

Tuesday, January 31: GSU

Price simulation exercise continued

Preparing for mock hearing in Price on Feb 7 before Judge Milich.

63. [Interview Analysis](#) form used to apply Smith reading to simulated Price interview conducted on Jan 19. **Due at 9am** – worth 4 points. Submit to TWEN assignment drop box or bring to class.
64. Review [Journal Entry Requirements and Suggestions](#)

Thursday, February 2: No class.

65. Read [Fieldwork Matter Instructions](#) (applies to assignment due Feb 7) – also filed under Fieldwork in TWEN
66. Review [Requirements for Recording Activities](#) (applies to assignment due Feb 7) – also filed under Grading Criteria in TWEN

Week 5: Class on February 7 & February 9

The Experiential Component: DV Intake expected for Teams 1 & 2

Tuesday, February 7: GSU

Due by 9am

-- **Fieldwork Matter up to date; up to 3 Portfolio points will be assigned based on status of matter as of 9am**

-- **Class Matter up to date; up to 3 Portfolio Score will be assigned based on status of matter as of 9am**

Remember that [journal entries](#) (e.g. in-depth interview with field attorney, 1st meeting with client) are to be uploaded as documents to your Journal Matter no later than 3 business days after the event.

Case Rounds: Teams 1 & 2

Mock Price Hearing: Professor Paul Milich presiding

67. [Assignment of Exhibits to Admit at Hearing](#)

Thursday, February 9: Marietta No Class

9:30 am Swearing-In Ceremony, presided over by [Chief Justice P. Harris Hines](#), Supreme Court of Georgia, **Courtroom 7100, 7th Floor Cobb County Superior Courthouse** (Courtroom of Judge Mary Staley Clark).

11:00 -12:00 Reception, Manely Firm (family and friends welcome)

Week 6: Class on February 14 & February 16

The Experiential Component: DV Intake expected for Teams 3 & 4

Tuesday, February 14: Marietta

NO CLASS; DV HEARINGS

TEAM 1: Katrina Croom & Andy Navratil – Prof Roberts

TEAM 2: Aaron McClellan & Joey Wallace – Prof Cunningham

-- TEAM 4: Megan Harrison & Christopher Ryan to observe hearings, available to assist Team 1 or 2 as assigned by instructors

Thursday, February 16: No class

Week 7:

Tuesday, February 21: No class

NO CLASS; NO DV HEARINGS

Thursday, February 23: GSU

9am – 9:55am – Case Meetings Teams 3 & 4

10am – 10:30 Everyone to class by 10am

Debrief Team 1 & 2 cases from Feb 14

10:40 – 12:40

Practice hearings for Teams 3 and 4 before “Judge Roy Sobelson”

12:40 – 1:10

Lunch break

1:10 – 2:00

Discussion of Fieldwork to date

Week 8

Tuesday, February 28: Marietta

NO CLASS; DV HEARINGS

TEAM 3: Seth Meyerson -- Prof Roberts

-- TEAM 1: Katrina Croom & Andy Navratil , observe Team 3 hearing, available to assist Team 3 as assigned by instructors

TEAM 4: Megan Harrison & Christopher Ryan – Prof Cunningham

-- TEAM 2: Aaron McClellan & Joey Wallace, observe Team 4 hearing, available to assist Team 4 as assigned by instructors

Thursday, March 2: no class

Friday, March 3

Final day to complete fieldwork interview and observations

Week 9: Class on March 7

Tuesday, March 7: GSU Class starts at 10:30am

Debrief Team 3 & 4 cases

Anonymous Midterm Evaluation: <https://www.surveymonkey.com/r/MidtermEval-FLP17S>

Fieldwork Roundtable: discussion of fieldwork experiences and guidance for writing report

68. [Petition in Alexander case](#) (Seth)
69. Chrisner case (Megan/Christopher)
 - [Petition](#)
 - [Letter to R's counsel](#)
 - [Consent Judgement](#)

Thursday, March 9: NO CLASS

Friday, March 10

Draft fieldwork report due to attorney. Indicate by completed task and time entry in your Fieldwork Matter but do not send the draft report to the instructors.

SPRING BREAK

Week 11: Class on March 21 & March 23

Monday, March 20

Draft fieldwork report due back from attorney

Tuesday, March 21: GSU 10:30 am – 12:10 pm

70. Getting What's Coming to You: A Primer on Billing and Collecting Fees," Starting Your Georgia Law Practice," Law Practice Management (State Bar of Georgia 2017) (LPM) pp 81-86
71. Read [GRPC 1.5](#) (Fees) including comments
72. [Thomas v Holt](#), 206 Ga. 133, 70 S.E.2d 595 (1952) (refusing to enforce contract to pay contingent fee from future child support payments)
73. [Advisory Opinion 36](#) (Contingent Fees Prohibited in Divorce Cases)
74. [Advisory Opinion 47](#) (Contingency Fees Permitted to Collect Past Due Alimony and/or Child Support)
75. [Statewide Grievance Committee v Dixon](#), 772 A2d 160 (Conn. 2001) (suspending attorney for failing to obtain client consent to fee sharing)
76. [Corcoran v N.E. Ill. Regional Railroad](#), 803 N.E.2d 87 (Ill. App. 2003) (award of shared fee to referring attorney)
77. Re-read Bilinsky & Best, [Drafting Bills Clients Love to Pay](#), Law Practice Today: The Monthly Webzine of the ABA Law Practice Management Section (Nov. 2008) (6 pages)
78. [Communicating with Clients through Invoices](#)
79. [Bringing billing into the digital age](#)
80. [Hourly rates in a time of moderation](#)
81. [Suit Offers a Peek at the Practice of Inflating a Legal Bill](#)
82. [DLA Piper v. Adam Victor, Supporting Affidavit](#) (pp 1-4)
83. [DLA Piper denies overbilling](#)
84. [The Tyranny of the Billable Hour](#)
85. [Lawyers find new way around billable hour](#)
86. [Alternative Fee Arrangements and Litigation Finance](#)
87. [The New Normal: Alternative Fee Arrangements and Project Management](#)

Thursday, March 23: GSU 10:30 am – 12:10 pm

[Trust Accounting Exercise](#) due at 9am (2 portfolio points). Submit to [TWEN drop box](#) AND bring your written invoice and bank account statements to class.

88. [Formal Advisory Opinion 07-1](#): May a lawyer disclose client information to a third party in order to collect fee from the client?
89. [Formal Advisory Opinion 87-5](#): An attorney may not to the prejudice of a client withhold the client's papers or properties upon withdrawal as security for unpaid fees.
90. Trust Accounting for Attorneys in Georgia," LPM 87-94, 104-107, skim 117-138
91. [GRPC 1.15\(I\)](#): SAFEKEEPING PROPERTY - GENERAL, also in LPM 95-96
92. [GRPC 1.15\(II\)](#): SAFEKEEPING PROPERTY- TRUST ACCOUNT AND IOLTA, also in LPM 97-99
93. [GRPC1.15\(III\)](#): RECORD KEEPING; TRUST ACCOUNT OVERDRAFT NOTIFICATION; EXAMINATION OF RECORDS, also in LPM 100-103
94. [Formal Advisory Opinion No. 91-2](#): Whether a lawyer may deposit into a general operating account a retainer that represents payment of fees yet to be earned (also in LPM 108-110)
95. [Formal Advisory Opinion 03-1](#): May an attorney charge a non-refundable special retainer?

Friday, March 24

If revisions requested by attorney, revised report back to attorney with final approval form. Indicate by completed task and time entry in your Fieldwork Matter but do not send the revised report to the instructors.

Week 12: Class on March 28 & March 30

Tuesday, March 28

96. Read [Clio Support article on creating productivity reports](#) and create a report for all of your time entries in your DV matter (this means that you will create a report for your activity only; filter for yourself and exclude activity from your classmates and professors). Export your file as a PDF file and bring to class.

Thursday, March 30

Friday, March 31

[Fieldwork Report](#) due no later than noon on Friday, March 31, 2017. Email to Professors Cunningham and Roberts and "cc" to your Fieldwork matter so it is uploaded to the Documents folder. The grade will be reduced by one grade level (e.g. from A to B, B- to C-) if late without demonstrated good cause. Grade may be further reduced depending on extent of late submission. Your attorney's completion of the [Fieldwork Report Approval](#) form must submitted together with your final report.