

The Robert and Priscilla Livingston Center for Children, Families and the Law

FAMILY LAW WITH SKILLS

Course Overview, Policies, & Assignments

Fall 2024 - M, W 10:10 am to 12:00 pm

Professor Andrew Schepard

Andrew.I.Schepard@hofstra.edu

Faculty Assistant-

Betty Black

Room 216

516-463-5928

Betty.J.Black@hofstra.edu

Teaching Assistants-

Vasileios Karamanlis- vkaramanlis1@pride.hofstra.edu
Alexis Parkes-aparkes1@pride.hofstra.edu
Ali Popeck- apopeck1@pride.hofstra.edu

^{*}Subject to revision as the semester progresses

OVERVIEW

Family Law with Skills (FLWS) is an introductory family law course which integrates substantive law instruction and experiential learning. It is both an introduction to family law practice as well as an introduction to family law doctrine.

FLWS' lead faculty member is Professor Andrew Schepard, who gets a great deal of help from practicing family lawyers and from the teaching assistants for the course. The course has no prerequisites.

The overall aim of FLWS is to give you an introduction to the world of family law as it is practiced today. The course covers the core material of the traditional three-credit family law course, which includes marriage and divorce and the legal consequences thereof. We will also cover the organization of the family court, jurisdiction in family law disputes, alternatives to marriage (cohabitation), parenting after divorce and separation, constitutional dimensions of parent-child relationships, intimate partner abuse, child abuse and neglect, foster care, and termination of parental rights. Finally, we will cover the ethical responsibilities of family lawyers and emphasize the importance of interdisciplinary collaboration and alternative dispute resolution in family law.

Experiential activities are designed to explore the skills and values required for family law practice and require active participation by students. They include:

- Meeting with family law bar Students will pose questions to family law bar leaders about what they enjoy about family law practice, what challenges they face, and where they see the practice of family law developing in the future.
- Skills development FLWS includes skills development exercises designed to introduce you to the skills lawyers need for modern family practice. Skills to be introduced in the family law context include interviewing, counseling, and representation in mediation. While the lawyering skills you will be introduced to will be set in the family law context (and thus requires some substantive law background to be supplied in class), they are vital to the work of a lawyer in any field. The more deeply you incorporate skills training into your law school education, the better you will learn the substantive law, and the closer to practice-ready you will be upon graduation. You will also be better

able to make an informed decision if the practice of family law is a good fit for you.

 The Navigator Program – Some students may serve as "navigators," providing legal information for self-represented litigants in the Nassau County Supreme Court Matrimonial Center. Announcements about participation will be made in class early in the semester.

The Navigator Program provides students the opportunity to work with unrepresented litigants by assisting them in preparing the judgment of divorce packet paperwork. Students explain how to file motions and orders to show cause, and the case timeline, from Preliminary Conference through the Trial Decision and/or settlement. The Navigators usually work in pairs and only one litigant per case is permitted to work with the Navigators at any given time.

Students will receive training to serve as Navigators. Participation requires that you serve a set number of hours each week as a Navigator. As will be explained in class, you will not provide traditional legal representation to the self-represented litigants; rather, you will offer legal information. Nonetheless, you will be providing self-represented litigants with an important service at the courthouse in collaboration with the Nassau County Courts. You also are a representative of the Law School and the Court to litigants. We expect the highest standards of professionalism from the Navigators and will discuss the meaning of that requirement in class.

LEARNING OBJECTIVES

FLWS has multiple learning objectives, all of which are aimed at promoting the professional development of law students with an interest in family law practice.

By reference to the *Learning Outcomes* (approved by the Law School Faculty on October 21, 2019), the objectives for this course include developing reasonable competency in the following areas in the context of family law:

- Knowledge and understanding of substantive and procedural law;
- Legal analysis and reasoning;

- Exercise of professional and ethical responsibilities to clients and the legal system;
- Entry-level lawyering capabilities needed for competent and ethical participation as a member of the legal profession;
- Knowledge and understanding of the lawyer's professional responsibility to advance the mission of providing service to the underrepresented and access to justice

CLASS ATTENDANCE AND WORKLOAD

A. <u>Attendance Requirements</u>

Attendance in this class is very important as much of the learning occurs in class (which includes some classes on Zoom). You are also required to attend class pursuant to the Law School's attendance policies. change All classes listed on the Course Schedule — substantive law or skills oriented — are required for students not in the Navigator Program. Navigator students are excused from some (not all) classes for the skills exercises as they are putting in equivalent time in working in Navigator. Navigator students should check the list of classes and assignments carefully to see which ones they are required to attend and which they are not.

You must attend at least 80% of all class hours during the semester to be eligible to take the final examination. Skills exercises are treated as part of the 80% requirement, although **none of the skills exercises may be missed by students not in the Navigator Program.** If you miss more than three classes, I may lower your final grade appropriately or ask you to withdraw from the course.

Most of our classes will be in person and you will sign in on traditional attendance sheets. In order to make it easier for outside lawyers and stakeholders in the family law system to participate in the course, some classes will be held on Zoom. In order to get credit for attendance for the course activities scheduled on Zoom, a student's webcam must be switched on during the entire class session, unless the student has received permission from me to do otherwise. You must also sign into class using the Chat feature of Zoom (see below).

B. Workload

The American Bar Association requires that you spend at least eight hours per week, on average, outside of class studying for a 4-credit course. This requirement is in addition to the four hours a week we spend in class. (The ABA has set out a formula for determining the obligation. In other courses, the required number of out-of-class hours may be different).

Please understand that the above is an estimate of average hours you will spend working on the course during the semester. The ratio of four hours in class to eight hours out of class is for weeks when we focus on traditional law school material such as interpreting legal doctrine, cases and statutes. You will spend more time preparing for the classes that we work on skills development such as interviewing, counseling, negotiation, and mediation advocacy. For some classes, readings are heavier than for other classes.

If you miss a class or exercise due to illness, emergency, or extraordinary personal circumstances, please contact Betty Black Leonardo (Betty.J. Black@hofstra.edu) to notify us of the situation.

CREDIT AWARDED

For successfully completing the course, you will receive four academic credits, in addition to four skills credits. Your satisfactory performance in the course will satisfy the Law School's skills requirements, but not your Writing I or II requirement.

COURSE GRADING

You grade will be based on:

A final examination

Potentially also (see below):

- Participation in class
- An assessment of your overall performance in the experiential (skills) exercises or the Navigator Program
- Your written work in the course

<u>Final examination</u>: The final examination in the course will be a 24-hour take home, open book examination.

The final examination is worth 100% of your base grade, which can be raised or lowered based on your class performance, written assignments

and participation in the Navigator program or the skills exercises. Answering the final exam will require knowledge of all the material we study during the semester. The examination will be set in a practice and policy-oriented context that reflects the orientation of the course. I will discuss the due dates and format of the exam in class. We will also have a review session before the examination.

Performance on the final examination will thus be the most important factor in your final grade in this Course. Other factors which may influence your final grade include:

<u>Class participation</u>: Learning in the course is an interactive and collaborative enterprise. I emphasize active class preparation, participation, self-evaluation, and regular attendance. I reserve the right to call upon you in class even if you do not volunteer, though quite honestly, I would prefer that you volunteer on a regular basis. I also hope that as many of you as possible participate in class discussions. I reserve the right to take your class participation into account in your final grade.

<u>Written assignments:</u> The course has a number of written assignments, including submitting an interview plan, a counseling plan, questions for guest speakers, and a self-evaluation of your performance in the simulation exercises and the Navigator Program. If you participate meaningfully in the written exercises (a judgment that is within my discretion), you will receive credit for participation. I reserve the right to raise or lower your grade for either outstanding performance or failure to participate meaningfully (such as missing due dates, sloppy work, or failure to follow directions).

<u>Performance in experiential exercises</u>: You will not receive grades for your performance in the simulation exercises. We are arranging for you to receive feedback from outside observers on your simulation exercises. The goal of the simulation exercises is to facilitate your professional growth. If you participate meaningfully in the experiential exercises (a judgment that is within my discretion), you will receive credit for participation. I reserve the right to raise or lower your grade for either outstanding performance in the skills exercises or failure to participate meaningfully.

<u>Performance in the Navigator Program</u>: Those of you who are participating in the Navigator Program will not receive grades for your performance. If you fulfill all the requirements of the Navigator Program (a judgment that is within my discretion), you will receive credit for participation. I reserve the

right to raise or lower your grade for either outstanding performance in the program or failure to participate meaningfully.

CANVAS SITE

The course CANVAS site is going to be our primary method of communication. It also contains important material that is required reading for class (see below). Please check that you can log on to access all the necessary components for the course, and familiarize yourself with the site ASAP.

OFFICE HOURS & COMMUNICATION

While I can't promise I will do so for every class, I tend to come to class a few minutes early and stay a few minutes later to check in with students who are interested in talking with me.

If you want to have a longer conversation, I suggest you email me to schedule a Zoom appointment. I welcome you all and will be happy to answer any questions, comments or concerns that you may have.

ASSIGNMENT KEY

- Casebook OV- Robert E. Oliphant & Nancy Ver Steegh, Work of the Family Lawyer (5th Edition)
- CANVAS Assigned materials can be found in the appropriate folder under Course Modules on the course CANVAS site.
 - The materials assigned are contained in folders listed with the names of the subject listed on the assignment. For example, if the class topic is *Domestic Violence*, read all materials found in the Domestic Violence folder under Course Modules on the course CANVAS site. The materials in the folders are required reading. In other words, you are responsible for the contents of the folders.
 - o In the folders, you will also find PowerPoint slides that I created on many of the subjects we will be studying. They are informal, bullet point summaries of what I regard as the most important material on the topic. Students have found them helpful in the past for focusing their learning. I suggest that you download the PowerPoint slides for your use.

NAVIGATOR PROGRAM NOTE

Students selected for the Navigator Program do not have to do some written assignments or attend some classes connected with the simulations. This exemption is to compensate them for the extra time they must spend on Navigator. As you read over the assignment sheet, watch for words similar to "Not required for students in the Navigator Program" to guide you as to which classes and assignments are not applicable to you.

TEACHING ASSISTANTS

The Course Teaching Assistants are listed on the cover of this syllabus. They will assign you to partners and lawyer and mediator observers, post notices about the simulation exercises, be the point people for receipt of assignments, etc. They are available to address any questions or concerns you may have about the assignments or the Course.

SUBMITTING ASSIGNMENTS

If you are instructed to submit an assignment to the TAs, please email all three TAs simultaneously by the date and time specified. This is to ensure that no assignments are accidentally overlooked. The subject line of your email should be in this format: "FLWS Assignment Title First Name Last Name." For example, "FLWS Questions for Domestic Violence Expert Emily Lovejoy" would be how Emily Lovejoy would submit her Questions for the Domestic Violence Expert to the TAs.

COURSE SCHEDULE AND ASSIGNMENTS

Date	Topic	Readings and Comments
Monday, August 26 th	Getting to Know You and Each Other	I. Getting to Know You
	Course Overview and Policies, etc.	You will be assigned a partner in advance of class. Contact your partner via Zoom in advance of class and interview

Family Law: Past and Present

him or her on the following questions;

- 1. Name and year (2L, 3L)
- 2. Where are you from?
- 3. What is your experience with Family Law (you don't need to have any)?
- 4. What do you want to get out of the Course?
- 5. Fun fact about you that you are willing to share (e.g. I was the Tuba player in my high school marching band)

You can also find these questions in the CANVAS folder under Course Modules labeled "Opening Day Assignment."

Be prepared to introduce your partner to the class based on how he or she answers the interview questions in about 30 seconds.

II, Course Philosophy and Requirements

- A. Read this Course Overview, Policies and Assignments
- B. An article on the philosophy

and development of Family Law with Skills Can be found in the CANVAS folder "Opening Day Assignment" under "Modules"

III. Course Overview

- Read OV (Oliphant & Ver Steegh) 3-24 (this is our course textbook)
- Read <u>Brooke S.B. v.</u>
 Elizabeth A. C.C., 28
 N.Y.3d 1, 61 N.E.3d 628
 (2016) (Can be found in Opening Day Materials folder)
- Opening Day Questions –
 You will find the questions
 in the Opening Day
 Assignment folder.
 Answer the questions
 individually. Please be
 prepared to discuss your
 answers in class.
- Review the power point slides in the Opening Day Assignment folder on:
 - a. Ten QuestionsAbout Family Law
 - b. Historical Background
 - c. Brooke SB Questions

Wednesday, August 28th	The Constitution, Marriage and the Parent-Child Relationship	OV: 25-56; 219-227 CANVAS Two folders: Marriage and the Constitution and The Constitutional Right to Parent
	Monday, Septembe Labor Day – No c	
Wednesday, September 4th	The Divorce Process- from Fault to No Fault Introduction to Navigator Program (Guest Speaker)	CANVAS Divorce Overview (contains the Divorce Overview questions) Assignment to be completed before class: Answer the Divorce Overview Questions. Be prepared to discuss them in small groups in class, followed by discussion in the class as a whole. Applications for the Navigator Program will be due shortly after this class. The exact date will be announced in class or by the TAs.
Monday, September 9th	The Family Court: Organization and History (New York and the rest of the World)	OV: 828; 139-142; 866-868 CANVAS Family Court Introduction

Wednesday, September 11th	Child Custody and Parenting Plans Analyzing a Family Law Statute	CANVAS Child Custody and Parenting (contains the Arizona Statute and the questions for the Statutory reading exercise) LOOKING AHEAD: Please read the panelist bios in the "Family Lawyer Ethics" folder on CANVAS. Please email the TAs at least two questions (you can submit more) related to professional responsibility and the future of family law practice for the panel by Thursday, September 12 th, at 11:59 pm.
Monday, September 16 th	Parenting Time and Visitation and Modifying Child Custody	OV: 201-227, 237-271 LOOKING AHEAD: Please email the TAs at least one question (you can submit more) for the dispute resolution expert by <i>Tuesday</i> , <i>September 17th at 11:59 pm</i> .
Wednesday, September 18 th CLASS WILL TAKE PLACE ON ZOOM	Panel Discussion: Today's Family Law Practitioner	OV: 882-896 CANVAS Family Lawyer Ethics

Monday, September 23rd CLASS WILL TAKE PLACE ON ZOOM	Trends in Family Law Dispute Resolution and Practice (mediation, parent education, collaborative law, parent coordination; unbundled services etc.)	OV: 829-863, 882-888 CANVAS Family Law Dispute Resolution
Wednesday, September 25 th	Child Support: Establishing, Modification and Enforcement	OV: 287-334, 335-366 <u>CANVAS</u> Child Support
Monday, September 30 th	Division of Property at Divorce I	OV: 441-453, 457-495 CANVAS Equitable Distribution This is a long reading assignment but it covers two classes. When you read NY DRL § 236(B), focus on the definition of marital versus separate property and the factors the court considers in making an equitable distribution of marital property. Skim Nardini (OV 463) to get a sense for the importance of asset valuation and how complicated valuation methodology can become. You will not need to become a valuation expert for this Course-just understand the basics.

		Answer problems 1-7 (OV 492-493), which we will discuss in class.
Wednesday, October 2nd	Division of Property at Divorce	No new reading assignment
Monday, October 7th	Spousal Support - Maintenance	OV: 367-408, 409-438 CANVAS Maintenance LOOKING AHEAD: Work with your partner to develop an interview plan for your client. Email it to the TAs by <i>Friday</i> , October 4 th at 11:59 pm. Instructions for the interview plan are in a separate document. Students in the Navigator Program are not required to develop an interview plan.
Wednesday, October 9 th	Client Interviewing Overview & Catch-up Day	CANVAS Interviewing

Monday, October 14th

THIS CLASS WILL BE ON ZOOM

Not required for students in the Navigator Program

Client interviewing

You will conduct a client interview in the *Allen* divorce simulation, and an experienced family lawyer will observe you and give you feedback. There will be two rounds of interviews the same day. The students who conducted the interviews in the first hour will play clients in the second round of interviews. Instructions for these initial interviews are in a separate document.

LOOKING AHEAD:

1. After reading the *Allen Case File* and beginning to formulate your counseling plan (see separate document), work with your partner to develop two questions that you want a senior lawyer to address. Either you OR your partner must email your questions to the TAs (on behalf of both of you) by *Wednesday, October* 9th at 11:59 pm and be sure to include both your name and your partner's name.

Students in the Navigator Program are not required to read the Allen case file or submit questions for the senior lawyer. They are, however, required to attend the class he or she conducts.

- 2. In advance of the consultation with the mental health expert on *Monday*, *October 21*st, please work with your partner to develop two questions that you want the mental health expert to address. Either you OR your partner must email your questions to the TAs (on behalf of both of you) by *Wednesday*, *October 16*th at 11:59 pmand be sure to include both your name and your partner's name.
- 3. In advance of your consultation with the dispute resolution expert on *Wednesday, October 23rd*, please work with your partner to develop two questions that you want the dispute resolution expert to address. Either you OR your partner must email your questions to the TAs (on behalf of both of you) by *Wednesday, October 16th at 11:59 pm* and be sure to include both your name and your partner's name.

Students in the Navigator Program are not required to submit questions in advance for the mental health or dispute resolution expert. They are, however, required to attend the zoom class session he or she conducts.

Wednesday October 16 th	Client counseling	CANVAS Counseling
		Re-read the <i>Allen</i> Case File for the side you and your partner have been assigned to.
		The Allen Case File will give you detailed facts on which to base your representation of your client. This class is designed to help you transition from fact gathering to counseling mode in your representation. It is designed to give you an overview of the lawyer's role as counselor and to provide specific suggestions for your counseling and representation of your client. You will meet in separate groups with a senior lawyer to review your questions for him or her.
Monday, October 21st CLASS WILL TAKE PLACE ON ZOOM Navigator students must attend	Consultation with a mental health expert	LOOKING AHEAD: In advance of the consultations with the asset valuation expert, work with your partner to develop two questions that you want the asset valuation expert to address. Then, either you OR your partner must email your questions (on behalf of both of you) to the TAs by Wednesday, October 23 th at 11:59 pm and be sure to include both your name and your partner's name.

		Students in the Navigator Program are not required to submit questions for the asset valuation expert. They are, however, required to attend the class on Zoom that he or she conducts.
Wednesday, October 23 rd CLASS WILL TAKE PLACE ON ZOOM Navigator students must attend	Consultation with a dispute resolution expert	LOOKING AHEAD: You must complete a counseling plan before the counseling session. This is a joint assignment with your partner. Submit your counseling plan to the TAs by Friday, November 1st at 11:59 pm]. Instructions for the counseling plan are contained in a separate document. Students in the Navigator Program are not required to complete a counseling plan.
Monday, October 28th CLASS WILL TAKE PLACE ON ZOOM Navigator students must attend	Consultation with asset valuation expert	As part of your preparation for counseling your client, you will have a consultation with an asset valuation expert you have retained for that purpose. Husbands and wives' lawyers will be divided into separate groups for this consultation. Each will have one hour to consult.
Wednesday, October 30th	Student Counseling Sessions	

CLASS WILL TAKE PLACE ON ZOOM Not Required for Students in the Navigator Program		
Monday, November 4th CLASS WILL TAKE PLACE ON ZOOM Not Required for Students in the Navigator Program	Student Counseling Sessions (continued)	
Wednesday, November 6th CLASS WILL TAKE PLACE ON ZOOM Not Required for	Mediation Representation Sessions	In the first hour of the class, a professional mediator will work with students to discuss protocols for the mediation session that will follow in the second hour of class. In the second hour, students will represent their clients during the mediation session and receive feedback from the mediator.

Students in the Navigator Program		
Monday, November 11 th CLASS WILL TAKE PLACE ON ZOOM	Mediation Representation Sessions (continued)	LOOKING AHEAD: 1.Please email the TAs one question (you can submit more) related to domestic violence to be posed to the panel by Thursday, November 6th at 11:59 pm. 2. Counseling and mediation
Not required for students in the Navigator Program		representation self-evaluations are due by Wednesday, November 20th at 11:59 pm. Instructions are contained in a separate packet of materials. Students in the Navigator Program are not required to submit counseling and mediation self evaluations. They have their own separate evaluation for the Navigator Program.
Wednesday November 13 th	Intimate Partner Violence I understand the subject matter of this class may be difficult for some students. If you are concerned about your shills the participate places.	OV: 585-616 CANVAS Domestic Violence Invited guests will discuss the
PERSON CLASSES	ability to participate, please contact me or the TAs.	topic with the class. You will find the biographies of the panelists in the Domestic Violence folder in addition to other materials. Please be sure to read them.

		We will not spend a great deal of time introducing the panelists in detail for class.
Monday, November 18 th	Getting Married and Premarital and Post-Marital Contracts	OV: 57-96, 497-540 CANVAS Marriage Regulation Pre-Marital Agreements
Wednesday November 20 th	Cohabitation Outside of Marriage	OV: 541-556, 568-583 CANVAS Cohabitation
Monday, November 25 th	Child Abuse and Neglect and Termination of Parental Rights I understand the subject matter of this class may be difficult for some students. If you are concerned about your ability to participate, please contact me or the TAs.	OV: 627-654, 665-688 CANVAS Child Abuse and Neglect Foster Care and Termination of Parental Rights
Wednesday, November 27 th CLASS WILL TAKE PLACE ON ZOOM	Jurisdiction in Divorce and Family Court Matters	OV: 124-130, 271-280 CANVAS Matrimonial Jurisdiction Please bring an outline of your response to the Matrimonial Jurisdiction Hypo to class, where we will discuss the hypo in small groups and then in the class as a whole.
Thanksgiving – No Classes		

	Thursday, November 28 th and Friday, November 29 th		
Monday, December 2 nd	Review Session for Examination	CANVAS Review Session I	
Last day of class		Other than the materials in the Review Session I folder on CANVAS there is no new reading assignment. You should at least outline an answer to a question from a previous examination in this course. Instructions are contained in the Review Session I folder. Please bring your answers to class where we will discuss them.	
Tuesday, December 9 th to Monday, December 20 th	Final Exam Take-Home Period	Further discussion of the final exam, format and due dates will occur later in the semester.	

SUMMARY OF ASSIGNMENTS AND DUE DATES

Assignment	Due Date
Two questions related to professional responsibility and the future of family law practice to be posed to the panel (to be completed independently)	11:59 pm on Thursday, September 12 th

One question related to alternative dispute resolution in family law to be posed to the expert (to be completed independently)	11:59 pm on Tuesday, September 17 th
Develop and submit an interview plan (to be completed with your partner) Not required for Navigator Students	11:59 pm on Friday, October 4 th
Two questions for the senior lawyer to address during class (to be completed with your partner) Not required for Navigator students	11:59 pm on Wednesday, October 9 th
Two questions you want the mental health expert to address during your session (to be completed with your partner) Not required for Navigator students	11:59 pm on Wednesday, October 16 th
Two questions you want the dispute resolution consultant to address during your session (to be completed with your partner) Not required for Navigator students	11:59 pm on Wednesday, October 16 th
Two questions you want the asset valuation expert to address during your session (to be completed with your partner) Not required for Navigator students.	11:59 pm on Wednesday, October 23
Complete and submit your counseling plan (to be completed with your partner) Not required for Navigator students	11:59 pm on Friday, November 1 st
One question related to domestic violence to be posed to DV expert (to be completed independently)	11:59 pm on Wednesday, November 6 th

Counseling and Mediation representation self-	11:59 pm
evaluations (to be completed independently)Not	Wednesd
required for Navigator students	November

n on day, r 20th