

ASPEN COLLEGE SERIES

■ Marlene Pontrelli Maerowitz ■ Thomas A. Mauet

FUNDAMENTALS OF LITIGATION FOR PARALEGALS

NINTH EDITION



Wolters Kluwer

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MARLENE PONTRELLI MAEROWITZ

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Published by Wolters Kluwer in New York.

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Wolters Kluwer
Attn: Order Department
PO Box 990
Frederick, MD 21705

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-1-4548-7338-9

Library of Congress Cataloging-in-Publication Data

Names: Maerowitz, Marlene A., author. | Mauet, Thomas A., author.

Title: Fundamentals of litigation for paralegals / Marlene Pontrelli
Maerowitz, Thomas A. Mauet.

Description: Ninth edition. | New York : Wolters Kluwer, [2016] | Series:
Aspen College Series | Includes index.

Identifiers: LCCN 2016044195 | ISBN 9781454873389

Subjects: LCSH: Civil procedure—United States. | Pre-trial procedure—United States.

| Actions and defenses—United States. | Legal assistants—United States—Handbooks,
manuals, etc.

Classification: LCC KF8841 .M37 2016 | DDC 347.73/5—dc23

LC record available at <https://lcn.loc.gov/2016044195>



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SFI-01681



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**To our students—
Past, Present, and Future**



About the Authors

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Professor Mauet's research interests center on the application of social science research, particularly in psychology and communications, to the jury trial process.



PREFACE

APPROACH

Very few books stand the test of time. We are pleased that the approach we took with this text over twenty-five years ago has indeed stood that test. Since the very first edition our approach to a litigation textbook for paralegals has been to include information on all areas of civil litigation, even though due to time constraints, not all areas are covered in a litigation course. The purpose for including this additional information is to allow you to use this book not only as a text for learning, but as a reference book once you are in practice.

We have found that civil litigation can often be oversimplified, which hinders the learning and understanding process; on the other hand, although civil litigation is very rule-oriented and can be complex, easy-to-follow steps can be given to help you learn the rules. Thus, we attempt to strike a balance between giving sufficient detail for you to learn and understand this area of law, and, at the same time, making the steps as clear as possible. You will find that the text breaks down each civil procedure rule into easy-to-follow steps. Each step explains the process so that you are not just following the rules, but understanding them as well. We believe that as you progress through your litigation course and through your career, you will come to appreciate even more the detailed approach taken.

ORGANIZATION

This book takes you through each stage of the litigation process from the initial fact-gathering stage through post-judgment proceedings. Because there are alternative ways to resolve disputes through either arbitration or mediation, the book also covers these topics. Each chapter is designed to give you a thorough understanding of the procedural rules governing the litigation process as well as a system for transferring your knowledge

of the procedural rules into the litigation skills necessary to draft litigation documents such as pleadings, discovery requests, and motions.

Always remember that behind every litigation case there are clients who are either suing or being sued and witnesses who have knowledge of the facts and events surrounding the dispute. Thus, important skills for collecting data, interviewing clients, and taking witness statements are not only discussed, but are also demonstrated throughout the text. Checklists for locating witnesses, including Internet resource sites, are also provided.

KEY FEATURES

You will note that many of the legal terms that are central to the discussion in any given chapter appear in boldface type. Each of these bold-faced terms is defined in the margin of the book where the word appears and also in the Glossary at the end of the book. The Glossary also provides definitions of the other legal terms that are used in the text; should you encounter any legal term that is unfamiliar, you can refer to the Glossary for an explanation.

At the beginning of each chapter you will find two sections. The first section is an outline of the chapter. You may use this section to obtain a quick overview of the chapter and also to help you locate a particular area. The next section identifies the chapter's objectives. Keep these objectives in mind as you go through the chapter.

At the end of each chapter you will find five important sections. The first section is a "Chapter Summary," which highlights the primary concepts in each chapter. The Summary, of course, should never be used as a substitute for reading the chapter. However, the Summary is useful when you wish to review the content of each chapter.

The "Chapter Checklist" section is meant to ensure that you have identified and understood the legal terms that were defined and explained in the chapter. The third section at the end of each chapter is a series of questions. The "Review Questions" may be used as a study guide to further test your understanding of the main concepts discussed in each chapter. You will also find sections on "Internet Research Questions" and "Additional Resources." These sections are designed to help you integrate the Internet and web-based technology with the litigation concepts you are learning in the text. The sites and publications listed are not necessarily endorsed by the authors, but are provided to you as a convenience.

New to this edition is an excerpt of a case that demonstrates the concepts in the chapter. After each case is a list of questions. The questions are designed to help understand the case and rules set forth in the chapter.

In addition to the review questions in this book, a workbook is available at the companion website that accompanies the book. The workbook gives you an opportunity to work thoroughly with the rules and concepts discussed in the text and contains additional questions and assignments. The eighth edition has been expanded and amended to complement the changes in the main text, as well as the changes in technology. Projects requiring computer usage and the Internet are included as optional assignments.

As technology has changed, so has the way we conduct litigation. This has required revisions to each new edition, and the seventh edition is no exception. We have included updates and practice procedures for keeping pace with the way our litigation world, and the technology we use, changes. You will find throughout this text sections that specifically address electronic information and the role it plays in a litigation practice. In addition, the chapter on social media in litigation has been updated for this edition. Interactive social networking sites are used not just for connecting with friends, but in many ways has changed the way we prepare a case for trial.

TEXTBOOK RESOURCES

Additional resources to accompany this text are available at the companion website. Students can download the electronic workbook that helps bridge the gap between knowledge and application. The workbook tests understanding of the concepts presented in the textbook and allows application of those concepts to a variety of litigation matters. In addition, the exercises in this workbook offer practice in drafting litigation documents, including pleadings, motions, and discovery requests. Instructor's resources include a comprehensive Instructor's Manual, Test Bank, and PowerPoint slides to help with classroom preparation.

ACKNOWLEDGMENTS

No textbook can be written without the help and guidance from numerous individuals. Elizabeth Kenny has worked with us since the very first edition twenty-six years ago, and we have been fortunate enough to work with her on every edition, including this one. Once more she has provided us with a tremendous amount of guidance, suggestions, substantive comments, and support. Dana Wilson, kept us all on track as she oversaw the editing and proofreading of the text. We appreciate her patience and gentle prodding to see the text through to completion. Finally, we

gratefully acknowledge the permission of West Publishing Company to reprint the federal judicial circuit map (Exhibit 1.1) and the permission of Wolters Kluwer to reprint Exhibits 1.2, 1.3, and 2.1.

Marlene Pontrelli Maerowitz

Thomas A. Mauet

October 2016



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