



Colorado State University
GLOBAL CAMPUS

CRJ556: CRIMINAL JUSTICE AND LEGAL CONCEPTS OF FRAUD

Credit Hours: 3

Contact Hours: This is a 3-credit course, offered in accelerated format. This means that 16 weeks of material is covered in 8 weeks. The exact number of hours per week that you can expect to spend on each course will vary based upon the weekly coursework, as well as your study style and preferences. You should plan to spend 14-20 hours per week in each course reading material, interacting on the discussion boards, writing papers, completing projects, and doing research.

Faculty Information: Faculty contact information and office hours can be found on the faculty profile page.

COURSE DESCRIPTION AND OUTCOMES

Course Description:

The course provides an overview of the legal systems and expertise required for fraud management professionals, including processes and procedures that focus on fraud investigation, prosecution, and legal remedies as well as law enforcement agencies, federal rules and regulations, evidence management, and expert testimony.

Course Overview:

This course provides an overview of the legal systems involved in dealing with fraud and of the expertise required for fraud management professionals, including processes and procedures that focus on fraud investigation, prosecution, and legal remedies. The course begins with an overview of types of fraud followed by an overview of the U.S. court system. It further explores fraud as a civil cause of action and as a crime, reviewing the legal remedies available for both. In discussing fraud as a crime, emphasis is placed on criminal procedure and the rights of the defendant. This course also introduces students to concepts related to evidence and the role of the expert witness in a fraud case.

Course Learning Outcomes:

1. Describe and explain the U.S. court system.
2. Summarize and apply the civil litigation process.
3. Analyze criminal procedure and the prosecution of fraud.
4. Explain and evaluate laws of evidence and their impact on investigation and prosecution.
5. Describe and explain the roles of an expert witness in a fraud trial.
6. Describe and assess different types of criminal and civil fraud and remedies for fraud.

PARTICIPATION & ATTENDANCE

Prompt and consistent attendance in your online courses is essential for your success at CSU-Global Campus. Failure to verify your attendance within the first 7 days of this course may result in your withdrawal. If for some reason you would like to drop a course, please contact your advisor.

Online classes have deadlines, assignments, and participation requirements just like on-campus classes. Budget your time carefully and keep an open line of communication with your instructor. If you are having technical problems, problems with your assignments, or other problems that are impeding your progress, let your instructor know as soon as possible.

COURSE MATERIALS

Required:

Hanley, J. R., Schmidt, W. E. & Nichols, L. D. (2011). Introduction to criminal evidence and court procedure (7th Ed.). Richmond, CA: McCutchan Publishing Corp. ISBN 13: 9780821107386

NOTE: All non-textbook required readings and materials necessary to complete assignments, discussions, and/or supplemental or required exercises are provided within the course itself. Please read through each course module carefully.

COURSE SCHEDULE

Due Dates

The Academic Week at CSU-Global begins on Monday and ends the following Sunday.

- **Discussion Boards:** The original post must be completed by Thursday at 11:59 p.m. MT and Peer Responses posted by Sunday 11:59 p.m. MT. Late posts may not be awarded points.
- **Critical Thinking:** Assignments are due Sunday at 11:59 p.m. MT.

WEEKLY READING AND ASSIGNMENT DETAILS

Module 1

Readings

- Engler, B. (2012, August 17). Three arrested for prescription fraud. *The Frederick-News Post*.
- Fraud. (n.d.). In *TheFreeDictionary*. Retrieved from <http://legal-dictionary.thefreedictionary.com/fraud>
- Houlbrook, B. (2011). An insight into the world of mortgage fraud in the U.S. and U.K. *Housing Financial International*, 25(3), 34-42.
- Lawrence, M., & Wells, J.T. (2004). Basic legal concepts. *Journal of Accountancy*. Retrieved from <http://www.journalofaccountancy.com/Issues/2004/Oct/BasicLegalConcepts.htm>
- McCrab, R. (2012, April 21). Fraud cases on the rise. *Dayton Daily News*.
- Stubbs, J. D. (2013). The 2009 amendment expands the types of fraud subject to the Federal False Claims Act. *The Florida Bar Journal*, 87(2), 16-23.
- Zunker, T. (2013). *Types of fraud* [PowerPoint slides]. Greenwood Village, CO: Colorado State University-Global Campus.

Discussion (25 points)

Portfolio Project Reminder

You will have two options for the Portfolio Project; read the complete Portfolio Project description and corresponding rubric in the Module 8 folder.

Module 2

Readings

- *Introduction to criminal evidence and court procedure*, Chapters 1-2.
- Zunker, T. (2013). *Sources of American law* [PowerPoint slides]. Greenwood Village, CO: Colorado State University-Global Campus.
- *First Nationwide Bank v. Gelt Funding, Corp.*, 820 F. Supp 89 (1993)
- *McNally v. United States*, 483 U.S. 350 (1987)
- Hough, L. (2011). Finding equilibrium: exploring due process violations in the whistleblower provisions of the Fraud Enforcement and Recovery Act of 2009. *William & Mary Bill of Rights Journal*, 19(4), 1060-1089.

Discussion (25 points)

Critical Thinking: (100 points)

Choose one of the following two assignments to complete this week. Do not complete both assignments. Identify your assignment choice in the title of your submission.

Option #1: Fraud Case – First Nationwide Bank v. Gelt Funding

Read the following fraud case: *First Nationwide Bank v. Gelt Funding Corp.*, 820 F. Supp 89 (1993)

Prepare a case brief of this case. Include the following components:

- Case name and citation
- The procedural history – what happened in lower courts
- The courts the history occurred in
- Key facts – include relevant facts only
- Issue – reason for the matter being in court
- Holding – this is the court's decision
- Rule of law – this is the law upon which the court makes its decision
- Court's analysis – similar to rule of law, but expanded to include the court's reasoning in addition to reliance on the rule of law
- Legally significant – key facts in the case
- Your thoughts and impressions on the case
- The fraud cause of action; elements to be proven

For additional information about writing a case brief, take a look at the following guidelines:

<http://lawschool.about.com/od/casebriefs/ht/howtocasebriefs.htm>

Your case brief should be 2-4 pages long and should follow the CSU-Global Guide to Writing and APA Requirements.

Option #2: Fraud Case – McNally v. United States

Read the following fraud case: McNally v. United States, 483 U.S. 350 (1987)

Prepare a case brief of this case. Writing a case brief includes the following components:

- Case name and citation
- The procedural history – what happened in lower courts
- The courts the history occurred in
- Key facts – include relevant facts only
- Issue – reason for the matter being in court
- Holding – this is the court's decision
- Rule of law – this is the law upon which the court makes its decision
- Court's analysis – similar to rule of law, but expanded to include the court's reasoning in addition to reliance on the rule of law
- Legally significant – key facts in the case
- Your thoughts and impressions on the case
- The fraud cause of action; elements to be proven

For additional information about writing a case brief, take a look at the following guidelines:

<http://lawschool.about.com/od/casebriefs/ht/howtocasebriefs.htm>

Your case brief should be 2-4 pages long and should follow the CSU-Global Guide to Writing and APA Requirements.

Module 3

Readings

- Chapter 6, pp. 149-163, in *Introduction to Criminal Evidence and Court Procedure*
- Olsen v. Pratt & Whitney Aircraft, 136 F.3d 273 (1998)
- Steinberg, M. I., & Gomez-Cornejo, G. (2010). Blurring the lines between pleading doctrines: The enhanced rule 8(a)(2) plausibility pleading standard converges with the heightened fraud pleading standards under rule 9(b) and the PSLRA. *Review of Litigation*, 30(1), 1-51.
- Zunker, T. (2013). *Steps in civil litigation* [PowerPoint slides]. Greenwood Village, CO: Colorado State University-Global Campus
- Sample Fraud Complaint from the Superior Court of the State of California

Discussion (25 points)

Critical Thinking: (150 points)

Choose one of the following two assignments to complete this week. Do not complete both assignments. Identify your assignment choice in the title of your submission.

Option #1: Fraud Pleadings – Olsen. v. Pratt & Whitney Aircraft

Read the case Olsen. v. Pratt & Whitney Aircraft (1998). Answer the following questions, based on this case:

- What court is this case in? What is the procedural history by which this case reached this court? In answering this question, demonstrate your understanding of the court structure in the U.S.
- What is the cause of action advanced by the plaintiff? What elements must plaintiff prove for this cause of action?

- What issue of civil procedure is raised in this case? What steps in civil litigation logically occurred to reach this result?
- Evaluate the result in this case. Explain what legal principles were applied and critique the finding.
- In answering your questions, demonstrate your knowledge of a civil case of fraud, the structure of the court system, and the characteristics of a civil lawsuit.

Your paper should be 3-5 long pages and should follow the CSU-Global Guide to Writing and APA Requirements.

Option #2: Fraud Pleadings – Insurance Fraud Pleading

Review the following sample pleadings in an actual fraud case available here. You are provided with the defendant's response and counterclaims as well as defendant's requests for discovery.

- What court is this case in? What is the procedural history by which this case reached this court? In answering this question, demonstrate your understanding of the court structure in the U.S.
- What are the causes of action advanced by the plaintiff? What elements must plaintiff prove for this cause of action?
- With respect to civil procedure, what step is this document in a case? What potential next steps could occur in response to filing and serving this document?
- Consider discovery requests in this case. What requests should plaintiff make based on this complaint? You should have a list of requests for production by the defendant and requests for admission by the defendant that the plaintiff might propound on the defendant.

Your paper should be 3-5 pages long and should follow the CSU-Global Guide to Writing and APA Requirements.

Module 4

Readings

- Zunker, T. (2013). *Civil remedies* [PowerPoint slides]. Greenwood Village, CO: Colorado State University-Global Campus.
- Fisher, J. M. Understanding remedies. Retrieved from <http://www.lexisnexis.com/lawschool/study/understanding/pdf/RemCh1.pdf>
- Grow, B. & Bigg, M. (Dec. 21, 2011). Special report: Phantom firms bleed from Medicare. Retrieved from <http://www.reuters.com/article/2011/12/21/us-shellcompanies-medicare-idUSTRE7BKOPY20111221>
- Rice, P. (2012). Civil liability theories for insufficient security authentication in online banking. *DePaul Business & Commercial Law Journal*, 10(3), 439-460.
- Stern, S. & Lemmens, T. (2011). Legal remedies for medical ghostwriting: Imposing fraud liability on guest authors in ghostwritten articles. *PLoS Medicine*, 8(5), 1-5.
- United States Attorney's Office Southern District of New York. (Mar. 22, 2013). David Levy and Donna Levy found guilty in Manhattan Federal Court of orchestrating "pump And dump" stock fraud schemes. Retrieved from <http://www.justice.gov/usao/nys/pressreleases/March13/DavidandDonnaLevyVerdictsPR.php>

Discussion (25 points)

Critical Thinking: (200 points)

Fraud: Liability, Remedies, and Fairness

Choose one of the following two assignments to complete this week. Do not complete both assignments. Identify your assignment choice in the title of your submission.

Option #1: Case Reviews

Read the following two cases:

- Case 1: Ernst & Ernst v. Hochfelder, 425 U.S. 185 (1976)
- Case 2: Harrison v. Westinghouse Savannah River Co., 176 F 3d 776 (1999)

Compare and contrast the two cases, providing analyses and critical evaluations of each with reference to the other regarding:

- The type of fraud at issue
- The legal theories discussed
- The result of the case

Note that what is required is not a summary of the cases. Instead, offer an informed discussion of your thoughts on fraud liability and the rules for fraud liability, based on the specifics of what you have learned in Module 4. Consider the different scenarios for fraud liability, including those based on an individual, a business, or an employee committing fraud on behalf of an unknowing business.

Finally, address the remedies available in such fraud actions. How do remedies in fraud actions attempt to address fairness, and how are they successful—or not successful—in this respect? In answering these questions, research an additional case that supports your position.

Your paper should be 3-5 pages in length and should follow the CSU-Global Guide to Writing and APA Requirements. The paper should include citation and discussion of an additional case to support your proposed remedy.

Option #2: Critical Essay

Combine your knowledge gained from materials in this class with outside research regarding fraud liability and remedies and discuss the rules for fraud liability and the potential remedies. Consider the different scenarios for fraud liability, including an individual, a business, or an employee committing fraud on behalf of an unknowing business.

Finally, address the remedies available in such fraud actions. How do remedies in fraud actions attempt to address fairness, and how are they successful—or not successful—in this respect? In answering this question, you should research one or two cases that support your position. You might also consider researching law review articles on fraud liability, remedies in fraud actions, and fairness.

One suggestion to get you started is:

36 Del. J. Corp. L. 463 (2011) Secondary Liability for Securities Fraud: Gatekeepers in State Court; Johnson, Jennifer J.

Your paper should be 3-5 pages long and should follow the CSU-Global Guide to Writing and APA Requirements. You should include citation and discussion of at least one case to support your proposed remedy. You are also encouraged to review and cite a scholarly law review article.

Module 5

Readings

- Chapters 3 & 4 in *Introduction to Criminal Evidence and Court Procedure*
- Buell, S.W. (2014). Is the white collar offender privileged? *Duke Law Journal*, 823-889.

- Zunker, T. (2013). Constitutional criminal procedure [PowerPoint slides]. Greenwood Village, CO: Colorado State University-Global Campus.
- Sample search warrant: http://graphics8.nytimes.com/packages/pdf/business/Cox_Affidavit.pdf

Discussion (25 points)

Portfolio Project Reminder

You will have two options for the Portfolio Project; read the complete Portfolio Project description and corresponding rubric in the Module 8 folder.

Module 6

Readings

- Chapters 5, 7, 8, & 14 in *Criminal Evidence and Court Procedure*
- Association of Fraud Examiners. (2011). *The fraud trial*. Retrieved from http://www.acfe.com/uploadedFiles/Shared_Content/Products/Self-Study_CPE/Fraud-Trial-2011-Chapter-Excerpt.pdf
- Shen, F.X. (2014). Sentencing enhancement and the crime victim's brain. *Loyola University Chicago Law Journal*, 405-444.

Discussion (25 points)

Portfolio Project Reminder (0 points)

Option #1: Fact Pattern/Essay/Expert Witness

It is strongly recommended that you complete a draft of Part I of the Portfolio Project by the end of Module 6 and devote enough time to properly analyze and answer each question. This is not a project to rush through. Materials covered in Module 6 weigh heavily in the assignment. As always, practice effective time management.

Review the Portfolio Project description and corresponding rubric in the folder for Modules 7 and 8.

Option #2: Rules of Evidence/Fraud Unit

It is strongly recommended that you complete a draft of Part I of the Portfolio Project by the end of Module 6 and devote enough time to properly analyze and answer each question. This is not a project to rush through. Materials covered in Module 6 weigh heavily in the assignment. As always, practice effective time management.

Review the Portfolio Project description and corresponding rubric in the Module 7 and 8 Folders.

Module 7

Readings

- Chapters 6 (pp. 163-182 only in Chapter 6), 9, 11, & 13 in *Criminal Evidence and Court Procedure*
- Zunker, T. (2013). Evidence and privileges [PowerPoint slides]. Greenwood Village, CO: Colorado State University-Global Campus.
- Cornell University Law School. (2011, December 1). The federal rules of evidence. Retrieved from <http://www.law.cornell.edu/rules/fre>
(***Students should **skim** the sections listed on this site to help identify the correct provision to list in their evidence charts.)

- Guide to Combating Corruption & Fraud in Development Projects. (2013). The basics of evidence for fraud and corruption investigators. Retrieved from <http://guide.iacrc.org/the-basics-of-evidence-for-fraud-and-corruption-investigators/>

Discussion (25 points)

Portfolio Milestone (100 points)

Choose one of the following two assignments to complete this week. Do not complete both assignments. Identify your assignment choice in the title of your submission.

Option #1 Fact Pattern/Essay/Expert Witness

Part I: Fact Pattern/Essay

For the Portfolio Project, you will apply what you have learned about legal concepts of fraud to based on four Fact Patterns, which will serve as fictional case studies. Each Fact Pattern involves a different type of fraud and raises different legal procedural issues.

Access the four Fact Patterns in this module.

For this option, assume you are a fraud examiner. You are called as an expert witness in several current cases. Click to download the template of the Evidence Chart, which you will fill out for all four Fact Patterns.

For Fact Pattern A:

- The prosecution calls John's ex-wife to discuss her knowledge of John's finances. The prosecution also raises questions about John's finances while the two were married.
- The prosecution calls the ex-wife's attorney and asks him why he decided to report John to State Agency. Attorney testifies he heard "through the grapevine" that John had been claiming he had the kids full-time.
- Rely on the entire Fact Pattern and any new facts introduced in directions here. What rules from the Federal Rules of Evidence will apply in this case?

For Fact Pattern B:

- At trial, the prosecution calls Mary's husband to ask him what Mary tells him about her work duties. The defense objects to the question.
- What rules from the Federal Rules of Evidence will apply in this case? Rely on the entire Fact Pattern and any new facts introduced in directions here.

For Fact Pattern C:

- At trial, the prosecution seeks to introduce statements of Beth as made to the police in a police report.
- What rules from the Federal Rules of Evidence will apply in this case? Rely on the entire Fact Pattern and any new facts introduced in directions here.

For Fact Pattern D:

- Assume the DA charged Bill with a crime. At trial, Dan is called as a witness and testifies that Bill told him there was an investment fund and that Bill was an investment manager. Bill also told Dan all the information he had been told by Amy. Dan testified to Amy's statements as told to Bill.
- What issue of evidence does this raise, if any? Rely on the entire Fact Pattern and any new facts introduced in this fact pattern.

Essay:

Write a short essay answering the aforementioned questions, and indicating what rules of the Federal Rules of Evidence apply in this fraud case. Your paper should be 2-3 pages in length, not including the Evidence Chart. Include a separate reference page and follow the *CSU-Global Guide to Writing and APA Requirements*

Option #2 Rules of Evidence/Fraud Unit

Part I: Rules of Evidence

Research one fraud case and chart the evidence in an Evidence Chart. A good starting point for a fraud case is here. Then write a short essay indicating what rules of the Federal Rules of Evidence apply in this fraud case and why. Note that you will use this chart as you continue to work on your Portfolio Project in Module 8.

Your paper should be 2-3 pages in length, not including the Evidence Chart. Include a separate reference page and be sure to cite per *CSU-Global Guide to Writing and APA Requirements*.

Module 8

Readings

- Chapters 10 & 12 in *Criminal Evidence and Court Procedure*
- Hinder, C. B., & Feder, R. D. (2006). The role of the fraud expert in domestic relations cases: Part I and II. *American Journal of Family Law*, 20(2), 93-101.
- Sanchez, M. H. and Zhang, S. W. (2012). The Role of the Expert Witness in Accounting Fraud Cases. *Global Journal of Business Research*, 6(1), 103-111.
- Sweeney, P. (2007). Going after the bad apples. *Financial Executive*, 23(10), 24-27.

Discussion (25 points)

Portfolio Project (250 points)

Option #1 Fact Pattern/Essay/Expert Witness

Part II: Burdens of Proof, Criminal Procedure Violations, and the Role of the Expert Witness (250 points)

Section A: Burdens of Proof and Violations of Criminal Procedure:

Write 2-3 pages addressing the following questions separately for each of the four Fact Patterns that you completed in Part 1 during Module 7:

- What are the elements of the crime the prosecution must prove?
- What violations of criminal procedure by law enforcement, if any, occurred?
- Be specific in your discussion of the applicable law.
- Discuss arguments that could be made on both sides of any issue raised.
- Be sure the formatting of your pages and any citations of outside sources are in conformity with the CSU-Global Guide to Writing and APA Requirements.

Section B: The Role of the Expert Witness

Write 4-5 pages addressing the following items with separate sections for each of the Fact Patterns that you completed in Part 1:

- If you are called as an expert witness in this case in your capacity as a fraud examiner, what would you focus on to support the prosecution?
- What would you say if you were called to support the defense?
- Indicate what additional investigation and research you might need to do.
- Indicate what qualifications you would need to have to qualify as an expert witness.

The complete Portfolio Project assignment should be 9-12 pages in length (including your Module 7 deliverable), well written, and should follow the CSU-Global Guide to Writing and APA Requirements.

Option #2 Rules of Evidence/Fraud Unit

Part II: Fraud Unit (250 points)

Your consulting firm has been contacted by the state Department of Justice. You have served as an expert witness a few times in fraud cases and are familiar with this agency. The head of the DOJ, Martha Miller, tells you that there has been such an increase in fraud, the government has set aside funds to create a fraud unit devoted to prosecuting crimes in your state. Your assistance is needed to help establish this unit. As a starting point, Ms. Miller asks you to draft a memo addressing the following:

- The different types of fraud that should be included along with clear explanations of each type of fraud
- The number of working groups and/or coordinators involved in this department, their titles and functions
- Necessary investigative tools a prosecutor would need to utilize to uncover and prove fraud, especially tools arising out of criminal procedure (be sure to include how the defendant's rights remain protected under constitutional criminal procedure)
- Whether an evidence chart is necessary in a fraud proceeding
- The role of the expert witness in a fraud trial, including what types of expert witnesses you envision necessary for the different types of fraud so that she can begin preparing a roster of qualified individuals
- Issues in evidence law to be aware of as it pertains to proving and prosecuting fraud (Ms. Miller specifically asks for identification of applicable Federal Rules of Evidence to be aware of)

Ms. Miller also notes a concern regarding fraud in the civil context. This falls outside the jurisdiction of the DOJ but she asks you to address fraud in the civil context, specifically when it might be more beneficial for the DOJ to wait to pursue a defendant criminally or to forego criminal charges all together.

As part of your preparation in answering the questions raised by Ms. Miller, you decide to chart out a fraud case in an Evidence Chart. Ms. Miller could not provide you any current cases due to confidentiality issues, so you must research a case and create an Evidence Chart. Note that this evidence chart is the chart you completed in Module 7 as the Portfolio Project Milestone deliverable.

The complete Portfolio Project assignment should be 9-12 pages in length (including your Module 7 deliverable) well written and should follow the CSU-Global Guide to Writing and APA Requirements. You should cite at least three academic sources.

COURSE POLICIES

Grading Scale	
A	95.0 – 100
A-	90.0 – 94.9
B+	86.7 – 89.9
B	83.3 – 86.6
B-	80.0 – 83.2
C+	75.0 – 79.9
C	70.0 – 74.9
D	60.0 – 69.9
F	59.9 or below

Course Grading

20% Discussion Participation
45% Critical Thinking Assignments
35% Final Portfolio Project

IN-CLASSROOM POLICIES

For information on late work and incomplete grade policies, please refer to our [In-Classroom Student Policies and Guidelines](#) or the Academic Catalog for comprehensive documentation of CSU-Global institutional policies.

Academic Integrity

Students must assume responsibility for maintaining honesty in all work submitted for credit and in any other work designated by the instructor of the course. Academic dishonesty includes cheating, fabrication, facilitating academic dishonesty, plagiarism, reusing /re-purposing your own work (see *CSU-Global Guide to Writing and APA Requirements* for percentage of repurposed work that can be used in an assignment), unauthorized possession of academic materials, and unauthorized collaboration. The CSU-Global Library provides information on how students can avoid plagiarism by understanding what it is and how to use the Library and Internet resources.

Citing Sources with APA Style

All students are expected to follow the *CSU-Global Guide to Writing and APA Requirements* when citing in APA (based on the APA Style Manual, 6th edition) for all assignments. For details on CSU-Global APA style, please review the APA resources within the CSU-Global Library under the “APA Guide & Resources” link. A link to this document should also be provided within most assignment descriptions in your course.

Disability Services Statement

CSU-Global is committed to providing reasonable accommodations for all persons with disabilities. Any student with a documented disability requesting academic accommodations should contact the Disability Resource Coordinator at 720-279-0650 and/or email ada@CSUGlobal.edu for additional information to coordinate reasonable accommodations for students with documented disabilities.

Netiquette

Respect the diversity of opinions among the instructor and classmates and engage with them in a courteous, respectful, and professional manner. All posts and classroom communication must be conducted in accordance with the student code of conduct. Think before you push the Send button. Did you say just what you meant? How will the person on the other end read the words?

Maintain an environment free of harassment, stalking, threats, abuse, insults or humiliation toward the instructor and classmates. This includes, but is not limited to, demeaning written or oral comments of an ethnic, religious, age, disability, sexist (or sexual orientation), or racist nature; and the unwanted sexual advances or intimidations by email, or on discussion boards and other postings within or connected to the online classroom. If you have concerns about something that has been said, please let your instructor know.