Technology for Evolving Legal Practice (Fall 2024)

1. Course Details

Contact Information:

Professor Sara Gras, Associate Professor and Executive Director of the Rodino Center
(sara.gras@shu.edu)
I am available to meet in person or via Teams by appointment to address any questions. I generally respond to emails from 9:00am - 7:00 pm but am open to meeting outside those times if your schedule demands it.

Professor Brendan Borthwick, Assistant Professor and Technology Innovation Librarian
(brendan.borthwick@shu.edu)
Please use my bookings link to set up a meeting: Book Office Hours Time with Me

Schedule:

Thursdays from 4:15-6:15 pm

Course Texts:

There is no required textbook for this course. Any required readings will be available electronically through Westlaw, Lexis, Bloomberg Law, or HeinOnline, or a public link will be provided.

Course Pages:

Announcements, assignments, and readings will be posted on Canvas.

2. Course Objectives

In this course, students will examine the intersection between legal practice and technology and how the ever-changing technological landscape is impacting the traditional practice of law. Topics will include practice management tools, eDiscovery, coding, artificial intelligence, information security, ethics and privacy, electronic communications, and other emerging areas. An emphasis will be placed on hands-on activities. This course will equip all law students – regardless of intended practice area, law firm size, jurisdiction, or other factors – with the knowledge necessary to respond to these issues. At the end of the semester, students will be able to:

- Use legal technology proficiently and in accordance with relevant rules of professional responsibility.
- Evaluate features and benefits of various web-based practice management tools and litigation technology.
- Use electronic communication and social media platforms effectively to connect with current and potential clients and promote their legal services.
- Recognize information security issues and apply best practices to resolve them.
- Identify opportunities and implement tools to automate routine legal work.

3. Grading

This course is graded High Pass, Pass, Low Pass or Fail. A small number of students who demonstrate exceptional work product, participation and attendance will be awarded High Passes in this course.

Your grade will be based on class participation (15%), the completion of assignments (60%), and the final assignment (25%).

Treat your work product for this class the same way you would treat your work product when practicing. We expect the quality of all completed work to be complete, professional, and free of grammatical errors.

Assignments: (60% of final grade)

Over the semester, students will complete four assignments. Two of these will be written reflections on a provided prompt using information from assigned reading. One will be a more traditional assignment that requires the application of information covered in readings and class discussion, and some outside research, to write a memo. One will require the completion of exercises on the Procertas platform. Details for each assignment will be posted on Canvas before the class preceding the due date. All assignments should be submitted via Canvas.

Final Project: (25% of final grade)

At the end of the semester, students will complete a final team project requiring the selection and evaluation of a technology solution to meet an identified need within a legal business. Each team will do a professional "pitch" their recommended product to stakeholders and receive both professor and peer evaluation of their work.

Participation: (15% of final grade)

This class involves participation in classroom discussions, exercises, and hands-on experience; therefore, completion of assigned reading, attendance, and classroom participation are required.

4. General Policies

Laptops

Please be ready to follow along during class on the websites being discussed. This means a charged and functioning laptop with necessary passwords/logins on hand. However, during certain portions of class, such as guest presentations, your professor may request that you keep your laptop closed.

Names and Pronouns

Please let us know if you prefer to be called on in class using a nickname or chosen name and/or would like to share with us your pronoun by email before the first day of class. We will do our best to use preferred or chosen names and pronouns.

Class recording

All class sessions will be recorded using Microsoft Teams. All students enrolled in the class will automatically have access to the recordings during the semester. Students may not copy or share these recordings. In addition, students may not make, copy, or share their own recordings of classes in any format (audio, video, screen captures, etc.).

Classroom Etiquette

An integral part of becoming an attorney involves the pursuit of justice and a commitment to ethical standards. As a practicing attorney you will work with clients, colleagues, co-counsel, opposing counsel, court offers, judges, and others who will come from different backgrounds from yours or have different life experiences than yours. Throughout the course we will discuss how to communicate and collaborate across those differences without making assumptions about other people's experiences, values, and priorities. Therefore, the following "Ground Rules" apply in this class:

- Think critically about how to communicate and collaborate across differences without making assumptions about other people's experiences, values, and priorities.
- Maintain an open environment and establish "ground rules" for yourself that you will adhere to when engaging in legal discussion.
- Listen respectfully, without interrupting.
- Pay attention actively and with an ear to understanding others' views (do not focus on your response as another person is speaking).
- Criticize ideas, not individuals.
- Avoid blame, speculation, and inflammatory language.
- Allow everyone the chance to speak and avoid assumptions and generalizations about social groups.
- Most importantly, do not assume individuals speak for their perceived social groups.

Academic Integrity and Generative AI Use

This course directly addresses the use of generative AI in legal practice which means students will have occasion to use generative AI tools as part of the class. Assignments that permit or disallow the use of generative AI will explicitly state this in the instructions. Failure to follow assignment instructions will impact the grade received.

In addition, the Seton Hall Law School Student Code of Conduct (honor code) shall govern all aspects of this class. Please note the SHU Law Honor Code has been updated with the following prohibition on the use of generative AI for written class submissions without prior permission:

> 3.03 Unauthorized Work for Academic Credit. No student shall offer for academic credit any work for classes taken at the School of Law or any other law school or pursuant to a study abroad program, or for any other academic activity such as moot court, journal, or clinics, that is prepared (a) in whole or in part by another person or by an AI text generator except where expressly authorized by the instructor or where proper citations to the source of the work are contained in the submitted materials, or (b) in collaboration with another person, except as expressly authorized by the instructor. A student violates the honor code when their work uses the words or ideas of another person or an AI text generator without attributing those words or ideas using the required forms of documentation, if any.

Disability Support

If you have, or think you might have, a disability that requires an accommodation to maximize your prospects for success in Law School, please contact either Assistant Dean for Student Services, Andrea

Cascarano, or the University Office of Disability Support Services ("DSS") at (973) 313-6003. All accommodations must ultimately be sought through and approved by DSS. DSS will make every effort to accommodate documented disabilities of every kind. The deadline for submitting applications (including reports from physicians, psychologists, and other professionals) to DSS to establish eligibility for exam accommodations for the Fall semester is on or about November 1st and on or about April 1st for the spring semester. This deadline ensures that the documentation review process will be completed and accommodations in place in time for final exams. More information can be found online https://www13.shu.edu/offices/disability-support-services/index.cfm or by making an appointment to speak with Dean Cascarano. In the interest of maintaining anonymity for grading purposes, please do not direct any questions regarding accommodations to your professors.

Counseling Services

Short-term professional counseling is available through Counseling and Psychological Services (CAPS) to support enrolled students. The best way for Law school students to schedule an initial assessment for counseling services is to contact CAPS at 973.761.9500. After hours and on weekends, students experiencing a psychological emergency should call 973.761.9500 to speak directly with a professional mental health counselor. Additional resources can be found here: Counseling and Psychological Service - Seton Hall University (shu.edu)

5. Attendance

Faculty recognize that students may occasionally have legitimate reasons for missing classes (e.g., sickness). Thus, the attendance policy permits students to miss up to 2 class sessions without penalty. Students do not need to provide a reason for missing a class; we trust that those of you missing classes have an important reason for doing so. If you know that you will be absent from a class, we welcome advance notice via email, but you are not required to provide it. However, there are no excused absences permitted at the Law School, so an absence for any reason counts towards the maximum absences allowed. **If you miss three classes, you will be administratively removed from the course.** Faculty are not permitted to excuse an absence. Students who wish to discuss this issue should contact Dean Cascarano.

Students must be physically present in the classroom to be counted as present for a class. Per law school policy, students who arrive in class more than 10 minutes after the start time, or who leave class before the official end time will not be counted as present.

Please remember that students may not receive refund checks until their attendance is recorded.

Before Class 1:

Listen to this episode of the Law Subscribed podcast and review the 2024 State of the Legal Market Report. Post three takeaways about the current state of the U.S. legal market in the Class 1 Discussion Board.

Class 1: The Future of Technology and Legal Practice (8/22)

Objectives: This class will address recent and anticipated developments in technology for legal practice, as well as the technology issues that lawyers encounter in their practice. Students will be able to identify and search tools for staying current on legal tech innovation, as well as the role attorneys play in moving new technology forward.

Before Class 2:

Listen to Ezra Klein and Ethan Mollick, How Should I Be Using A.I. Right Now?, The Ezra Klein Show (April 2, 2024).

Read:

- Natalie Shkolnik and Michael Van Riper, Courts Remain Hesitant to Regulate the Use of Generative AI in Litigation, LAW.COM (June 18, 2024).
- Megan Boyd, AI, Lawyers, and the Courts (June 18, 2024), available on SSRN.
- NJ Courts, Legal Practice: Preliminary Guidelines On The Use Of Artificial Intelligence By New Jersey Lawyers, January 2024.
- Kentucky Bar Association, Ethics Opinion KBA E-457, March 15, 2024

Before Class 2: Complete Assignment 1 (due 8/28 at 11:59 pm)

Commented [BB1]: Compare NJ and Kentucky guidelines on ethics of AI, Who Is Getting It Right?

Class 2: Artificial Intelligence & Legal Practice (8/29)

Objectives: This class will cover the basics of AI and its increasing importance in the legal technology landscape. They will recognize AI at work in legal environments and know how to employ this technology with an awareness of the potential risks inherent in such systems. They'll identify AI's functionalities in legal tasks, formulate effective prompts, and critically assess AI's benefits and limitations in the legal landscape.

Before Class 3:

Read the following:

- Comments to M.R.P.C. 1.1
- Ivy B. Rake, Ethical Duty of Technology Competence: What Lawyers Need to Know, WordRake
- ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 21-498 (2021), Virtual Practice.
- N.J. A.C.P.E. Op. 738 (2020).
- Mark G. McCreary, Ethical and Thoughtful Use of AI in the Legal Industry, Legal Intelligencer (July 3, 2023).

Class 3: Ethical Issues with the Use of Technology (9/5)

Objectives: After this unit, students will be able to identify the relevant local and model rules of professional conduct that require special consideration when using various types of legal technology. Students will also know how to locate online resources to research legal ethics questions and stay informed about what is required of technically competent attorneys.

Before Class 4: Begin Assignment 2 (due 9/18 at 11:59 pm)

Class 4: Technology and Litigation (9/12)

Objectives: This class will introduce the changes that technology has made in the litigation process. They will be able to articulate the benefits and risks of conducting hearings and depositions in a virtual environment. We will look at how litigators use technology as part of their trial strategy and students will have an opportunity to be hands-on with TrialPad. After this unit, students will be able to create an original demonstrative and upload it to TrialPad.

Commented [SG2]: Guest Speaker: Stephen Embry

Before Class 5:

Read:

- Order in Garner et al v. Amazon.com Inc et al, Docket No. 2:21-cv-00750 (W.D. Wash. Jun 07, 2021).
- Courtney A. Murphy, E-Discovery Competence: Assessing Yourself and Others, LEGAL INTELLIGENCER (March 6, 2024, 10:19 AM).
- Cassandre Coyer, Deepfakes Could Upend E-Discovery Costs and Capabilities. Is There a Path Forward?, LEGALTECH (May 19, 2023).
- David R. Cohen and Marcin M. Krieger, Generative AI in E-Discovery – Getting Beyond the Hype, LEGAL INTELLIGENCER (March 9, 2024, 1:17 pm).

Class 5: E-Discovery and Technology Assisted Review (9/19)

Objectives: This class will cover the evolution of E-Discovery technology, the benefits and issues created by its widespread adoption, and its potential in the future of legal practice. Students will be conversant on the terminology, as well as the rapidly evolving landscape of E-Discovery and Technology Assisted Review.

Students will be able to explain the significance of the 2015 FRCP amendments in light of changing technology and how the amendments have changed electronically stored information practices.

Before Class 6:

Listen to:

- Jim Hacking, Tyson Mutrux, Colin Levy, Unleashing the Power of Legal Tech with Colin Levy, Maximum Lawyer Podcast, Jan 9, 2024.
- Tyson Mutrux, What to Ask When Interviewing Vendors for Your Firm, Maximum Lawyer Podcast, Jan 6, 2024.
- Greg Garman, Stanley Tate - From Resolving The Burden Of Student Loan Debt To Building A Profitable Law Firm Using Automation, The Successful Business and Practice of Law - Presented by LAWCLERK, Sept. 27, 2022

Class 6: Managing Technology in a Legal Business (9/26)

Objectives: This class will provide an overview of the role technology plays in daily legal practice management. Students will be able to identify tools necessary for a firm to manage their business. After this class, students will be able to itemize the many costs associated with operating a technology-focused legal practice. They will be able to create a request for proposals to send potential technology vendors and design a practical strategy for evaluating new technology.

Commented [SG3]: Group Work – Create-a-firm

Commented [SG4R3]: Leah Smith & Jamie Pagano from Lowenstein Sandler

Before Class 7:

Read:

Steven Lerner, Attys Ditch ChatGPT, Develop Custom Generative AI Tools, LAW360 (Feb. 7, 2023).

Watch or Listen to:

- Greg Lambert, Marlene Gebauer, Jorn Vanysacker, Jeroen Thierens, Henchman: We Are Building the "Chief of Staff" For Each Legal Professional, April 17, 2024 (YouTube link:

https://www.youtube.com/watch?v=97glHRfp-n4)

- Thomas Dohmke, With AI, anyone can be a coder, TED2024 (April 2024).

Class 7: Legal Tech Innovation Process (10/14)

Objectives: This class explores the impact of emerging legal technologies like generative AI on the legal field, analyzing their potential benefits and challenges for improving efficiency and client service. Students will be able to analyze the challenges and opportunities presented by emerging legal technologies, such as generative AI and automation, and evaluate their potential to improve efficiency and client service in legal practice. By its conclusion, students will be able to create a basic automation for streamlining routine business tasks and be able to describe to a coder or web application designer how a more complex automation should function.

Commented [BB5]: Guest Speaker: Claimscore.ai?

Before Class 8:

Read the following:

Anders Spile, Legal Design, Not Legal Tech, Best Enables Access to Justice, COURTS AND JUSTICE (May 26, 2020).

Fatima Bazzi, Legal Design and the Future of Law, THE BULLETIN (April 12, 2021).

Isha Maranthe, Stanford Law Collaborates with Six States to Scale Access-to-Justice Tools, LEGALTECH (Aug. 5, 2022).

Post a question for Class 8 guest in Discussion Board.

Class 8: Legal Design (10/24)

Objectives: This class will familiarize students with the ways technology and legal design are working together to improve access to justice. Students will understand how design concepts can be applied to legal information to make the law more approachable. They will also interact with practical examples of technology tools informed by legal design principles.

Commented [SG6]: Guest – Hallie Jay Pope

Before Class 9:

Watch this clip about Pig Butchering from Last Week Tonight.

Read:

- Sam Skolnik et al., Law Firm Cyberattacks Grow, Putting Operations in Legal Peril, BLOOMBERG LAW (July 7, 2023).
- Katryna Perera, Okta, Investors Reach $60M Deal in Cyberattack Coverup Suit, LAW360 (June 12, 2024).
- NY State Tech. L. s. 208 and s. 209

Before Class 9: Begin Assignment 3 (due 11/6 at 11:59 pm)

Commented [SG7]: Table of state laws on data breach disclosures: https://www.ncsl.org/technology-and-communication/2022-security-breach-legislation

Class 9: Cybersecurity (10/31)

Objectives: After this unit, students will recognize information security issues related to both storage and transmission of information and apply best practices to resolve them in their professional environments.

Commented [SG8]: Guest speaker – DOJ Cyber Crimes

Class 10: Communication Technology (11/7)

Objectives: This class will cover technology used in legal businesses for communication and presentations. Students will be able to implement best practices for internal and external electronic

documents and messaging. They will also practice creating effective digital presentation materials.

Class 11: Careers at the Intersection of Law and Technology (11/14)

Objectives: A curated panel of legal professionals working at the intersection of law and technology will give students insight into the breadth of options available for those with a desire to incorporate technology and legal practice in their future careers. After this session, students will understand how inextricably legal work is intertwined with technology and how this relationship will continue to grow throughout their professional lifetimes.

Before Class 12:

Listen to A Lawyer's Success on Tiktok: How They Did It & What They Learned, with Julio Oyhanarte, Lawyerist Podcast (Oct. 27, 2021).

Read the following:

- In re Hyderally, 32 A.3d 1117 (N.J. 2011).
- Matter of Robertelli, 258 A.3d 1059 (N.J. 2021).
- A.B.A. Formal Opinion 480 (March 6, 2018).
- John Browning, Social Media Use and Appellate Practice: Avoiding Ethical Pitfalls, 31 APP. ADVOC. 254 (2021)
- Meghan Tribe, Big Law Lawyers are On TikTok. Their Firms are Conflicted, BLOOMBERG LAW (May 16, 2023).
- Allison C. Johs, Tech Report 2023: Websites & Marketing, ABA (Jan. 4, 2024)

Before Class 12: Complete Assignment 4 (due 11/20 at 11:59 pm)

Class 12: Social Media (11/21)

Objectives: This class will cover attorney use of social media and web-based advertising. Students will be able to implement best practices for social media use. They will be able to avoid ethical pitfalls and stay abreast of emerging issues related to online attorney marketing.

Class 13: Presentations (TUESDAY 11/26)