

ADVICE FOR STUDENTS SELECTING LITIGATION-RELATED COURSES

Litigation is an adversarial process for resolving controversies in court—both civil and criminal disputes. Litigators are expected to know how to try a case. Our **Trial Practice** course teaches students basic trial skills, from opening statements through closing arguments. And because cases are tried on the basis of admissible evidence, the **Evidence** course (in which students learn fundamental principles governing the admissibility of evidence) is critical for any student interested in litigation. It's a prerequisite for taking **Trial Practice**. (Indeed, it's such an important subject that it's tested on the multistate bar exam.)

Litigators must understand and work effectively with the procedures governing all litigation. For civil litigators, the foundational basis for litigation is the subject of the required first-year course, Civil Procedure. Other courses focusing on procedural aspects of civil litigation are the courses in **Federal Courts**, **Complex Civil Litigation**, and **Supreme Court Litigation**. For students interested in criminal litigation, the two courses in criminal procedure, **Criminal Procedure: Investigation** and **Criminal Procedure: Adjudication**, are essential. As these course titles suggest, the two courses focus on the procedures governing the investigation of potential crimes, and the procedures governing the formal charging and trial of crimes.

At the trial court level, the bulk of a litigator's day to day practice is devoted to pretrial matters. The pretrial phase of a case refers to the activities that occur in the case before it's ready to be tried, activities that position a case for trial and that often produce a resolution short of trial (e.g., dismissal, settlement). Pretrial practice includes drafting pleadings and motions. And a central part of pretrial practice involves investigating and developing the facts of cases. To do this, litigators engage in "discovery," which includes taking and defending depositions and preparing and responding to requests for information. A number of courses explore these skills. They include **Pre-Trial Litigation**, **Legal Interviewing and Counseling**, and several upper-level writing courses (**Writing for Electronic Discovery**, **Writing for Federal Litigation**, **Writing in Complex Criminal Trials**). In addition, pretrial practice is the focus of many of our **Wintersession courses**. And it's a key part of many **clinical courses**.

Parties aggrieved by trial court orders or judgments may seek relief by appealing to a higher court. Thus, appellate practice is another phase of litigation. The appellate process has its own rules and puts a premium on persuasive written and oral advocacy. These matters are explored in **Appellate Practice**, a course in which each student submits a brief and delivers an oral argument to a real federal appellate judge.

Parties more often resolve their lawsuits by agreement (settlement) rather than by trial. In fact, in many states mandatory mediation is required before a case can be scheduled for trial. So it's important for aspiring litigators to learn and practice skills that will help them negotiate settlements effectively for their clients. The **Negotiation** seminar explores these matters.

Many lawsuits are not resolved in court but instead are resolved using alternative methods of dispute resolution. Courses that explore these subjects include **Arbitration: Law and Practice** and **Alternative Dispute Resolution**.

For students interested specifically in criminal litigation, a number of courses address that field. These include **Criminal Procedure: Adjudication**, **Criminal Procedure: Investigation, Interrogations and Testimony**, **Corporate Crime**, **Sentencing and Punishment**, **The Federal Prosecutor: A View from the Trenches**, and **Criminal Justice Policy**. Duke also offers an externship (with a seminar component) with the **federal public defender's office**.

On the civil side, the course **Complex Civil Litigation** is an advanced civil procedure class for those interested in large-scale litigation. The course focuses on the problems of large multi-party and multi-forum civil cases and how courts and litigants deal with them. A course that explores complex civil litigation in the specific context of mass tort litigation is **Mass Torts**.

Successful litigators must communicate effectively, and writing is the primary mode of communication. Duke's upper-level writing courses offer an array of opportunities to practice the types and forms of writing that lawyers do in litigation—such as drafting pleadings (complaints and answers), discovery requests/responses, motions, and supporting memoranda. These courses include **Writing for Electronic Discovery**, **Writing for Federal Litigation**, and **Legal Writing in Civil Practice**.