Computer-Assisted Litigation   *Professor Fred Galves*
Fall, 2012   *Professor Tim Piganelli,*
Tuesday & Thursdays   *Legal Piganelli & Associates*
1:30-3:00 p.m.   *Classroom "S-5"*

COMPUTER-ASSISTED LITIGATION
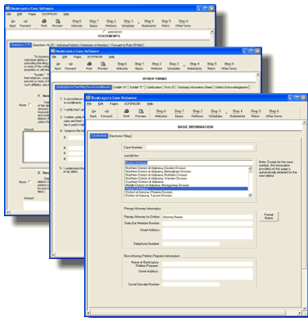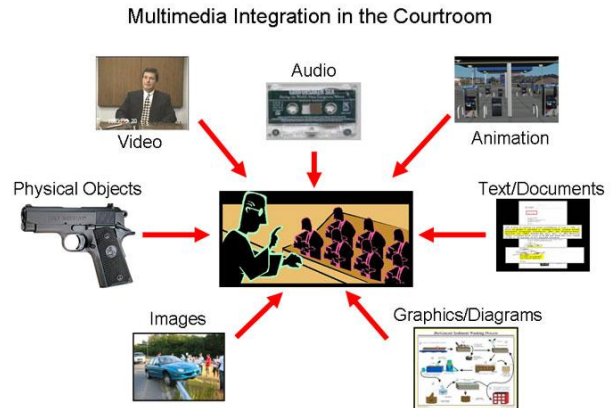
PACIFIC McGEORGE SCHOOL OF LAW
Fall Semester, 2012

I.   <u>**Course Description**</u>   **In-Person Classes:**
                                   Classroom "S-5" (Tuesdays)
                                   Online Classes: [Through Online
                                   Sakai Platform] (Thursdays)

<u>**Catalog Course Description**</u>:

> **"Computer-Assisted Litigation (3 units).**   This course will cover technical, procedural and evidentiary issues related to computer-assisted litigation and the use of litigation software and trial display technology. Students will learn how to use pre-trial and trial litigation support software technology by organizing a document intensive case and preparing key exhibits for trial presentation."

Welcome to "Computer-Assisted Litigation"! In this course, students will learn the fundamentals of a rudimentary initial setup and general document and exhibit management of an automated case from the beginning of the case through the trial. The goal is for students to learn tactical pre-trial case analysis, case management, e-discovery, on-line dispute resolution, law practice management, and trial presentation technology, including evidentiary, advocacy, and visual persuasion issues associated with using cutting edge courtroom technology. Such skills are now expected of law school graduates involved in any aspect of litigation or general case management.

The course will be co-taught by Professor Fred Galves and Professor Tim Piganelli. Professor Piganelli is the CEO of Piganelli & Associates based in Phoenix, Arizona, and is a veteran trial consultant–having participated in over 400 large state and federal commercial litigation cases since 1993. Prof. Piganelli will attend a couple of in person classes and will be available online for other classes. Also participating in several classes will be Aaron Crews, a nationally-recognized expert in e-discovery and trial presentation and attorney with Littler, Mendleson, heading up the firm's nation-wide e-discovery practice consulting services. Josh Gilliland is also a nationally-recognized e-discovery and e-admissibility expert and attorney in Silicon Valley who will participate in several classes as well, both online and some in person.

The first portion of the course will be spent on complex computerized document and case management systems. The legal focus will be on Civil Procedure and Pre-Trial Litigation.   Our case file will be the *Quinlan v.Kane* NITA case file. During this portion of the course, we will learn a case analysis program, called "CaseMap," and a case management program, called "Catalyst Insight," for use in various aspects of pretrial litigation.

We then will take a brief excursion into software for law practice management. The practitioner must manage client relationships, track key court and agency deadlines, identify potential client conflicts of interest and more in order to keep customers happy and informed, move cases forward efficiently, and avoid committing ethical violations and legal malpractice. During this section, we will also discuss the related areas of cost sharing/cost shifting and sanctions. The software programs we will demonstrate are a practice management application called "Amicus Attorney," and a case calendaring product called "CompuLaw."

The final portion of the course will cover the preparation and the presentation of exhibits for trial and before other legal decision-makers (opposing counsel, mediators, arbitrators, etc.) using display technology systems. The legal focus will be on Evidence, Trial Advocacy, and Visual Persuasion Skills. Our case file again will be the _Quinlan v. Kane_ NITA case file. The second part of the course will focus on learning two trial presentation software programs, "PowerPoint" and "Sanction" (and possibly a third application called "Trial Director").

The goal of the course is to introduce students to software programs that they can competently use to assist them in pretrial litigation (case analysis, case management, practice management, e-discovery, on-line dispute resolution) and will enhance the students' advocacy and presentation skills (evidentiary issues at trial as well as strategic, tactical, and persuasion considerations). The class will require a substantial amount of time and patience working with the software and students will have ample opportunity to experiment and navigate the software on their own laptop computers (see laptop computer requirements below to make sure your computer is adequate to run the software necessary for this class).

Accordingly, as with any skill, the more you practice, the more familiar and better you will become with the technology. Many large and special litigation firms as well as many government agencies use technology extensively in the practice of law. This course is designed to provide the student with a good working knowledge of the software and how it interfaces with the practice of law. See [Book Chapter (Chapter 7)] "Teaching Litigation Technology," and magazine article "_Seeking Tech-Savvy Associates_."

II.   Course Methodology.

The course will be taught on Tuesday and Thursday afternoons, for one-and-a-half hours, from 1:30 p.m. - 3:00 p.m. in a blended course format alternating between live in-person class meetings and on-line class meetings. Tuesday classes will meet in-person in Classroom "S-5," and Thursday classes will meet online. Exceptions will be announced in class. The class format is lecture, demonstration, and class discussion. We will sometimes call randomly on students, request volunteers, and sometimes we will have student presentations. You are expected: (1) to be **prepared** for class each day and (2) to **participate significantly** in class discussion. You will have an opportunity to do hands-on learning on your computer (we will provide you with free licensed software to be loaded on your laptop) under the supervision of the instructors. YOU MUST HAVE A LAPTOP COMPUTER FOR THIS COURSE (See specifications below)[1]

---

[1] **IF YOU HAVE A FAIRLY NEW LAPTOP, YOU SHOULD BE FINE, BUT HERE ARE THE SPECIFICATIONS FOR THOSE INTERESTED:** In order to run the various software programs used in this class, your laptop system should contain the following minimum specifications: Windows 7; Intel Core 2 Duo Processor - 2.0 GHz or better, 4GB RAM, 1280x1024 (SXGA) screen resolution, 32-bit color depth, Sound Card enabled, Speakers or Headphones, Internet Explorer 6, 8x DVD Recordable Drive, 100 GB available Hard Drive space or higher, Network Interface card. WinXP is not supported with some newer software versions and Vista has had problems with some applications. We suggest that you use a PC laptop for this class, NOT an Apple MacIntosh laptop as some of the software has difficulty running on a Mac. (Even if you have Boot Camp on your Mac, not all applications work perfectly.) See also "Technology Requirements for Online/Blended Learning Courses."

| Minimum Requirements | Core 2 Duo 2.0 gigahertz (GHz) or higher 32-bit or 64-bit | 4 gigabyte (GB) or higher RAM | 100GB or higher Hard Drive Space; IDE ATA100 or SCSI Ultra | Windows 7 Professional | Internet Explorer 6 or later Network |

You will also need adequate, consistent access to the Internet in order to engage in special learning modules, to download and upload information, and, of course, to "attend" classes on Thursdays. You should also have access to a printer to print out assignments if you cannot upload or e-mail them. Please purchase a headset with earphones and a microphone in order to participate on line, and a webcam if your computer does not already have one built in.

You will be provided with at least five temporary licensed software programs that extend for course work only: (1) "CaseSoft" (consisting of CaseMap – on which we shall focus and is a case analysis system – and three related programs, for use on your own, "TimeMap," "Text Map," and "NoteMap"); (2) "Total Litigator" (a program to assist in drafting litigation pleadings and interfacing with LexisNexis; (3) "Catalyst" (a document management and pretrial litigation tool); and, for use later in the course, (4) "Amicus Attorney" (a law practice management program to track clients, cases, and dates, which can interface with "CompuLaw" court calendaring); and (5) "Sanction" (or possibly "Trial Director"), (trial presentation software programs to display and manipulate documents and present video-taped depositions). It will be helpful if you have a PDF writer to create portable document files in order to upload class assignments. We will also work with "PowerPoint" (you may use either the 2007 version, or preferably the 2010 version), a Microsoft Office Suite product (we cannot provide this software license for free, but it is available in the Word Office Suite, which you probably already have on you computer). PowerPoint is also available on the computers in the library computer lab and on the computer in Classroom "S-5."

The discs or download folders containing the software for the class will be distributed during class sessions or through Sakai. Sakai is a robust platform for course management and collaboration and has more tools than what you are probably used to with the more familiar "TWEN" platform in previous classes. (See § VI below.) You will be shown how to load, log on and access the software and information during the second class if you are unable to load the discs on your own following the prompts. At first, you may just want to load "Casemap" (you can load "Amicus Attorney" and "Sanction" and other software later in the course if you wish). There will be specific on-line and CD computer module exercises for students to complete in addition to exploring the software on their own. These exercises will be graded.

We are fortunate to have a great deal of litigation technology expertise in the class. Professor Piganelli is based in Phoenix, Arizona. He will be flying to Sacramento at least two (2) times this semester for live participation in class and he will be available by telephone and by website for individual discussion. We will also have Professor Piganelli participating online (we will have live audio and video of Professor Piganelli along with a view to his computer information while he is physically in Phoenix, Arizona). You also will be given access to various special learning modules so you can learn and work with the software anytime on your own outside of class. Aaron Crews in based in the Littler Mendelson Sacramento Office and therefore will be able to attend many in-person and on-line classes. Joshua Gilliland is based in Silicon Valley and will also be able to attend some classes. Also, please access Mr.Gilliland's "Bow-Tie" Law Blog (www.bowtielaw.com), recently voted to be one of the top ABA Journal blogs on e-discovery and general litigation technology issues. Mr. Gilliland recently started a new blog entitled The Legal geeks (www.thelegalgeeks), exploribng legal issues surrounding sci fi, comic books, and everything else geek. Mr. Gilliland is also a Pacific McGeorge alumnus.

III. <u>Class Attendance.</u>

Regular and punctual class attendance is required. A seating chart will be distributed during the first class for in-person classes. Whether classes are held in-person on campus, or online, attendance is mandatory just as it is in all of your other classes. Attendance will be taken in the traditional fashion during on campus classes and via the online portal for online classes. It is best practice to log into the online classes at least 10-15 minutes prior to the start of class to make sure there are no technical difficulties. This ensures you are in your virtual seat and ready to participate when class begins at 1:30 PM. Please note that we will be using the classroom screens to display images during on campus class sessions and Sakai for demonstrations during webinar-based classes. Please be punctual and try not to miss any class because we have so little time as it is. We may ask you to meet individually with us or in small groups at additional times in order to take advantage of Professor Piganelli's schedule when he is here in Sacramento.

Where feasible, classes will be recorded for later viewing. Any recorded classes are to be used to refresh your memory on how to install and use the various software tools, etc. They are NOT A SUBSTITUTE for class attendance. Failure to attend a classroom or online session will result in an absence whether or not you review a recording of the class at a later time.

IV. <u>Course Grading.</u>

There are five (5) areas from which we shall determine your final grade:

(1) **Quizzes.** There will be two short quizzes during the semester (one mid-way through the first part of the course and one mid-way through the second part). These will be timed on-line quizzes taken and submitted on Sakai. The purpose of the quizzes is to ensure that you understand the material studied up to that point and to diagnose any areas where you may need further study. Each quiz will go "live" about one-week prior to the due date. You may take the quizzes at your convenience at any time from when they go live until when they are due. The quizzes will consist of some combination of multiple choice, true/false, fill in the blank, and short answer. There may also be a video segment to watch where you either write your answer or submit an audio/video answer. The quizzes together will constitute ten percent (**10%**) of your final grade (each quiz counting for 5% of your final grade). Please note that although these quizzes are open-book, open-note quizzes, you will not have sufficient time to look up each answer. It is essential to know the covered material before you take the quiz. The quiz answers will be discussed during the class after the due date/time. Quiz results will not be accepted after the corresponding discussion of the answers in class.

(2) **Mid-Terms.** Approximately half-way through the semester and then at the end of the semester, there will be a short Mid-term exam covering the material (readings and class skills) which were addressed during the first part of the course (pretrial case analysis, management, e-discovery and on-line dispute resolution – Mid-Term #1), and then later a second Mid-Term which will cover the second part of the course (evidentiary issues, trial persuasion/display systems – Mid-Term #2). The two mid-terms together will constitute thirty percent (**30%**) of your final grade (15% for each quiz). Please note these mid-terms are closed-book and closed-note and will be taken in class. They will be short Mid-Terms (one hour or less).

(3) **Computer Exercises/Homework.** You will be given computer exercises to do on your own that correspond to the first part of the course. You also will be expected to access

and to go through the learning modules we assign. The assigned exercises will require you to navigate the software in order to answer correctly. You will need to save your answers as PDF files and then upload them using Sakai. The exercises will constitute a total of fifteen percent (**15%**) of your final grade. The exercises are an important part of your getting the necessary practice that only an active exercise can provide.

(4)   **PowerPoint Presentation.**   During the second portion of the course, you will be expected to prepare either an opening statement, a closing argument, or a great speech in history (we will distribute sample scripts from which you can choose) and you will deliver the opening statement, closing argument, or speech, in class as a PowerPoint aided presentation. This is a precursor to preparing an opening statement or closing argument in the final trial at the end of the semester. The focus will be on your ability to engage in "visual advocacy." The presentation will constitute fifteen percent (**15%**) of your final grade.

(5)   **Final Trial Presentation.**   In lieu of a final exam at the end of the semester, we will have a final trial exercise in a federal courtroom downtown. Students will present either a closing argument or opening statement and do either a direct examination or cross-examination of a witness using display technology in the courtroom. The mock trial case file will be the *Quinlan v, Kane* case file. You will be graded on the efficient, effective, persuasive, and creative use of technology in your presentations, as well as on the legal, strategic and tactical maneuvers and reactions at trial. The final trial exercise will constitute thirty percent (**30%**) of your final grade. There is **no final examination in this course.**

QUIZZES	MID-TERMS	SOFTWARE EXERCISES	POWERPOINT PRESENTATIONS	FINAL TRIAL	TOTAL
10% (2)	30% (2)	15% (2)	15%	30%	100%

V.   Course Materials.

- Shira A. Scheindlin, Daniel J. Capra, & The Sedona Conference, Supplement Materials on Electronic Discovery: For Use in Civil Procedure Course (West) ("***Scheindlin/Capra ED Book***")
- Mike Rogers, Litigation Technology: Becoming a High-Tech Trial Lawyer (Aspen Publishers) ("***Rogers, Lit. Tech.***")
- The National Institute for Trial Advocacy (NITA) Case file, ***Quinlan v.Kane.***
- **Supplemental Materials**, distributed through Sakai and announced in class.

VI.   Web Page on "Sakai."

We will have a WEB Page (on "Sakai") for Computer-Assisted Litigation. Sakai is a new class delivery platform available on all three University of the Pacific campuses. You may be familiar with Sakai if you received assignments from Sakai or if other professors have used it in class. Sakai has a richer tool set than "TWEN" and is more applicable to a "blended learning" (partially online) course such as Computer Assisted Litigation. If you have not already done so, login to the McGeorge Sakai site at   http://sakai.pacific.edu   using your insidePacific username and password. Once there, set up your profile, add the Computer Aided Litigation class and begin to explore the tools and documents available on the site. If you have trouble logging in, please consult Brandon Abell who, among his other duties, is the Sakai/Library/Information Commons Technical Specialist. E-Mail: babell@pacific.edu Phone: (916) 739-7029

The Sakai page for Galves' "2012 Computer-Assisted Litigation" will contain our class assignments, class outlines, class announcements, and other pertinent information, and perhaps most useful for you during the semester, a discussion room for you to leave questions or comments for us, as well as other class members. This will also be the site where we will hold online classes and where you will submit assignments, take quizzes, and download supplemental readings and videos. My hope is that we can have an interesting and helpful discussion and interaction OUTSIDE of the classroom via the Sakai page.

Please note that the Sakai Page should not be used to ask questions without first trying to determine the answer on your own. My personal e-mail address is **"fgalves@pacific.edu"** but please use the Sakai WEB page for any Computer-Assisted Litigation questions you may have so that other students can share their ideas and reactions to your questions and comments. Also, even if you do not have any specific questions, please access the page before classes so that you can see/read what other students are asking and saying, and see how I am responding, etc. Note that students who consult the Sakai page often realize they do not understand some aspect of Computer-Assisted Litigation that they previously thought they did understand, but had never asked. Please see below "X. Online Classes on Thursday Through Sakai Platform" for more information about the online class procedures

VII. Website: "www.fredgalves.com".

I have a website for students, professors, lawyers, judges, and any other persons interested in the law and litigation technology. There will be a link on my website to the Sakai Galves' Computer-Assisted Litigation site under the "Classes" item on the left-hand side menu. Just click on "Computer-Assisted Litigation" and then you will be on the page for this class. On that Computer-Assisted Litigation page, there will be a link to our Sakai page. Also, there are many articles and helpful items on my website that you may find useful. Please feel free to explore the site, as it is especially geared for litigation technology.

In addition to checking my Website, you can access our Sakai page where there will be the class outlines and assignments for the next class (Please also see the "Syllabus" and the "Calendar" features on the Sakai page). When you sign up for Sakai, please make sure to use your correct, current, accessible e-mail address so you will be notified when new postings are made. The current syllabus for the semester is attached to this document as well (see below).

VIII. Office Hours.

My office is located in the new library addition (atrium main entry way) up on the second floor (note that it is NOT in the main faculty building). My office telephone number is (916) 739-7117. The following are my office hours for fall, 2011:

Mondays	4:00 p.m.	– 5:30 p.m.
Tuesdays	11:00 a.m.	– 12:00 noon.
Wednesday	1:00 p.m.	– 2:00 p.m./5:00 p.m. – 6:00 p.m.
Thursdays	4:30 p.m.	– 5:30 p.m.

Also, I usually shall be available by appointment. Please feel free to come by my office anytime; often I will leave my door open and we can chat.

Professor Piganelli's office telephone number in Phoenix is (480) 753-3770; e-mail: tim@piganelli.com; website: www.piganelli.com. When Professor Piganelli is in town, we often will have extended office hours. Joshua Gilliland can hold virtual office hours on Skype. His Skypwe address is Joshua Gilliland. His email address is josh@bowtielaw.com

IX.   Online Classes on Thursday Through the Sakai Platform

First, please note that the better and newer your laptop (or desktop) computer is, the more likely it will be that your online class experience will have few, if any, access and/or configuration problems. Of course, no matter how state of the art your computer may be, you will still have difficulty if you do not have consistent, reliable access to the internet in order to connect you to class. The more bandwidth you have, the less likely it will be that you will have visual quality, sound, or synchronicity of sound and image problems during online classes. Most laptops already have built-in cameras (web-cams) and microphones. If your does not, or if they are not of reliable and/or of sufficient quality, then you will need to purchase a fairly good web-cam camera and a good microphone to ensure that you can easily see and hear (and be seen and heard) during class. A sufficient web-cam and headset microphone should not be much more than $20-$30. I use a "Logi-Tech" headset and webcam. ***The headset is necessary as it eliminates feedback during the online sessions.***

When you are logged on the Sakai site for this course, please access the "Elluminate Session" for that particular class. Please make sure that your display system can adequately configure the session and your volume/sound is on so that you can hear and see the class. Also, please make sure that your web-cam is operating and pointed toward you and that your microphone is on so that you can be seen and heard when you are called upon or when you want to make a point and/or ask a question during class. Please turn down your speakers (again a headset if preferable).

On the first day of class, which is an in-person class, toward the last part of class, we will have a "dry-run" of a mock online class, with Brandon Abell, McGeorge Sakai technical assistant, to make sure everyone in the class can properly log on to the site and access the elluminate session. We want to make sure that your computer will allow you to see and hear the session as well as allow you to be seen and heard. We also want to make sure there are no connectivity, access, display, or audio problems. If there are (and often there will be some initial problems) we can troubleshoot, make adjustments, and address any problems at that point when we are all in class together so that the online class on the following Thursday will go as well as possible without any technological problems.

Google Chrome will be the best as a browser for the Insight program we will use.

Below is a basic diagram of the computer screen you will see during an online class session, and specific areas of the screen denominated with letters with the corresponding descriptions for each of those areas of the screen below:
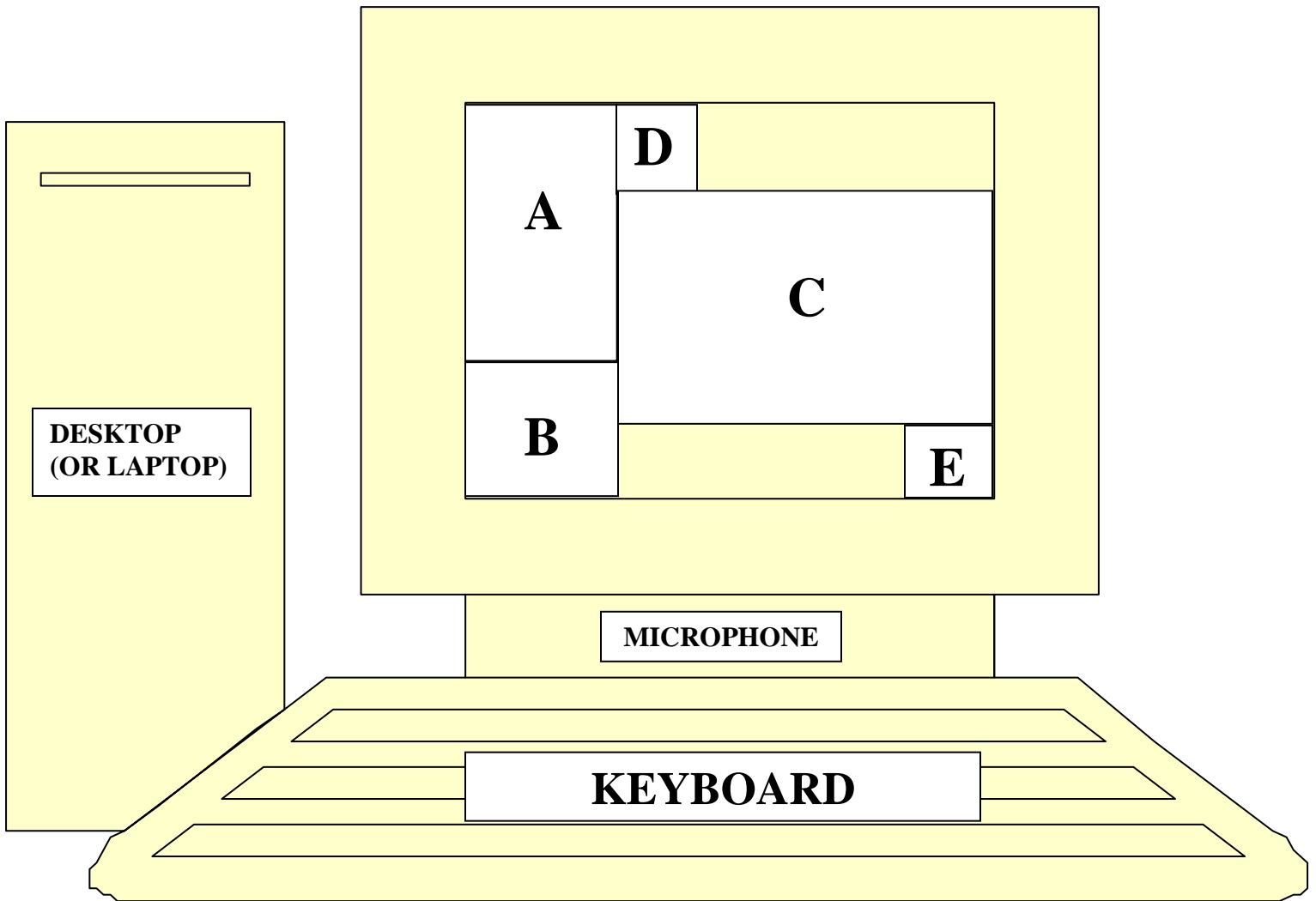
Your
Headset

WEBCAM

DESKTOP
(OR LAPTOP)

D

A

C

B

E

MICROPHONE

KEYBOARD
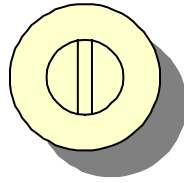
"A"— This area lists all of the student names and class participants logged on for the online class session. This list also constitutes your sign-in/attendance sheet for the class.

"B"— This area is for any student to submit a short written comment or ask a short question, or ask me to be called upon (like raising your hand during an in-person class). This area is limited because I do not want for our online class sessions to become simple online "chat sessions" with a lot of typing; rather, we will use the video conferencing features extensively in order to simulate a live, in-person class as much as possible.

"C"— This area will show what is appearing on the professor's computer screen (or on another presenter's computer screen) during class, which will usually be a PowerPoint presentation, or some other litigation software application. At times, students might be asked to put up their own particular presentation or application for all to see (so make sure you are not playing Solitaire or you are up on Facebook, which I can monitor during class, just kidding, but really, maybe I can)☺.

"D"— This area will be a video feed from my web-cam so that you can see me (and hear what I am saying), or whoever is presenting, during the class session. You will have the ability to move this window to other parts of your computer screen so that it does not cover up the computer screen area (for example, the windows can be moved so that they do not cover up the class PowerPoint presentation).

"E"— This area will be a video feed from whichever law student is speaking or presenting at that point in class. All student webcams should be on and ready to access, but I will put in this area only the student who has been called upon and is speaking or asking a question. Students will move in and out of this area similar to when a professor calls upon different students during an in-person class, or when a student makes a comment or asks question during an in-person class. The idea is that the rest of the class can hear and see the exchange.

XI. Syllabus/Reading

[Please see next page for course syllabus for August]
[Please read the attached book chapter and article:
    "[Chapter 7] Teaching Litigation Technology," and
     "*Seeking Tech-Savvy Associates*"
[Please see "*Technology Requirements for Online/Blended Learning Courses*" in class]

Again, for general technical support for the online portions of class, please contact:

Brandon A. Abell
Library Technical Specialist
University of the Pacific
McGeorge School of Law

E-Mail: babell@pacific.edu
Phone: (916) 739-7029
Office: Information Commons

COMPUTER-ASSISTED LITIGATION

AUGUST 2012

MON	TUESDAY	WED	THURSDAY	FRI
6	7	8	9	10
13	14 **Intro To Course: Course Description; Pre-Trial & Trial** · Galves, Book Chapter, Educating the Digital Lawyer (p. 1-20); · Galves Article, *Seeking Tech- Savvy Associates, 1-3*	15	16 **Continue Introduction: Discussion with Legal Technology Consultant Tim Piganelli** · (Scheindlin/Capra ED Book pp. 1-15 · Galves Article, *Computer Graphics: Why to Use Them and How Not to Abuse Them*, 1-4	17
20	21 **Continue Introduction: Discussion with E-Discovery atorneys Aaron Crews & Josh Gilliland** · *E-Discovery and Electronic Evidence in the Courtroom* · Scheindlin/Capra ED Book pp. 16-34 **Install Casemap**	22	23 **Install Casemap** **Start Inputting Information from** *Quinlan v.Kane*; **(Assign Casemap Exercise; ½ of class for P, ½ for D)** · Review Casemap Mats. · Review *Quinlan v.Kane* **Install Catalyst "Insight"**	24
27	28 **E-Discovery: Record Retention Policies, Duty To Preserve, Trigger Date** · Scheindlin/Capra ED Book pp. 35-72,); · *Rambus* case pp. 13-18	29	30 **Catalyst "Insight" Demo;** **Review Casemap Exercise** **(Assign Catalyst Exercise)** · **Catalyst Demo Mats**	