## UNIT ONE  INTRODUCTION TO CIVIL LITIGATION

<table>
<thead>
<tr>
<th>CHAPTER 1</th>
<th>The Paralegal in Civil Litigation</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 1A</td>
<td>Appendix Building Your Professional Portfolio and Reference Manual</td>
<td>18</td>
</tr>
<tr>
<td>CHAPTER 2</td>
<td>Ethics and Professional Responsibility</td>
<td>27</td>
</tr>
<tr>
<td>CHAPTER 3</td>
<td>Litigation Management and Technology</td>
<td>47</td>
</tr>
</tbody>
</table>

## UNIT TWO  PLANNING THE LITIGATION

<table>
<thead>
<tr>
<th>CHAPTER 4</th>
<th>The Court System, Settlement, and Alternative Dispute Resolution</th>
<th>81</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 5</td>
<td>Causes of Actions and Litigation Strategies</td>
<td>121</td>
</tr>
<tr>
<td>CHAPTER 6</td>
<td>Evidence</td>
<td>143</td>
</tr>
<tr>
<td>CHAPTER 7</td>
<td>Interviews and Investigation in Civil Litigation</td>
<td>167</td>
</tr>
</tbody>
</table>

## UNIT THREE  DOCUMENTS IN CIVIL LITIGATION

<table>
<thead>
<tr>
<th>CHAPTER 8</th>
<th>Pleadings: Complaint, Summons, and Service</th>
<th>203</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 9</td>
<td>Motions Practice</td>
<td>237</td>
</tr>
<tr>
<td>CHAPTER 10</td>
<td>Pleadings: Responses to Complaint</td>
<td>265</td>
</tr>
</tbody>
</table>
## BRIEF CONTENTS

### UNIT FOUR  FORMAL DISCOVERY METHODS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 11</td>
<td>Introduction to Discovery</td>
<td>281</td>
</tr>
<tr>
<td>CHAPTER 12</td>
<td>Issues in Electronic Discovery</td>
<td>301</td>
</tr>
<tr>
<td>CHAPTER 13</td>
<td>Interrogatories and Requests for Production</td>
<td>335</td>
</tr>
<tr>
<td>CHAPTER 14</td>
<td>Depositions</td>
<td>361</td>
</tr>
<tr>
<td>CHAPTER 15</td>
<td>Other Forms of Discovery</td>
<td>381</td>
</tr>
</tbody>
</table>

### UNIT FIVE  TRIAL OF THE CASE

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 16</td>
<td>Trial Preparation—Postdiscovery to Pretrial</td>
<td>395</td>
</tr>
<tr>
<td>CHAPTER 17</td>
<td>Trial</td>
<td>421</td>
</tr>
<tr>
<td>CHAPTER 18</td>
<td>The Electronic Courtroom and Trial Presentation</td>
<td>443</td>
</tr>
</tbody>
</table>

### UNIT SIX  POSTTRIAL ISSUES

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 19</td>
<td>Posttrial Procedures</td>
<td>461</td>
</tr>
<tr>
<td>CHAPTER 20</td>
<td>Enforcement of Judgments</td>
<td>485</td>
</tr>
</tbody>
</table>

**APPENDIX 1**  Chapter Opening Case Study  502

**APPENDIX 2**  Comprehensive Case Study: School Bus-Truck Accident Case Study  504

**APPENDIX 3**  Supplemental Case Studies  507

Glossary  525
Case Index  542
Subject Index  543
UNIT ONE
INTRODUCTION TO CIVIL LITIGATION

CHAPTER 1
The Paralegal in Civil Litigation 3

Learning Objectives 2
Introduction to Civil Litigation 4

The Role of the Paralegal in Civil Litigation 4
Managing Client Relationships 4
Members of the Legal Team 5
Corporate Paralegals in Litigation 6
Litigation Support Manager 6

Skills of the Paralegal 7
Soft Skills 7
Resourcefulness 8
Commitment 8
Analytical Skills 8
Interpersonal Skills 9
Creating an Impression 9
Communication Skills 10
Professionalism 11

Tasks of the Civil Litigation Paralegal 11
Interviewing Clients and Witnesses 11
Investigating Facts 11
Conducting Discovery 12
Drafting Pleadings and Other Documents 12
Assisting at Trial 13
Administrative Tasks 13
Organizing and Managing Case Files 14
Productivity and Cost-Effectiveness 14

Key Terms 15
Chapter Summary 15

Review Questions and Exercises 16
Internet and Technology Exercises 16
Chapter Opening Scenario Case Study 16
Building Your Professional Portfolio and Reference Manual 17
Virtual Law Office Experience 17

CHAPTER 2
Ethics and Professional Responsibility 27

Learning Objectives 26
Introduction to Ethics and Professional Responsibility 28

Regulation of the Practice of Law 29
The Paralegal and Licensing 29
Penalties for the Unauthorized Practice of Law 31
Avoiding UPL: Holding Oneself Out 32
Avoiding UPL: Giving Advice 33
Avoiding UPL: Filling Out Forms 33
Avoiding UPL: Representing Clients 34
Avoiding UPL: Guidelines 35

Ethical Obligations 36
Duty to Supervise 36
Ethical Guidelines and Rules 37
Conflict of Interest 37
Ethical Wall 38
Freelance or Independent Paralegal 39

CHAPTER 1 APPENDIX
Building Your Professional Portfolio and Reference Manual 18

Opening Scenario 18
Portfolio Exercises: Legal Team at Work 18
Reference Manual: Civil Litigation Team at Work 19
Law Office Reference Manual 19
Creating the Reference Manual 20
Examples of a Policy, Form, Procedure, and Contact Record 21
Policy 21
Forms 22
Procedures 24
Contacts and Resources 25

CHAPTER 2 APPENDIX
Building Your Professional Portfolio and Reference Manual 18

Opening Scenario 18
Portfolio Exercises: Legal Team at Work 18
Reference Manual: Civil Litigation Team at Work 19
Law Office Reference Manual 19
Creating the Reference Manual 20
Examples of a Policy, Form, Procedure, and Contact Record 21
Policy 21
Forms 22
Procedures 24
Contacts and Resources 25
UNIT TWO
PLANNING THE LITIGATION

CHAPTER 4
The Court System, Settlement, and Alternative Dispute Resolution

Learning Objectives 80
Introduction to the Court System, Settlement, and Alternative Dispute Resolution 82
Sources of American Law 82
  Constitutions 82
  Statutes 83
  Administrative Regulations and Adjudications 83
  Case Law 83
Cause of Action and Remedies 84
Jurisdiction 86
  Standing 86
  Case or Controversy 86
  Authority of the Court 86
  Venue 89
  Removal and Remand 89
Organization of the Court System 89
  Trial Courts 91
  Intermediate Appellate Courts 91
  Highest Appellate Court or the Supreme Court 92
Settlements 93
  When to Settle 94
  Negotiation of a Settlement 95
Settlement Documents 95
  Settlement Letters 95
  Settlement Brochures 95
  Ethical Considerations 98
Documents for Settling and Terminating a Lawsuit 99
  Minors’ Settlements 100
  Settlement Documents 100
  Confidentiality and Settlements 103
  Termination of Lawsuits 105
Alternative Dispute Resolution 106
  Types of ADR 107
  Private ADR 107
Key Terms 113
Chapter Summary 113
Review Questions and Exercises 115
CHAPTER 5
Causes of Actions and Litigation Strategies 121
Learning Objectives 120
Introduction to Causes of Actions and Litigation Strategies 122
Litigation Strategy and Options 122
Torts 125
  Defenses to Tort Actions 127
  Products Liability and Strict Liability 128
Contracts 129
  Elements of Common Law Contracts 129
  Defense to Contracts 130
  The Uniform Commercial Code 131
Damages 134
  Monetary Damages 134
  Equitable Remedies 134
  Calculating Damages 135
Key Terms 137
Chapter Summary 138
Review Questions and Exercises 140
Internet and Technology Exercises 140
Chapter Opening Scenario Case Study 141
Building Your Professional Portfolio and Reference Manual 141
Virtual Law Office Experience 141

CHAPTER 6
Evidence 143
Learning Objectives 142
Introduction to Evidence 144
Evidence 144
  Fact 144
Introduction to the Rules of Evidence 145
Admissibility of Evidence—Relevant, Reliable, and Real 145
  Relevant Evidence 145
  Reliable Evidence 146
  Real Evidence 146

CHAPTER 7
Interviews and Investigation in Civil Litigation 167
Learning Objectives 166
Introduction to Interviews and Investigations 168
Initial Contacts 168
  The Screening Interview 168
  Letters of Engagement and Termination of Engagement 169
Preparation for the Interview 172
  Investigation Checklists 172
  Physical Surroundings 175
  Dress and Appearance 176
  Communication Skills in a Multicultural Society 176
  Gender Differences 177
viii  CONTENTS

Conducting the Interview  179
   Listening Skills  180
   Leading Questions  181
   Open-Ended Questions  181
   Privileged Communication  182
   Moral versus Ethical Obligations  182
Expert Witnesses  183
Investigating Claims  184
   A Defense Perspective  186
   Obtaining Official Reports  186
   Fact Analysis  186
   Locations  188
   Tangible Evidence  189
   Timelines  189
   Freedom of Information Act  190
   Locating Witnesses  192
   Directories  193
   Common Sense Analysis  194
Key Terms  196
Chapter Summary  196
Review Questions and Exercises  197
Internet and Technology Exercises  197
Civil Litigation Video Case Studies  198
Chapter Opening Scenario Case Study  198
Comprehensive Case Study  198
Building Your Professional Portfolio and Reference Manual  199
Virtual Law Office Experience  199

UNIT THREE
DOCUMENTS IN CIVIL LITIGATION

CHAPTER 8
Pleadings: Complaint, Summons, and Service  203
   Learning Objectives  202
Introduction to Pleadings  204
Rules of Court  204
Statute of Limitations  205
Pleadings  207
   Preparing the Summons  210
   Civil Cover Sheet  212
   Drafting the Complaint  213
Filing and Serving the Complaint  223
   Filing Fees  223
   Electronic Filing  224
   Service of Process  224
   Deadlines and Time Constraints  229
      Calculating Deadlines  229
   Amendment or Supplement to the Complaint  230
Key Terms  230
Chapter Summary  230
Review Questions and Exercises  232
Internet and Technology Exercises  232
Civil Litigation Video Case Studies  233
Chapter Opening Scenario Case Study  233
Comprehensive Case Study  233
Building Your Professional Portfolio and Reference Manual  234
Virtual Law Office Experience  234

CHAPTER 9
Motions Practice  237
   Learning Objectives  236
Form of Motions  238
   Introspect to Motions  238
   Form of Motions  238
   Motions in the Pleading Phase  238
      Motion to Enlarge Time to Respond  239
      Motion for Default Judgment  241
      Entry of Default on the Docket  242
      Entry of Default Judgment  242
      Setting Aside Default  245
      Rule 12(b) Motions  246
      Motion for Judgment on the Pleadings  248
   Discovery Motions  250
      Motion to Compel  250
      Motion for Sanctions  250
      Motion for Protective Order  252
   Pretrial Motions  252
      Motion for Summary Judgment  253
      Motion in Limine or Pretrial Motion  255
   Posttrial Motions  256
      Motion for Judgment as a Matter of Law  256
      Motion to Mold the Verdict  257
      Motion for a New Trial  259
Key Terms  259
Chapter Summary  259
Review Questions and Exercises  261
Internet and Technology Exercises  261
Civil Litigation Video Case Studies  261
Chapter Opening Scenario Case Study  262
Comprehensive Case Study  262
Building Your Professional Portfolio and Reference Manual  262
Virtual Law Office Experience  262
CHAPTER 10
Pleadings: Responses to Complaint 265

Learning Objectives 264

Introduction to Responses to Complaint 266

Responsive Pleadings 266
Pleadings Allowed by Federal Rules of Civil Procedure 266
Time Deadlines and Entry into Tickler System 267
Responses to the Complaint 267

Answer to the Complaint 269
Caption 269
Numbered Paragraphs 269
Prayer for Relief 270
Affirmative Defenses 270
Causes of Action 271
Prayer for Relief 272

Third-Party Practice 275
Third-Party Complaint 275
Third-Party Answer 276

Failure to Respond to Complaint 276

Key Terms 276
Chapter Summary 277
Review Questions and Exercises 278
Internet and Technology Exercises 278
Civil Litigation Video Case Studies 278
Chapter Opening Scenario Case Study 279
Comprehensive Case Study 279
Building Your Professional Portfolio and Reference Manual 279
Virtual Law Office Experience 279

UNIT FOUR
FORMAL DISCOVERY METHODS

CHAPTER 11
Introduction to Discovery 281

Learning Objectives 280
Introduction to Discovery 282

Purposes of Discovery 282
Evaluating Your Client’s Case 282
Evaluating Your Opponent’s Case 282
Preparing for Trial 282
Preserving Oral Testimony 282
Impeaching Witness Testimony 283
Facilitating Settlement 283

Rules of Court and Rules of Evidence 283
Scope of Discovery 284
Privilege 284
Claim of Privilege 285
Exceptions and Limitations to the Work Product Doctrine 287
Exception to the Third-Party Document Exception 287
Internal Investigations and Evidentiary Privileges 288

Forms of Discovery 288
Depositions 288
Interrogatories 288
Production of Documents or Things 291
Physical and Mental Examinations 291
Requests for Admission 291

Sequence of Discovery 292
Discovery Timing 292
Rule 26(a) Disclosure Requirements 293
Information Subject to Mandatory Disclosure 293
Experts and Witnesses 294

Compliance and Court Intervention 294
Seeking Compliance as the Issuer of Discovery Requests 294
Seeking Compliance as the Recipient of Discovery Requests 295

Key Terms 296
Chapter Summary 296
Review Questions and Exercises 297
Internet and Technology Exercises 297
Civil Litigation Video Case Studies 297
Chapter Opening Scenario Case Study 298
Comprehensive Case Study 298
Building Your Professional Portfolio and Reference Manual 298
Virtual Law Office Experience 298

CHAPTER 12
Issues in Electronic Discovery 301

Learning Objectives 300
Introduction to Electronic Discovery 302

Discovery in the Technological Age 302
E-Discovery under the Federal Rules of Civil Procedure 303
Changes in Traditional Discovery 304
Ethical Issues in Document Delivery 305
Preserving Electronic Materials 305
CONTENTS

Documents in Litigation 305
Producing Electronic Materials 308
Cost of Producing Electronic Materials 308
Destruction of Electronic Records 311
General Provisions 312
Information Technologists as Members of the Legal Team 313
Electronic Document Formats—Comparison of PDF and TIFF 313
Adobe Acrobat 314
PDF Converter 315
Examining a PDF for Hidden Content 315
Scanning 315
Scanning Software 315
Optical Character Recognition 316
Electronic Discovery in Litigation 316
Reviewing Electronic Documents 317
Obtaining Documents via Paper Discovery 317
Converting Documents 318
Emerging Case Law and Court Rules 318
Spoliation of Evidence 318
Predictive Coding/Technology-Assisted Review 322
Protecting Confidential or Privileged Materials 323
Inadvertent Disclosure of Confidential Information 324
State Courts 325
Federal Courts 325
Key Terms 327
Chapter Summary 327
Review Questions and Exercises 330
Internet and Technology Exercises 331
Civil Litigation Video Case Studies 331
Chapter Opening Scenario Case Study 331
Comprehensive Case Study 332
Building Your Professional Portfolio and Reference Manual 332
Virtual Law Office Experience 332

CHAPTER 13
Interrogatories and Requests for Production 335
Learning Objectives 334
Introduction to Interrogatories and Requests for Production 336
Interrogatories and Requests for Production of Documents and Things 336
Timeframe for Discovery 341
Initial Discovery Requests 341
Extension of Time for Responding 341
Drafting Questions and Answers to Interrogatories 343
Initial Disclosures 344
Drafting Questions 344
Serving Interrogatories 345
Preparing Responses 345
Review for Objections to Questions 347
Motion for Protective Order 347
Meeting with the Client to Answer Interrogatories 348
Reviewing Answers to Interrogatories 350
Drafting Requests for Production of Documents and Preparing Responses 350
Preparing a Request for Documents 350
Responding to Requests for Production 351
Reviewing Responses to Requests for Production 352
Electronic Discovery—The Process 352
Meet and Discuss 353
Know Your Client 353
Screening Clients’ Documents 354
Privileged Materials 355
Producing Electronic Documents 355
How to Advise Clients 355
Key Terms 356
Chapter Summary 356
Review Questions and Exercises 357
Internet and Technology Exercises 358
Civil Litigation Video Case Studies 358
Chapter Opening Scenario Case Study 359
Comprehensive Case Study 359
Building Your Professional Portfolio and Reference Manual 359
Virtual Law Office Experience 359

CHAPTER 14
Depositions 361
Learning Objectives 360
Introduction to Depositions 362
Types of Depositions 362
Deposition before Filing a Complaint 362
Deposition on Written Questions 363
Oral Deposition 363
Videotaped Depositions 365
CONTENTS

Presentation of Evidence  428
   Plaintiff’s Case-in-Chief  428
   Defendant’s Case-in-Chief  430
   Rebuttal  431
   Sur Rebuttal  431
   Sidebars and Conferences with the Judge  431
   How the Paralegal Can Assist in the Presentation of Evidence  431

Conclusion of Trial  432
   Closing Arguments  433
   Jury Instructions  433
   Jury Deliberations  434
   Jury Verdict  434
   Posttrial Motions  434
   Entry of Judgment  434

Key Terms  435
Chapter Summary  436
Review Questions and Exercises  437
Internet and Technology Exercises  438
Chapter Opening Scenario Case Study  438
Comprehensive Case Study  438
Building Your Professional Portfolio and Reference Manual  439
Virtual Law Office Experience  439

CHAPTER 18
The Electronic Courtroom and Trial Presentation  443

Learning Objectives  442
Introduction to the Electronic Courthouse  444
The Electronic Courthouse  444
Working with Courthouse Technology Staff  446
   Clearing the Right to Bring in the Equipment Beforehand  446
   What Happens When the Lights Go Out  448
Using Technology to Present the Case  448
   Presentation and Trial Graphics  448
Electronic Graphics Creation  448
   SmartDraw  451
Electronic Trial Presentation Programs  451
   Limitations on Presentation Graphics  451
   Electronic Equipment in the Courtroom  453

Key Terms  455
Chapter Summary  455
Review Questions and Exercises  456
Internet and Technology Exercises  457
Civil Litigation Video Case Studies  457
Chapter Opening Scenario Case Study  457

Comprehensive Case Study  458
Building Your Professional Portfolio and Litigation Reference Manual  458
Virtual Law Office Experience  458

UNIT SIX
POSTTRIAL ISSUES

CHAPTER 19
Posttrial Procedures  461

Learning Objectives  460
Introduction to Posttrial Procedures  462
Entering Judgment  462
Errors Made at Trial  464
   Evidentiary Rulings  464
   Instructions to the Jury  465
   Verdict Unsupported by the Evidence  465
   Harmless Error  467
Motions Seeking Relief from the Trial Court  467
   Motion for Judgment as a Matter of Law  467
   Motion for a New Trial  467
   Motion to Mold the Verdict  468
   Local Rules  469
Appeal to an Appellate Court  469
   Final Judgment  470
   Interlocutory Appeals  470
Procedure for Filing an Appeal with the U.S. Court of Appeals  470
   Notice of Appeal  471
   Record on Appeal  471
   Trial Transcript  475
   Scheduling Order  475
   Briefs  475
   Oral Argument  477
   Rulings of the Appellate Court  477
   Appeal to the Highest Appellate Court  478

Key Terms  479
Chapter Summary  479
Review Questions and Exercises  481
Internet and Technology Exercises  481
Chapter Opening Scenario Case Study  482
Comprehensive Case Study  482
Building Your Professional Portfolio and Reference Manual  482
Virtual Law Office Experience  482
CHAPTER 20
Enforcement of Judgments 485

Learning Objectives 484

Introduction to Enforcement of Judgments 486
Terminology and Timing in Judgment Collection 486
Collection of Judgment Process 486
  Non-Adversarial Collection Efforts 487
  Adversarial Proceedings 487
  Uniform Enforcement of Foreign Judgments Act 488
  The Judgment-Proof Debtor 492
Statutory Limitations on Collection Efforts 493
  Fair Debt Collection Practices Act 493
  Bankruptcy 493
Satisfaction 495
Key Terms 497
Chapter Summary 497
Review Questions and Exercises 498
Internet and Technology Exercises 499
Chapter Opening Scenario Case Study 499
Building Your Professional Portfolio and Reference Manual 499
Virtual Law Office Experience 500

APPENDIX 1
Chapter Opening Case Study 502

APPENDIX 2
Comprehensive Case Study: School Bus-Truck Accident Case Study 504

APPENDIX 3
Supplemental Case Studies 507

GLOSSARY 525
CASE INDEX 542
SUBJECT INDEX 543
ABOUT THE AUTHORS

THOMAS F. GOLDMAN, JD, is an experienced trial attorney who has represented nationally known insurance companies and corporations. He developed the Advanced Litigation Support and Technology Certificate Program at Thomas Edison State College, where he was a member of the Paralegal Studies Program Advisory Board and a mentor. He is Professor Emeritus at Bucks County Community College, where he was a professor of Law and Management, Director of the Center for Legal Studies, and Director of the ABA-approved Paralegal Studies Program.

Professor Goldman is an author of textbooks in paralegal studies and technology, including The Paralegal Professional, in its fifth edition; Litigation Practice: E-Discovery and Technology; Accounting and Taxation for Paralegals; Technology in the Law Office, in its fourth edition; AbacusLaw: A Hands-On Tutorial and Guide; and SmartDraw: A Hands-On Tutorial and Guide. In addition, he is the executive producer of the Paralegal Professional video series, in which he occasionally appears.

An accounting and economics graduate of Boston University and of Temple University School of Law, Professor Goldman has an active international law, technology law, and litigation practice. He has worked extensively with paralegals and has received the Boss of the Year award of the Legal Support Staff Guild. He was elected the Legal Secretaries Association Boss of the Year for his contribution to cooperative education by encouraging the use of paralegals and legal assistants in law offices. He also received the Bucks County Community College Alumni Association Professional Achievement Award.

He has been an educational consultant on technology to educational institutions and major corporations and a frequent speaker and lecturer on educational, legal, and technology issues. He was appointed to the American Association for Paralegal Education Board of Directors in October 2005; there, he served as the founding chair of the Technology Task Force, where he initiated the Train the Trainer program and the Cyber Idol competition.

ALICE HART HUGHES, JD, is a practicing attorney and experienced litigator. She is a former Adjunct Professor of Paralegal Studies at Bucks County Community College, where she taught Civil Litigation, Legal Research and Writing, Accounting for Paralegals, Introduction to Paralegal Studies, Negligence, and Family Law. She is the author of Real Estate Law Fundamentals and participated in the production and script writing for the Video Law Office Experience. Mrs. Hughes holds a degree in real estate and finance from Temple University and graduated from Temple University School of Law. She has practiced civil litigation extensively, working in midsized, multi-office law firms. Her practice is limited to estate planning, administration, and litigation. In 2010, she was appointed to the Pennsylvania Board of Dentistry and lectures on ethical issues in the medical subspecialty of podiatry.
WHAT’S NEW IN THE FOURTH EDITION

- The Virtual Law Office Experience is now an integrated part of the textbook. The end-of-chapter assignments use online video resources to provide a realistic workplace experience where assignments are presented in the form of e-mail directions from the “supervising attorney” to the paralegal. Students are assigned to watch a scenario as an observer and complete a task that they would be asked to do in practice. Cases include simulations of:
  - A minor traffic accident
  - A major school bus injury case based on an NTSB case report
  - A product liability case
  - Personal injury of a minor injured on a school bus
- Federal Rules of Civil and Criminal Procedure have been updated.
- Electronic discovery rules and decisions have been updated.
- Chapter Introduction Videos by the authors appear online, providing an overview of the chapter topic.
- Information on paralegal regulation has been updated.
- Exhibit and forms have been updated to reflect current practice.
- The Technology Resources Website has been updated with the most recent trial version offers from legal software vendors.

Few students taking a civil litigation class have ever had any actual contact with the courts or been involved in a lawsuit. As a result, most of their information and beliefs about courts and trials come from television dramas, where everything resolves itself in 30 to 60 minutes. In the real world, the process is slower and more complex; in addition, litigation can be a bit of a mystery because most of what happens goes on behind closed doors. We have tried, in both the text and the supplements, to open the doors of the law office and courthouse to present the process and the procedures of the real world of law.

One way we hope to reveal the mysteries of litigation is through the extensive use of videos. The text is now supported by two types of videos built into the text as end of chapter assignments. Video Case Studies show students what it is like to work in a practice. They follow the progress of a civil case from the factual setting that gives rise to the lawsuit to the preliminary interviews and investigations. The videos continue through the pretrial phases and conclude with the trial and appeal. These scenarios form a basis for discussion and help create an appreciation for the interconnection between professional ethics and actual practice and procedures. New to this edition is the Virtual Law Office Experience that provides a realistic paralegal intern simulation. A variety of cases are presented from the plaintiff view and from the defense view from initial intake to arbitration and trial preparation. Students are asked to complete tasks similar to those they will be given in an actual
practice. Completing these tasks results in the creation of a valuable portfolio of work that can assist students in securing employment. Students can view the cases and assignments at www.pearson.com/goldman-civil-litigation.

In addition to presenting every stage of the litigation process on video, we have included a complete set of pleadings for a comprehensive case involving a school bus accident. This case is based on a real-life accident reported by the National Transportation Safety Board (NTSB). These pleading samples may be used to prepare one of the additional case studies provided in Appendix 2 or 3; in this way, students can gain practice and simulate the handling of a real case. All of the cases are based on actual incidents that may be further researched, if desired, using the Internet.

Successful civil litigation practice requires a skill set that includes both knowledge of legal concepts and the practical applications of that knowledge. You might think this statement applies only to litigation attorneys, but it also pertains to the lawyers, litigation support paralegals, and information technologists who form the heart of the civil litigation team. Litigation practice today calls on all of the knowledge and skills learned in formal courses of study and on the intangibles learned from life as well. Ethics, soft skills, technology, elements of substantive law, procedural rules, research, and writing skills are all part of the package of skills needed by the members of the litigation team.

Civil litigation today is more complex than ever before. The pressures to be more efficient, more productive, and more cost effective require the legal team to make extensive use of technology when organizing and managing cases as well as when presenting evidence at trial. No contemporary civil litigation text can be complete without an explanation of the impact and use of technology. Trial versions of some of the most widely used software in the legal field is available for download from the Technology Resources Website at www.pearsonhighered.com/techresources. The selected software includes examples of each type of application program found in actual practice: office management, case management, electronic discovery, and trial presentation software.

This book can be used either as a reference or as a refresher course in the basics and the advanced knowledge needed to be successful in civil litigation. It has been written as a teaching text and as a practice reference manual, with a complete set of case documentation that may be used as a template in future assignments or real-life cases. As Albert Einstein said, “I don’t need to know everything; I just need to know where to find it when I need it.”

We hope that you enjoy using this textbook and the supporting videos and case material, and we encourage you to contact us with any concerns or suggestions.

Thomas F. Goldman, JD
Alice Hart Hughes, JD
KEY THEMES EXPLORED THROUGHOUT THIS TEXT

■ UNDERSTANDING THE LITIGATION PROCESS

Litigation is a process, not a single event. Each action taken is the result of some decision made by the client or the legal team. Each decision impacts the future direction of the case, which is a process with rules dictated by the courts. To demonstrate the process, a complete set of documents in this text follows cases from interview and investigation through trial and posttrial activity.

■ DEVELOPING CRITICAL THINKING AND PROCEDURAL SKILLS

End-of-chapter material focuses on developing critical thinking and hands-on skills. It includes exercises and assignments broken down into three sections:

- Concept Review and Reinforcement
  - Key Terms
  - Chapter Summary
  - Review Questions and Exercises

- Building Your Paralegal Skills
  - Internet and Technology Exercises
  - Civil Litigation Video Case Studies
  - Comprehensive Case Study

- Building Your Professional Portfolio
  - The Virtual Law Office Experience

■ UNDERSTANDING HOW TO HANDLE ETHICAL SITUATIONS IN CIVIL LITIGATION

The text and resources are designed to build a strong foundational understanding of the ethical principles that apply to the members of the legal team in actual practice. Resources include references to national and individual state’s codes of legal ethics and professional responsibility, Ethical Perspectives boxes integrated throughout the textbook, and 16 ethics-related video case study segments.

■ ORGANIZATION OF THE BOOK

The book is divided into six units:

- Introduction to Civil Litigation
- Planning the Litigation
- Documents in Civil Litigation
- Formal Discovery Methods
- Trial of the Case
- Posttrial Issues
OPENING SCENARIOS: THE CIVIL LITIGATION TEAM AT WORK

Each chapter opens with a scenario designed to focus the reader on the relationship of the chapter’s content to civil litigation practice. These scenarios offer insight into the operation of a civil litigation law firm and describe situations that a professional might encounter on the job. The scenarios revolve around activities in a fictional multi-location law office that is handling a major tort action through to the trial presentation.

ADVICE FROM THE FIELD ARTICLES AND INTERVIEWS

These features present professional advice straight from the experts and cover such topics as interviewing skills, developing your portfolio, professional development, handling clients, and more.

ETHICAL PERSPECTIVES

This feature raises students’ awareness of ethical issues encountered by the legal team and directs students to resources that will help them resolve those issues.

PRACTICE TIPS

The goal of this feature is to provide practical tips for the litigation team based on the authors’ experience. Typical advice can incorporate the simple (always check the local rules), the practical (call the courthouse to determine the electronic features available in the courtroom), and the obtuse (make sure the file formats are supported by the program you select).

SKILL-BUILDING EXERCISES USING CASE RESOURCE MATERIALS

End-of-chapter practice materials, continuing case studies, and a comprehensive case study reflect the actual activities of professionals working in the civil litigation area. Samples are placed throughout the chapters for reference and guidance in preparing the assignments.

VIDEO CASE STUDIES AND VIRTUAL LAW OFFICE EXPERIENCE

Civil Litigation: Process and Procedures is supported by a wealth of video simulations that provide students with a window into the real world of litigation practice and build the practical skills necessary to succeed in today’s workplace.

BUILDING YOUR PROFESSIONAL PORTFOLIO

One of the key outcomes of this course is the building of a professional portfolio of litigation documents that can be shown to prospective employers and will function as on-the-job reference material in the future. At the end of Chapter 1, you will find suggestions for organizing your portfolio. Then, as you move through the course, you will find specific assignments that require the production of documents to be included in the portfolio.
NEW! VIRTUAL LAW OFFICE EXPERIENCE

The Virtual Law Office Experience series has been integrated through the text to offer a simulated law office internship. It is a multimedia program designed to allow students to apply their knowledge and skills in a workplace context. Throughout the course, students watch realistic video scenarios, work with case files and documents, and use the technology tools they will find in the law office to do the work a paralegal will be asked to do in practice. Throughout the course, students build a portfolio of work that demonstrates that they have the training and experience employers are seeking.

One of the advantages of the Virtual Law Office Experience is that the student has the ability to work on a case from beginning to end and develop a portfolio of related documents, including case setup, discovery, pleading and posttrial documentation, while using the online demonstration versions of actual law office software. These portfolios may be valuable to students interviewing for positions in law offices as a way of demonstrating their skills and abilities.

- Students engage in a workplace experience throughout the course as a law office intern

- Students see behind closed doors in practice and in the courts

- Students build a comprehensive portfolio of workplace products to show potential employers

Within the Virtual Law Office Experience program students can access a wealth of resources to complete assignments at any time including:

- Ask the Law Librarian Instructional Videos to answer student’s research and writing questions.
- Ask Technical Support for technology and legal software support.
- Forms File contains examples of commonly used legal documents for the major legal specialties.
The video case studies incorporated into this text illustrate each step of the litigation process and demonstrate a wide variety of practice and procedural scenarios. Students can view the cases and assignments at www.pearson.com/goldman-civil-litigation.

A complete, 20-minute videotaped deposition of an expert witness and an accompanying written transcript (in both .TXT and .DOC formats) are provided for use in creating a deposition summary; they could also be used in conjunction with trial or deposition programs such as Lexis Nexis Sanction or Lexis Nexis CaseMap DocPreviewer.

**Video Case Study List**

1. Video Conferencing: Strategy Discussions
2. Confidentiality Issue: Family Exemption
3. UPL Issue: Interviewing a Client
4. Confidentiality Issue: Public Information
5. UPL Issue: When Friends Ask Friends for Legal Advice
6. Parent and Child Consult the Legal Team
7. Solicitation in the ER: Ethical Duties of the Profession
8. Fees and Billing Issue: Contemporaneous Time Keeping
9. Fees and Billing Issue: Using Time Effectively
10. Administrative Agency Hearing
11. Arbitration before Three-Member Panel
12. Settlement Conference with Judge
13. Preparing for Arbitration
14. Altercation on the School Bus
15. School Principal Reacts
16. Zealous Representation Issue: Handling Evidence
17. Zealous Representation Issue: When You Are Asked to Lie
18. UPL Issue: Working with a Witness
19. Zealous Representation Issue: Signing Documents
20. Zealous Representation Issue: Candor to the Court
21. Scheduling Conference with Judge: Discovery Issue Resolution
22. Court Hearing to Decide Who Represents a Minor: The Court’s Duty to Protect the Child
23. Truck Driver’s Deposition
24. Confidentiality Issue: Need-to-Know Circle
25. Attorney Meet and Confer: Electronic Discovery Issues
26. Confidentiality Issue: Disclosure of Damaging Information
27. UPL Issue: Improper Supervision
28. UPL Issue: Working with Experts—Deposition of a Medical Expert, Dr. Galo
29. Remote Videoconference: Taking Fact Witness Video Deposition
30. Real-Time Reporting Witness Testimony: Depositing a Minor
31. Video Deposition of a Treating Doctor: Deposition of Treating Doctor, Dr. Lee
32. Mechanic’s Deposition
33. Final Pretrial Conference: Resolving Evidentiary Issues
34. Preparing for Trial: Preparing for Deposition and Trial
35. Fact or Expert: Resolving Objection in Videotaped Deposition Discussions
36. Jury Selection: Potential Juror Challenged for Cause
37. A Salesman’s Courtroom Testimony
38. Trial: Direct and Cross-Examination of a Witness
39. Preliminary Jury Instructions before Trial
40. Closing Argument: A Lawyer’s Last Chance
41. Judge Charges the Jury
42. Expert Witness Video Deposition
43. Three-Judge Appellate Panel
44. A Corporate Officer Seeks Legal Advice
CASE RESOURCES AVAILABLE IN TEXT AND ONLINE

A variety of case materials and documents are available for use as examples and for completing assignments throughout the course.

■ CHAPTER OPENING SCENARIO CASE STUDY

The chapter opening scenario case study sets the stage for the chapter topic. The scenarios revolve around activities in a fictional multi-location law office that is handling a major civil action through to the trial presentation. At the end of each chapter, an assignment revisits the scenario and poses questions involving procedural issues.

■ COMPREHENSIVE CASE STUDY: NTSB SCHOOL BUS ACCIDENT, MOUNTAINBURG, ARKANSAS

A sample case, based on a real-life accident as reported by the National Transportation Safety Board (NTSB), provides an overview of the litigation process from beginning to end, including a complete set of documents and pleadings. A brief synopsis of this case is presented in Appendix 2, and the full NTSB report (complete with related exhibits and photographs) is provided online.

A full set of all pleadings and related documents for cases discussed in the text is also provided online; these documents can be used as examples and templates in the completion of assignments in the text. The school bus accident case is presented as a comprehensive demonstration case; however, the pleadings and documents are meant to be used as examples and templates for completing assignments in the text that involve other cases assigned by the instructor.

At the end of each chapter is an assignment that involves analyzing a case and preparing the necessary documents for the attorney’s review. The assignment is a task comparable to what an attorney might ask a paralegal to do. The resulting documents contribute to the student’s professional portfolio as specific work samples.

The video case studies that are built into this textbook illustrate many of the steps in this sample case and the situations related to the shorter cases described below. The videos deal with scenarios arising from client interviews through to investigation, trial, and appeal.

■ ADDITIONAL, SHORT CASE STUDIES FOR USE IN ASSIGNMENTS

Additional, shorter case studies, including a simple property damage case, a personal injury case, and a civil assault case, are provided in Appendix 3. These case studies may be used for the completion of assignments within the text to provide students with hands-on experience preparing pleadings and working with case documents. Documents for these cases are provided online and include:

Simple Motor Vehicle Property Damage Claim Case
- Police incident report
- Estimate of repairs from Pope’s Garage
- Notes of client interview
- Notes of witness interview
Personal Injury Claim (Injured Student) Medical Treatment Case
- School incident report
- Emergency room report
- Treating surgeon (Dr. Lee) report
- Dr. Lee’s medical bill
- Medical records
- HIPAA release form signed by parent

Civil Assault on a School Bus Case
- School incident report
- Psychologist for attacker report (antisocial with psychotic tendency)
- Report of school nurse on search of student for knife
- HIPAA release form
- Notice to opposing counsel requesting medical records
- Medical records of victim, Davis Hilary

ADDITIONAL COMPREHENSIVE CASE STUDIES

We have provided two additional school bus accident cases and a major plane crash case. These case studies can be used in place of the Mountainburg case study to complete assignments in the Comprehensive Case Study section at the end of each chapter. Each of the complex cases is based on an NTSB report of an actual event and allows students to further develop their research skills as they find information on the cases through Internet searches. These full NTSB reports are provided online:

- School Bus–Truck Case, Albany, New York
- School Bus–Truck Case, Arlington, Virginia
- Airplane Crash, Buffalo, New York
Students can download the latest (time-limited) versions of the most popular legal software from the Technology Resources Website at www.pearsonhighered.com/techresources. This website also contains links to software tutorials, video overviews, teaching notes, and a variety of other useful resources, including forms for faculty to request lab copies of software from vendors.

■ OFFICE MANAGEMENT AND ACCOUNTING SOFTWARE

Most law firms, from the sole practitioner to large, multi-office practices, use office management and accounting software extensively. This software is useful for keeping accurate calendars of appointments, schedules, and deadlines; for tracking time and billing information, client funds, and costs; and for preparing accurate billing records. One of the most popular and best-supported programs is CLIO.

■ CASE ORGANIZATION AND MANAGEMENT SOFTWARE

Case management software can be used to organize the cast of characters in a case, the documents, the relevant timetables, the relevant issues, legal authority, and other desired information. Top programs useful here are LexisNexis CaseMap and LexisNexis TimeMap.

■ PRESENTATION AND TRIAL GRAPHICS SOFTWARE

Graphic creation programs, such as SmartDraw, can be used to create stand-alone presentations. They can also be used to create graphics for presentations created with other programs such as Microsoft PowerPoint. The obvious advantage of this type of software is that it gives the legal team the ability to create its own graphics, thus eliminating the need to hire graphic artists and outside consultants.

■ THE ELECTRONIC COURTHOUSE

Litigation support software, such as Lexis Nexis Sanction, is used for in-court displays of documentary evidence, graphic presentations, and simulations of accident cases. Relevant portions of illustrations and documents can be displayed as a witness testifies, thus eliminating the need to distribute paper copies in court.
INSTRUCTOR RESOURCES

■ INSTRUCTOR’S MANUAL WITH TEST BANK

Includes content outlines for classroom discussion, teaching suggestions, and answers to selected end-of-chapter questions from the text. This also contains a Word document version of the test bank.

■ TESTGEN

This computerized test generation system gives you maximum flexibility in creating and administering tests on paper, electronically, or online. It provides state-of-the-art features for viewing and editing test bank questions, dragging a selected question into a test you are creating, and printing sleek, formatted tests in a variety of layouts. Select test items from test banks included with TestGen for quick test creation, or write your own questions from scratch. TestGen’s random generator provides the option to display different text or calculated number values each time questions are used.

■ POWERPOINT LECTURE PRESENTATIONS

Our presentations are clear and straightforward. Photos, illustrations, charts, and tables from the book are included in the presentations when applicable.

To access supplementary materials online, instructors need to request an instructor access code. Go to www.pearsonhighered.com/irc, where you can register for an instructor access code. Within 48 hours after registering, you will receive a confirming email, including an instructor access code. Once you have received your code, go to the site and log on for full instructions on downloading the materials you wish to use.

■ ALTERNATE VERSIONS: EBOOKS

This text is also available in multiple eBook formats. These are an exciting new choice for students looking to save money. As an alternative to purchasing the printed textbook, students can purchase an electronic version of the same content. With an eTextbook, students can search the text, make notes online, print out reading assignments that incorporate lecture notes, and bookmark important passages for later review. For more information, visit your favorite online eBook reseller or visit www.mypearsonstore.com.
Our appreciation to all the students over the years who have taught us lessons on presenting the material covered in this text. The tips and practice pointers are gleaned from many years of trying cases; for those, we thank opposing counsel everywhere and the judges before whom we have practiced.

To Charlie and Harry Hughes, Alice’s son and husband, respectively, for the nights and weekends when the manuscript came first.

To all the reviewers for their thoughtful comments and suggestions, whose incorporation they will recognize on these pages:

Carol Brady  
Milwaukee Area Technical College

William Hirn  
Miami-Jacobs Career College

Steven Kempisty  
Bryant & Stratton College

Brian Craig  
Globe University

Laura Drake  
Cincinnati State

Sandra Clawson  
Cuyahoga Community College

Kathleen L. Daerr-Bannon  
Temple University FSBM

Amy Feeney  
Wilmington College

Jane Breslin Jacobs, Esq.  
Community College of Philadelphia, Paralegal Studies Program

Brad Jansen  
Roosevelt University

Reginia Judge  
Montclair State University

Robert Ludditz  
Nashau Community College

Kathleen Mack  
Harrisburg Area Community College

Linda C. Marks  
Pima Community College

Broderick E. Nichols  
The University of Memphis

Beth R. Pless  
Northeast Wisconsin Technical College

Tesha Poe  
DeAnza College

Marshal “Patrick” Rake  
Tarrant County College

Stefany Robinson  
Wilmington College

Michael Sujecki  
Milwaukee Area Technical College

Debbie Vinecour  
SUNY Rockland Community College

Rhonda Weaver  
University of Maryland–University College

Buzz Wheeler  
Highline Community College

Karen M. Xander  
Duquesne University, Paralegal Institute