

Cover Sheet: Request 15196

LAW 6XXX - Electronic discovery

Info

Process	Course New Ugrad/Pro
Status	Pending at PV - University Curriculum Committee (UCC)
Submitter	Krista Vaught kfields@law.ufl.edu
Created	7/24/2020 2:00:19 PM
Updated	7/26/2020 2:43:25 PM
Description of request	Proposal for permanent approval of electronic discovery

Actions

Step	Status	Group	User	Comment	Updated
Department	Approved	LAW - Juris Doctor 012406001	Rachel Inman		7/26/2020
Syllabus - electronic discovery.pdf					7/24/2020
College	Approved	LAW - College of Law	Rachel Inman		7/26/2020
No document changes					
University Curriculum Committee	Pending	PV - University Curriculum Committee (UCC)			7/26/2020
No document changes					
Statewide Course Numbering System					
No document changes					
Office of the Registrar					
No document changes					
Student Academic Support System					
No document changes					
Catalog					
No document changes					
College Notified					
No document changes					

Course|New for request 15196

Info

Request: LAW 6XXX - Electronic discovery

Description of request: Proposal for permanent approval of electronic discovery

Submitter: Krista Vaught kfields@law.ufl.edu

Created: 7/24/2020 1:51:16 PM

Form version: 1

Responses

Recommended Prefix LAW

Course Level 6

Course Number XXX

Category of Instruction Intermediate

Lab Code None

Course Title Electronic Discovery

Transcript Title Electronic Discovery

Degree Type Professional

Delivery Method(s) On-Campus

Co-Listing No

Effective Term Earliest Available

Effective Year 2020

Rotating Topic? No

Repeatable Credit? No

Amount of Credit 3

S/U Only? No

Contact Type Regularly Scheduled

Weekly Contact Hours 3

Course Description Electronic discovery is a major litigation activity. Digital information is a principal form of evidence and often determines case outcomes. This course will provide you with a working knowledge of the principal e-discovery issues encountered in litigation and investigations and the legal framework required to analyze and to resolve the multitude of e-discovery issues. This course will also introduce you to a variety of industry-standard electronic discovery tools.

Prerequisites None

Co-requisites None

Rationale and Placement in Curriculum The College of Law is reviewing and updating our curriculum and courses. This course has been offered multiple times in previous years under the special topics course number LAW 6930. This request is part of a broader, ongoing effort to move to permanent course numbers.

Course Objectives When ESI Must Be Preserved: The Preservation Trigger
After completing this module, you should be able to:

Assess when the duty to preserve evidence arises
Recognize the common indicia of when a preservation duty has arisen
Conduct an investigation to determine whether a duty to preserve evidence has arisen

How and What ESI Must Be Preserved: The Scope of Preservation
After completing this module, you should be able to:

Identify accessible and not reasonable accessible data types and locations
Understanding IOT and social media data and information
Determine the factors related to the proportionality of discovery

Assess when proportionality considerations should govern the preservation of ESI
Understand the dual discovery requirements for relevance and proportionality and the impact of Rule 26(b)(1) on preservation
Minimize the risk of data loss
Control the costs of preservation through scope management
Implement and monitor legally defensible litigation holds

Collecting Electronically Stored Information

After completing this module, you should be able to:

Plan the collection of electronically stored information from various sources and locations.
Categorize the importance of various kinds of metadata associated with electronically stored information.
Determine the proper methods for collection of social media data.
Determine the appropriateness of collecting metadata.
Plan the acquisition of relevant information through forensic data capture and bit-stream and mirror image data collection.
Determine the correct utilization of physical and logical data collections.
Create the proper documentation associated with the collection of ESI and the creation of a legally defensible chain of custody.

E-Discovery, Complex Litigation, and Class Actions

Objectives:

Understand the role of e-discovery in complex matters
Manage electronic discovery in complex matters
Understanding e-discovery negotiations and motion practice

Rule 16 Scheduling Order and Rule 26(f) Conference

After completing this module, you should be able to:

Design a Rule 26(f) Conference protocol.
Negotiate the necessary elements of the Rule 26(f) Conference.
Manage the opposition at the Rule 26(f) Conference.
Build rapport and trust at the Rule 26(f) Conference.
Enforce the opposition's Rule 26(f) obligations.
Drafting an ESI Protocol

Boolean Key Word Search

After completing this module, you should be able to:

Construct an effective key word search strategy and protocol
Refine and iterate key word search
Measure the effectiveness of key word search
Utilize de-Nesting and de-duplication strategies
Utilize key word search technologies such as Boolean logic, fuzzy logic, as well as advanced concept and clustering searches

UF Law E-Discovery Distinguished Speaker

Data Analytic Techniques

Objectives:

Understand and apply data near duplicate technologies
Understand and apply shingling and clustering technologies
Understand and apply unsupervised machine learning technologies
Design and manage legally defensible document reviews

Predictive Coding and Machine Learning

After completing this module, you should be able to:

Appropriately utilize technology assisted review (a/k/a "predictive coding").
Understanding how technology assisted review works.
Correctly apply the appropriate TAR review methodology

Fed. Rule 34 Requests and Responses and Production of Electronically Stored Information
After completing this module, you should be able to:

Articulate the basic formats for the production of electronically stored information
Select the right format for production of ESI
Properly organize the production of ESI in a legally defensible manner
Apply proportionality principles to requests for production

Spoliation and Rule 37 Sanctions

After completing this module, you should be able to:

Categorize the various levels of sanctions under Rule 37.
Understand and apply the rules changes of Dec. 1, 2015
Analyze the scope of relief available in sanctions motions depending on prejudice and culpability
Construct and defend motions for sanctions.

Course Textbook(s) and/or Other Assigned Reading LexisNexis Practice Guide Florida E-Discovery and Evidence, Artigliere and Hamilton(2019)

<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=prod14330392>. (free online access for UF students).

Project Management in Electronic Discovery, M. Quartararo (2016)
Available at <https://www.edpmadvisory.com/resources/> or on Amazon

https://www.amazon.com/dp/B01I5T0XNG/ref=dp-kindleredirect?_encoding=UTF8&btkr=1

Weekly Schedule of Topics When ESI Must Be Preserved: The Preservation Trigger
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Construct and defend motions for sanctions.

Grading Scheme 1. Final examination: 600 points.

There will be a 3-hour "take-home" open-book examination composed of 3 or 4 factual patterns requiring analysis. The final exam may be taken at any time during the finals period. The 3-hour examination will be graded on the following rubric

- (1) Identification of e-discovery issues presented by the scenario,
- (2) Analysis of the e-discovery issues presented by the scenario,
- (3) Application of case law and civil procedure rules to the issues presented by the scenario,
- (4) Resolution of the issues presented by the scenario,
- (5) Felicity, conciseness, and richness of the written expression.

The examination will be administered by the Registrar's office. The examination will include materials and topics discussed in class in addition to the readings. Each of the scenarios on the final examination will ask you to adopt a role such as retained plaintiff or defense counsel, magistrate judge, or client and respond to the factual pattern from that perspective.

2. Class Attendance and Participation: 200 points (5 points per class).

Class attendance and participation are expected. Recording attendance is required by the American Bar Association. I will pass around a sign-in sheet at the beginning of each class.

Class participation will be evaluated on the following rubric:

- (1) Asking and answering questions that illuminate e-discovery issues,
- (2) Asking and answering questions that enrich the class dialogue and advance the class' understanding of e-discovery issues,
- (3) Participating in class dialogue.

3. Low Stakes Check-Ups: 120 points.

There will be three 20-minute "check-ups" that will consist of multiple-choice, true/false, and matching or short answer questions. Each of the checkups will be worth 40 points. The check-ups are designed to give you feedback and a check on how well you understand the course materials presented so far and to provide feedback to me on what course areas and topics may need additional coverage

4. Exercises and Assignments: 280 points.

These exercises are designed to help you become familiar with the kinds of electronically stored information that you will encounter in practice and to develop a basic familiarity with important e-discovery software. The exercises are primarily step-by-step instructions. Most students will receive full points for the submission by simply following the provided instructions and submitting the work product.

- Like and Follow UF Law E-Discovery on Twitter and Facebook -10 points
- Data Encoding and Decoding Exercise -20 points
- Data Mapping Exercise -20 points
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- Harvester Collection Exercise -30 points
- Social Media Collection Exercise -20 points
- Logikcull Project Creation and Processing Exercise -30 points
- Attend two one-hours sessions of UF E-Discovery Conference -10 points
- Relativity Search and Training Exercises -30 points
- Logikcull Search Exercise -30 points
- Relativity Document Review Exercise -30 points
- Logikcull Document Production Exercise -30 points

Instructor(s) William Hamilton

Attendance & Make-up Yes

Accommodations Yes

UF Grading Policies for assigning Grade Points Yes

Course Evaluation Policy Yes

UNIVERSITY OF FLORIDA
LEVIN COLLEGE OF LAW

ELECTRONIC DISCOVERY
COURSE 6930 SECTION 1F02 CLASS 15334
3 CREDITS

COURSE SYLLABUS
SPRING 2020

The exabytes of digital information streaming about us today are rich rivers of evidence that will help us find the truth and move us to do justice more swiftly, more economically and more honorably than ever before. It will require every litigator to master new skills and tools and alter the approaches and attitudes we bring to the adversarial process. We must reinvent ourselves to master modern evidence or be content with a justice system that best serves the well-heeled and the corrupt. The path to justice is paved with competent evidence and trod by counsel competent in its use.

-Craig Ball, www.craigball.com



Course Name: Electronic Discovery, Investigations, and Evidence
Spring Semester 2020

Class time: Monday 1:30 – 2:25 PM; Tues, Wed. 1:30 – 2:25 PM, HH 359

Office Hours: Monday and Tuesday, 3:00 PM – 4:00 PM, or by appointment. I am also available for video conferences using Zoom outside my “brick and mortar” office hours.

Why You Should Take This Course: Electronic discovery is a major litigation activity. Digital information is a principal form of evidence and often determines case outcomes. This course will provide you with a working knowledge of the principal e-discovery issues encountered in litigation and investigations and the legal framework required to analyze and to resolve the multitude of e-discovery issues. This course will also introduce you to a variety of industry-standard electronic discovery tools. Attention will also be paid to the use of electronically stored information in motions, hearings, and trials.

I’m not a Computer Geek. Is This Course Over My Head?

This course does not require any advanced or specialized computer knowledge. The course will cover some very basic computer and computer network operations. As with any course, there will be some new vocabulary. If it is any comfort, I hold a graduate degree in European philosophy, which is just about the opposite of engineered computer circuits.

Will I Need to Become an Expert in Technology?

The short answer is “No.” However, you will need to commit to learning a new “technical vocabulary” and understanding some basic technology concepts and computer operations so you can knowledgeably “walk the walk” while “talking the talk.” This will not be difficult, and this course will provide all you will need. I think you will find it fun to understand the basics of how a computer works. Few people really know this--amaze your friends! Every Wednesday is “Tech Wednesday” where we explore some interesting technology topic relevant to the practice of law.

Will I Need to Master Complicated E-Discovery Software?

Contemporary e-discovery software is easy to use. It is no more complicated than Word or PowerPoint. Becoming familiar with the e-discovery tools that we will use in this course will help you understand the challenges of electronic discovery and how the law has evolved. Familiarity with e-discovery software will

give you a practice jump start when you leave law school.

How Much Reading and Work will This Course Require?

The American Bar Association requires two hours of outside work for each hour of class. This course involves several activities in addition to reading cases and articles. I have endeavored to make sure that the total time demanded by this course does not exceed the ABA requirements. I have reduced the normal pages of reading per week when there are additional exercises and assignments.

Who Is Your Professor?



I joined the UF Law faculty as a time full Legal Skills Professor in 2017 after 30 years practicing complex civil litigation with Holland & Knight in Miami (1983 – 2000) and Tampa (2000 – 2010) and with Quarles & Brady in Tampa (2010 – 2016). Electronic discovery changed my career when I realized it was a rich source of information that would win cases for my clients. Before leaving the practice of law, I was a UF adjunct professor for 10 years and established the UF E-Discovery Project and the UF Law E-Discovery Conference.

While I consider myself a “native” Floridian having spent my adult life in Florida, I am originally from Philadelphia. (Yes, you will hear my Philadelphia accent). I earned my undergraduate degree from Lehigh University in Bethlehem, Pennsylvania, and an MA in philosophy from Washington University in St. Louis, Mo. I graduated from UF Law in 1983.

Here are a few links where you can learn more about me.

<https://www.law.ufl.edu/faculty/william-hamilton>
<https://www.law.ufl.edu/areas-of-study/institutes/icair>
<https://www.linkedin.com/in/williamfhamilton>
<http://www.quarles.com/william-bill-hamilton/>

I am married to Cynthia Tejcek. Cindy graduated from Loyola University in Chicago with a BS in mathematics. She also holds an MBA from Kellogg School of Management at Northwestern University. We meet when she was the chief information officer of the American Bar Association.

We are big Cubs baseball fans and also Tampa Bay Rays fans.



We have a son who earned a BA in mathematics at the University of West Florida and is now an Army First Lieutenant.



We have another son who is an RN at Lakeland Memorial Hospital in the Emergency Department.



And, I'm very pleased that our daughter recently graduated from UF. Go Gators!



How Can You Contact Me?

I want to hear from you. Send me an email, call, or text.

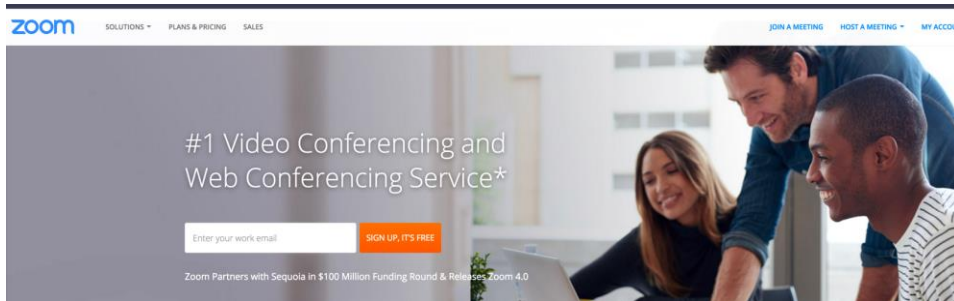
Email	Telephone	Text	Office
hamiltonw@law.ufl.edu	480.993.8777	480.993.8777	342 Holland

Please let me know if you have something to share with me – an inspiration, a new thought, a frustration, or concern. Let's have coffee together in the commons.



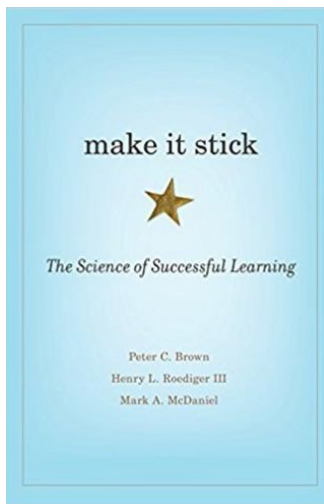
Zoom is one of my favorite video conferencing tools. We can have a face-to-face video conference any time (even on tablets and smartphones). It is as simple as Facebook.

Zoom	SKYPE
https://zoom.us/j/5410389684	william.hamilton.1120

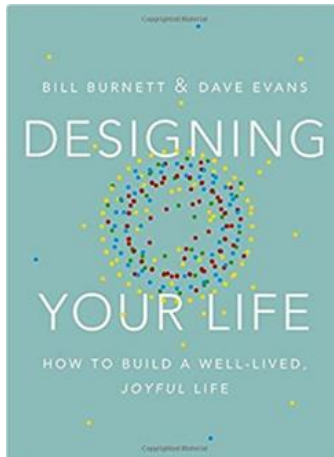


Teaching Philosophy and Instructional Methods: This course has a practical orientation. You will learn the Federal and Florida Rules of Civil procedure governing electronic discovery and read cases. But the emphasis of the course is on solving the practical electronic discovery problems. You will learn to act like an e-discovery lawyer in this class.

My teaching philosophy is in large part captured in ***Make It Stick: The Science of Successful Learning*** by Peter C. Brown.



This course is designed to introduce you to a variety of career paths involving e-discovery skills. I recommend the book ***“Designing Your Life: How to Build a Well-Lived Joyful Life,”*** by Burnett and Evans, Alfred A. Knopf (2016), for helpful strategies to find career directions that will work for you.



You are expected to attend all the class sessions. Approximately every four weeks there will be an in-class 20-minute spot quiz to give you and me some feedback on how we are doing.

Examination and Grading Policy: The total points that may be earned in the class are 1090. While the course grade distribution usually reflects the usual structure of A = 100 – 90%, B = 89% - 80%, etc., you should keep in mind that your final grade will reflect your class rank. For example, a numerical grade average of 92% earned on various exercises and assignment during the course may not translate the final grade of A- when combined with the score earned on the final examination. Early assignment scores should not establish an expectation of a similar final grade. This is because most students do well on the early check-up quizzes and the assignments and exercises are usually completed properly for full points.

Is this Course Graded on a Curve?

This course is graded on a curve. I am provided a curved grade range by the Registrar and my class grade average must be within that range. In past semesters, my grade point average provided by the Registrar has been 3.25.

Course points may be earned as follows:

1. Final examination: 600 points.

There will be a 3-hour “take-home” open-book examination composed of 3 or 4 factual patterns requiring analysis. The final exam may be taken at any time during the finals period. The 3-hour examination will be graded on the following rubric:

- (1) Identification of e-discovery issues presented by the scenario,
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2. Class Attendance and Participation: 200 points (5 points per class).

Class attendance and participation are expected. Recording attendance is required by the American Bar Association. I will pass around a sign-in sheet at the beginning of each class.

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- (3) Participating in class dialogue.

If you cannot attend a class for a personal or professional reason, please notify me in advance as a professional courtesy. I recognize that you may have legitimate and compelling personal and professional requirements that may cause a class absence. I will provide class attendance points for a missed class if I receive advance notice. When you have not provided me with advanced notice, attendance points will be provided for missed classes only on a showing of compelling circumstances excusing prior notification.

It is important that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. Please let me know how you would like to be addressed in class, if your name and pronouns are not reflected by your UF-rostered name.

You may also change your "Display Name" in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display

name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records.

3. Low Stakes Check-Ups: 120 points.

There will be three 20-minute "check-ups" that will consist of multiple-choice, true/false, and matching or short answer questions. Each of the checkups will be worth 40 points. The check-ups are designed to give you feedback and a check on how well you understand the course materials presented so far and to provide feedback to me on what course areas and topics may need additional coverage

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Are Smartphones and Laptops Permitted in the Classroom?

You may use digital devices in class only to take notes. I will turn my phone off

when I come to class. Please do the same. Please restrict the use of your laptop to taking notes. During class do not visit social media websites, do not text, and do not email. Keep your web browser closed to avoid temptation. Do not abuse this privilege. I expect your attention in class; do not ask me to repeat the question I've asked when I call on you! Nothing life-changing will happen while you are offline in class.

What Notes Should I Take in Class?

I recommended that you do not take word-for-word literal notes. This is not a court reporting class! Instead, think about what is happening in class and record the key ideas. Handwriting your notes is better for you than typing notes. Check out this article: [Note-Taking: Writing vs. Typing Notes](#). Beyond that, it is a good legal skill. You will need to learn to take good witness interview notes, deposition notes, and trial notes. A computer will not always be available or good to use.

What Happens if I Turn in an Assignment Late?

Every assignment is on Canvas. Each assignment opens at 9:00 Monday of the week it is due. All assignments are due the following Friday at 5:00 PM. Late submitted assignments must be emailed to me directly. Absent a reasonable explanation as to why the assignment was turned in late, I will normally deduct 10% of the available points for a late assignment.

Assigned Texts:

LexisNexis Practice Guide Florida E-Discovery and Evidence, Artigliere and Hamilton(2019)

<http://www.lexisnexus.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=prod14330392>. (**free online access for UF students**).

Project Management in Electronic Discovery, M. Quartararo (2016)

Available at <https://www.edpmadvisory.com/resources/> or on Amazon

https://www.amazon.com/dp/B01I5T0XNG/ref=dp-kindle-redirect?_encoding=UTF8&btkr=1

Weekly Class Objectives, Schedule, and Assignments:

The specific weekly lesson, objectives, reading materials, assignments, and exercises are on the course Canvas page.

I reserve the right to make reasonable adjustments and modifications to the weekly schedule as required by the pace and progress of the class.

Statement related to accommodations for students with disabilities

Students requesting an accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell). Students with disabilities should follow this procedure as early as possible in the semester.

Information on UF Law grading policies

<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.0	C+	2.33	D-	0.67
A-	3.67	C (Satisfactory)	2.00	E (Failure)	0.0
B+	3.33	C-	1.67		
B (Good)	3.00	D+	1.33		
B-	2.67	D (Poor)	1.00		

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

University policy on academic misconduct:

Academic honesty and integrity are fundamental values of the University community. You should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Online Course Evaluation:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via

GatorEvals. Guidance on how to give feedback professionally and respectfully is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results>

Getting help:

For issues with technical difficulties for E-learning in Canvas, please contact the UF Help Desk at:

- Learning-support@ufl.edu
- (352) 392-HELP - select option 2
- <https://lss.at.ufl.edu/help.shtml>

Other resources are available at <http://www.distance.ufl.edu/getting-help> for:

- Counseling and Wellness resources
- Disability resources
- Resources for handling student concerns and complaints
- Library Help Desk support

Disclaimer: *This syllabus represents the current course plans and objectives. As the semester proceeds, these plans may be changed to enhance the class learning experience. Such changes, communicated clearly, are not unusual and should be expected.*