

Cover Sheet: Request 10714

LAW6XXX Electronic Discovery

Info

Process	Course New Ugrad/Pro
Status	Pending
Submitter	Dampier,Tanya tdampier@law.ufl.edu
Created	1/29/2016 3:12:28 PM
Updated	1/30/2016 8:57:59 PM
Description	This course explores the current information explosion is transforming the civil litigation process and the critical issues which arise in managing data in the civil litigation process. The course will examine developing case law and address the practical problems and issues which arise in the preservation, collection, searching, processing, and production of electronic data.

Actions

Step	Status	Group	User	Comment	Updated
Department	Approved	LAW - Juris Doctor 012406001	Mashburn, Amy Rebecca		1/30/2016
No document changes					
College	Approved	LAW - College of Law	Mashburn, Amy Rebecca		1/30/2016
No document changes					
University Curriculum Committee	Pending	PV - University Curriculum Committee (UCC)			1/30/2016
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 10714

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Request: LAW6XXX Electronic Discovery

Submitter: Dampier,Tanya tdampier@law.ufl.edu

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Form version: 1

Responses

Recommended Prefix

Enter the three letter code indicating placement of course within the discipline (e.g., POS, ATR, ENC). Note that for new course proposals, in rare cases SCNS will assign a different prefix.

Response:

LAW

Course Level

Select the one digit code preceding the course number that indicates the course level at which the course is taught (e.g., 1=freshman, 2=sophomore, etc.).

Response:

6

Number

Enter the three digit code indicating the specific content of the course based on the SCNS taxonomy and course equivalency profiles. For new course requests, this may be XXX until SCNS assigns an appropriate number.

Response:

XXX

Lab Code

Enter the lab code to indicate whether the course is lecture only (None), lab only (L), or a combined lecture and lab (C).

Response:

None

Course Title

Enter the title of the course as it should appear in the Academic Catalog.

Response:

Electronic Discovery

Transcript Title

Enter the title that will appear in the transcript and the schedule of courses. Note that this must be limited to 21 characters (including spaces and punctuation).

Response:
Electronic Discovery

Effective Term

Select the requested term that the course will first be offered. Selecting "Earliest" will allow the course to be active in the earliest term after SCNS approval. If a specific term and year are selected, this should reflect the department's best projection. Courses cannot be implemented retroactively, and therefore the actual effective term cannot be prior to SCNS approval, which must be obtained prior to the first day of classes for the effective term. SCNS approval typically requires 2 to 6 weeks after approval of the course at UF.

Response:
Earliest Available

Effective Year

Select the requested year that the course will first be offered. See preceding item for further information.

Response:
Earliest Available

Rotating Topic?

Select "Yes" if the course will have rotating (varying) topics in different terms. For rotating topics courses, the course title in the Schedule of Courses and the transcript can vary with the topic.

Response:
No

Amount of Credit

Select the number of credits awarded to the student upon successful completion, or select "Variable" if the course will be offered with variable credit and then indicate the minimum and maximum credits per section. Note that credit hours are regulated by Rule 6A-10.033, FAC. If you select "Variable" for the amount of credit, additional fields will appear in which to indicate the minimum and maximum number of total credits.

Response:
2

Repeatable Credit?

Select "Yes" if the course may be repeated for credit. Some courses, such as independent study courses, will have rotating (variable) topics. Students may be allowed to repeat these courses provided the content is different.

Response:

No

S/U Only?

Select "Yes" if all students should be graded as S/U in the course. Note that each course must be entered into the UF curriculum inventory as letter-graded or S/U. A course may not have both options. However, letter-graded courses allow students to take the course S/U with instructor permission.

Response:

No

Contact Type

Select the best option to describe course contact type. This selection determines whether base hours or headcount hours will be used to determine the total contact hours per credit hour. Note that the headcount hour options are for courses that involve contact between the student and the professor on an individual basis.

Response:

Regularly Scheduled

- Regularly Scheduled [base hr]
- Thesis/Dissertation Supervision [1.0 headcount hr]
- Directed Individual Studies [0.5 headcount hr]
- Supervision of Student Interns [0.8 headcount hr]
- Supervision of Teaching/Research [0.5 headcount hr]
- Supervision of Cooperative Education [0.8 headcount hr]

Contact the Office of Institutional Planning and Research (352-392-0456) with questions regarding contact type.

Degree Type

Select the type of degree program for which this course is intended.

Response:

Professional

Weekly Contact Hours

Indicate the number of hours faculty will have contact with students each week on average throughout the duration of the course.

Response:

2

Category of Instruction

Indicate whether the course is introductory, intermediate or advanced. Introductory courses are those that require no prerequisites and are general in nature. Intermediate courses require some

prior preparation in a related area. Advanced courses require specific competencies or knowledge relevant to the topic prior to enrollment.

Response:
Joint (Grad/Pro)

- 1000 and 2000 level = Introductory undergraduate
- 3000 level = Intermediate undergraduate
- 4000 level = Advanced undergraduate
- 5000 level = Introductory graduate
- 6000 level = Intermediate graduate
- 7000 level = Advanced graduate

4000/5000 and 4000/6000 levels = Joint undergraduate/graduate (these must be approved by the UCC and the Graduate Council)

Delivery Method(s)

Indicate all platforms through which the course is currently planned to be delivered.

Response:
On-Campus

Course Description

Provide a brief narrative description of the course content. This description will be published in the Academic Catalog and is limited to 50 words or fewer. See course description guidelines.

Response:
Provides students with a working knowledge of the principal e-discovery issues frequently encountered in litigation and the legal framework required to analyze and resolve e-discovery issues. The class will cover basic computer operations and data types. Facility in electronic discovery cannot be obtained without a basic understanding of computer fundamentals.

Prerequisites

Indicate all requirements that must be satisfied prior to enrollment in the course. Prerequisites will be automatically checked for each student attempting to register for the course. The prerequisite will be published in the Academic Catalog and must be formulated so that it can be enforced in the registration system. Please note that upper division courses (i.e., intermediate or advanced level of instruction) must have proper prerequisites to target the appropriate audience for the course.

Response:
None

Completing Prerequisites on UCC forms:

- Use "&" and "or" to conjoin multiple requirements; do not use commas, semicolons, etc.
- Use parentheses to specify groupings in multiple requirements.
- Specifying a course prerequisite (without specifying a grade) assumes the required passing grade is D-. In order to specify a different grade, include the grade in parentheses immediately after the course number. For example, "MAC 2311(B)" indicates that students are required to obtain a grade of B in Calculus I. MAC2311 by itself would only require a grade of D-.
- Specify all majors or minors included (if all majors in a college are acceptable the college code is

sufficient).

- "Permission of department" is always an option so it should not be included in any prerequisite or co-requisite.

Example: A grade of C in HSC 3502, passing grades in HSC 3057 or HSC 4558, and major/minor in PPHP should be written as follows:

HSC 3502(C) & (HSC 3057 or HSC 4558) & (HP college or (HS or CMS or DSC or HP or RS minor))

Co-requisites

Indicate all requirements that must be taken concurrently with the course. Co-requisites are not checked by the registration system.

Response:

None

Rationale and Placement in Curriculum

Explain the rationale for offering the course and its place in the curriculum.

Response:

This course will help students locate the varieties and locations of electronically stored data (ESI); computer forensics, data recovery, and its application in the discovery and litigation process; data preservation obligations under the amendments to the Federal Rules of Civil Procedure which went into effect on 12-1-06; the duties and responsibilities of counsel under Rule 26(f); how to prepare for and handle the Rule 26(f) conference; the preservation of attorney-client privilege in voluminous productions; the use of quick-peek and non-waiver provisions; sampling techniques; the role of experts and vendors in the e-discovery process; obtaining electronic data from 3rd parties; safe harbor provisions under Rule 37(f); ethical and disclosure obligations under the new Federal Rules; special data production and preservation issues associated with criminal and governmental investigations; sanctions for spoliation of data and other e-discovery violations; and the authentication and admissibility of electronic data at trial.

Course Objectives

Describe the core knowledge and skills that student should derive from the course. The objectives should be both observable and measurable.

Response:

At the end of this course, students will be able to recognize and address the practical problems and issues which arise in the preservation, collection, searching, processing, and production of electronic data.

Course Textbook(s) and/or Other Assigned Reading

Enter the title, author(s) and publication date of textbooks and/or readings that will be assigned, or a representative list of readings.

Response:

Artigliere and Hamilton, LexisNexis Practice Guide Florida E-Discovery and Evidence, <http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProduct> text is available on line for free to UF students or an electronic copy or paper volume may be purchased at a half- price (\$75.00) discount for students of this class. The

new edition of the text incorporates the new Florida e-discovery rules (effective September 1, 2012). Publication is expected before September 1. Pages of the text will be cited as resources for each of the classes.

Weekly Schedule of Topics

Provide a projected weekly schedule of topics. This should have sufficient detail to evaluate how the course would meet current curricular needs and the extent to which it overlaps with existing courses at UF.

Response:
August 23, 2012:

Course Introduction: Electronic Data Discovery and the Litigation Process

August 30, 2012:

The Location and Preservation of Electronically Stored Information

(1) Zubulake v. UBS Warburg LLC, 229 F.R. D. 422 (S.D.N.Y. 2004).

September 6, 2012:

Ephemeral Data and the Cloud Computing Challenges

(1) Columbia Pictures Indus. v. Bunnell, 2007 U.S. Dist. LEXIS 46364 (C.D. Cal. June 19, 2007), review denied 245 F.R.D. 443 (May 29, 2007).

September 13, 2012:

Collecting ESI and The Role of Retained Counsel in the E-Discovery Process

(1) Green v. Blitz U.S.A., Inc, 2011 U.S. Dist. LEXIS 20353 (E.D. Tex. Mar. 1, 2011).

(2) Apple v. Samsung, "Order Granting-In-Part Apple's Motion for 37(B)(2) Sanctions,

http://www.jenner.com/system/assets/assets/6538/original/Apple_20v._20Samsung

[_204-23-12.pdf?1340379755](#)

September 20, 2012:

Requesting ESI: Direct Access v. Requests for Production

(1) Holland v. Barfield, 35 So. 3d 953 (Fla. 5th DCA 2010) (2) Model Protocol for Inspection of Hard Drives

September 27, 2012:

Managing E-Discovery Costs and Burden: Proportionality, Staging, and Cost Shifting

(1) Mancina v. Mayflower Textile, 253 FRD 354 (D. Maryland Oct. 15, 2008)

October 4, 2012:

Review and Analysis of ESI: Search Terms to Predictive Coding

- (1) *United States v. O'Keefe*, 537 F. Supp. 2d 14 (D.D.C. Feb. 18, 2008)
- (2) *Equity Analytics v. Lundin*, 248 F.R.D. 331 (D.D.C. March 7, 2008)
- (3) *Da Silva Moore v. Publicis Groupe*, 2012 U.S. LEXIS 23350 (S.D.N.Y. February 2012)

October 11, 2012:

The Production of ESI: Metadata, Natives, and Images

- (1) *Williams v. Sprint/United Management Co.*, 230 F.R.D. 640 (D. Kansas 2005)

October 18, 2012:

The Disclosure Safety Net: The Rule 26(f) Conference

- (1) *In re Seroquel Prods. Liab. Litig.*, 244 F.R.D. 650 (M.D. Fla. 2007)
- (2) The Sedona Conference Cooperation Proclamation, http://www.thesedonaconference.org/dltForm?did=Cooperation_Proclamation.pdf
- (3) The Non-Cooperation Proclamation, <http://e-discoveryteam.com/2009/10/25/the-non-cooperation-proclamation/>
- (4) Bill Hamilton's Seven Deadly Sins of the Rule 26(f) 'Meet-and-Confer' Conference, <http://ediscovery.quarles.com/2011/03/articles/bill-hamiltons-seven-deadly-sins-of-the-rule-26f-meetandconfer-conference/>.

October 25, 2012:

The Admissibility of Electronic Evidence

- (1) Ralph Artigliere/Paul Grimm Admissibility Chart
- (2) *Lorraine v. Markel American Insurance Co.*, 2007 U.S. Dist. LEXIS 33020 (D. Md., May 4, 2007)

November 1, 2012:

International E-Discovery: Digital Data Beyond the Borders

- (1) *AccessData Corp. v. ALSTE*, 2010 WL 318477 (D. Utah Jan. 21 2010)

November 8, 2012:

Effectively Managing the Review of Documents, Avoiding Attorney Client Privilege Waiver, and the Production of ESI

- (1) *Mt. Hawley Ins. Co. v. Felman Prod., Inc.* 2010 WL 1990555 (S.D. W. Va. May 18, 2010)

November 15, 2012:

Spoilation of ESI: the Range, Foundation, and Likelihood of Sanctions

- (1) The E-discovery Sanctions Cube, Hamilton, William <http://ediscoveryteam.com/2009/11/29/the-e-discovery-sanctions-cube/>
- (2) *Victor Stanley v. Creative Pipe II*, 2010 WL 3530097 (D. MD. Sept. 9, 2010).

November 29, 2012:

Reserved for make-up, hot topics and final examination review.

Grading Scheme

List the types of assessments, assignments and other activities that will be used to determine the course grade, and the percentage contribution from each. This list should have sufficient detail to evaluate the course rigor and grade integrity.

Response:

The total points that may be earned in the class are 1000. This course is graded on a mandatory curve. Points may be earned as follows:

1. Final examination: 500 points.

There will be a 3-hour "take-home" open book examination composed of 3-4 fact patterns. The final exam may be taken at any time during the finals period. The student Honor Code applies. The 3-hour examination will be graded on the following rubric:

- (1) 25 points: Identification of e-discovery issues presented by the scenario
- (2) 25 points: Analysis of the e-discovery issues presented by the scenario
- (3) 25 points: Application of case law to the issues presented by the scenario
- (4) 25 points: Resolution of the issues presented by the scenario
- (5) 25 points: Felicity, conciseness, and richness of the written expression

The examination will be downloaded from and uploaded to Canvas. 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: 140 points.

Class attendance and participation is expected. 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 classes understanding of the issues.
- (3) Participating in the class dialogue
- (4) Demonstration of class preparation

Students who will not be attending a class for personal or professional reasons must notify the Professor in advance and meet with the Professor before the next class to discuss the materials covered in the missed class. The Professor recognizes that students will have legitimate and compelling personal and professional requirements that may cause a class absence. However, a student may not miss more than 2 classes without penalty. Class points will be still be awarded if the student meets with the Professor before the next schedule class to review the materials missed in the excused class. No make up credits will be allowed for classes beyond two excused absences. For each class missed after the allowed maximum of two, 20 points will be deducted from the students' final course points.

3. Check-Ups: 120 points.

To assure that the course material is being adequately grasped (and presented), there will be three 20-minute in class "check-up" that will consist of multiple choice, true/false, and matching or short answer questions. Each of the Check-Ups will be worth 80 points. The Check-Ups are designed to give you feedback and a reality check on how well you understand the course materials presented so far and to provide feedback to the instructor on what course areas and topics may need additional coverage.

4. Catalyst Student Practicum Certification. 210 points

Students will take the Catalyst Student Practicum course during weeks 7, 8, and 10 that culminates in a completion Certificate from Catalyst. The Practicum consists of a series of videos on Catalyst search software, a series of exercises, and a short 10-question "quiz" on the materials. The Professor will hold voluntary individual and group tutorials on the Catalyst software. The Professor recognizes that professional and personal demands may make completing the Catalyst Exercises and Quizzes with the time allotted. Students requiring enlargements must see the instructor prior to the due date, absent an extraordinary emergency or occurrence.

5. Nuix Exercise: 30 points.

Students will be asked during Week 6 to upload and analyze data on the Nuix e-discovery platform. <http://www.nuix.com/products/nuix-ediscovery-workstation>. The Workstation is available on the University Apps page. Directions will be provided.

Information on UF Law grading policies:

Grade

Points

A (Excellent) 4.00

A-

3.67

B+

3.33

B (Good)

3.00

B- 2.67

C+ 2.33

C (Satisfactory) 2.00

C- 1.67

D+ 1.33

D (Poor) 1.00

D- 0.67

E (Failure)

0.00

Note: Per faculty policy, the mandatory mean grade for all course sections is 3.15-3.25, inclusive. If the mean GPA for students enrolled in the course section (determined as of the beginning of the semester) is above 3.2, the lower end of the range is 3.15 and the upper end of the range may be .05 higher than the mean GPA of the students enrolled in the course. If the mean GPA of the students enrolled in the course section (determined as of the beginning of the semester) is below 3.2, the lower end of the range may be .05 lower than the mean GPA of the students enrolled in the course and the upper end of the range shall be 3.25.

For courses in which there are 25 or fewer students enrolled in total in all sections of the course being offered in a given semester, the range is recommended rather than mandatory; in no event, however, may the mean grade exceed 3.6 except as follows: If the mean GPA for students enrolled in the course section (determined as of the beginning of the semester) is above 3.55, the mean grade for the course section may exceed 3.6, but may not exceed the mean GPA of the students enrolled in the course section plus .05.

Grades awarded to LL.M. students, exchange students, and graduate students, and grades of E are excluded from calculation of the mean grade.

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

Instructor(s)

Enter the name of the planned instructor or instructors, or "to be determined" if instructors are not yet identified.

Response:

William F. Hamilton