UB/UMD
American College of Trial Lawyers
Advanced Trial Skills Program
Spring, 2012

(FOR UB LAW STUDENTS:)

DESCRIPTION

This innovative program, sponsored by the American College of Trial Lawyers, offers a unique co-curricular opportunity to students at the University of Baltimore and the University of Maryland schools of law.

Students selected to participate in this program will have demonstrated exceptional skill, ability, and interest in the art and science of trial advocacy. Minimal pre-requisites: Civil Procedure, Evidence and Introduction to Trial Advocacy (or equivalent – i.e., 1 semester of UB Litigation Fellows Instruction). Students successfully completing this program will be awarded one academic credit. Grading is on a Credit/No-Credit basis.
The program consists of bi-weekly (except for Holiday changes) sessions beginning Monday, January 9, 2012, and continuing through April 16, 2012. The venue for the sessions will alternate between the University of Baltimore and the University of Maryland schools of law.

Fellows of the American College of Trial Lawyers will lead sessions covering a variety of topics related to trial advocacy and the trial process. These Fellows represent the top-flight trial advocates in active law practice today. This program utilizes a workshop format. Teams consisting of two students, one each from UB and UMLS, will work together to prepare and execute various trial skills.

**METHODOLOGY**

The methodology for this program adopts a four step process.

1. **Prepare.** Students are required to prepare for, attend and participate in each session. A simulated case, based on an actual case, will provide the context for each session. The simulated case to be used in this program, *Steele v. Kitchener*, involves a law suit for medical malpractice. Expert witnesses will be played by health care personnel from the UMMS and Johns Hopkins Medical Institutions.

2. **Execute.** Several students will be called upon to demonstrate the litigation skill that was assigned for that session. When not participating as lawyers or witnesses, students may serve as jurors during the sessions.

3. **Review.** Fellows of the College will help students reflect on their performance and offer guidance and suggestions for improvement.

4. **Model.** Fellows of the College will demonstrate how they might approach the activity, identifying techniques that the students used and suggesting other, more advanced techniques.
Fellows and students will identify and discuss related evidentiary issues as well as issues of professional responsibility that may arise during pre-trial and trial.

**GOALS**

The goals of this program include:

1. Introduce law students to the American College of Trial Lawyers and its Fellows
2. Develop interscholastic collaboration between the University of Baltimore and University of Maryland schools of law
3. Enhance understanding of litigation skills, strategies and techniques.
4. Enhance understanding of the role of the jury in the trial process
5. Enhance understanding of issues of professional responsibility that arise in the trial process.
6. Enhance understanding of the evidence doctrine and its application to the trial process
7. Enhance communication skills, confidence and poise as an advocate
8. Enhance professional development through reflection, self assessment, peer critique and critique by Fellows
9. Promote the highest standards of professionalism, civility and competence as embraced by the American College of Trial Lawyers
**MATERIALS**

**Required**

NOTE: Materials in the NITA case of *Steele v. Kitchener* (ISBN -- 9781556818967) can be purchased at the UM (CareyLS) law school campus bookstore or online through the NITA (Lexis/Nexis) website for $35.00. (Just Google Steele v. Kitchener NITA ISBN, and you will find the order page.) In addition, students will have to have access to the Federal and Maryland Rules of Evidence, Federal and Maryland Rules of Civil Procedure and the Maryland Civil Pattern Jury Instructions (MJPI-Civil.) These are available in the Law Library and through the electronic research resources you have through the U of B (e.g., Westlaw, Lexis).
CLASS SCHEDULE, TOPICS & ASSIGNMENTS

SESSION 1  1/9/2012 (UM- Ceremonial Courtroom)

ACTL Fellows: TBA

TOPIC: About the Program and Introduction to “The Art and Science of Jury Persuasion” – This session introduces students to the principles of jury persuasion. Fellows will discuss concepts including jury focus, theory of the case, themes, learning theories and juror decision making.

Assignment: Read the entire case file in the matter of Steele v. Kitchener. It is short. Pay particular attention to (read several times) the pleadings and jury instructions. Understanding their importance to the trial lawyer cannot be overemphasized. From them, one can, for example, identify areas in which additional pre-trial discovery is needed. In addition, they help the trial lawyer to identify the potential universe of the “relevant evidence” to be offered at trial. Be prepared to discuss the facts of the case from the perspective of plaintiff and defense. Consider how these facts may be woven into a cohesive and compelling story that persuades the jurors by appealing to their intellect (what Aristotle, in The Art of Rhetoric, called logos), their emotions (pathos) and their sense of ethical propriety – i.e., it is the right thing to do (ethos). Which facts are likely to be undisputed and which disputed? Among the disputed facts, consider which are likely to be inadmissible and the reasons?
SESSION 2 1/23/2012 (UB Moot Court Room)

TOPIC: Closing Argument – This time “For Show”

ACTL Fellows: TBA

Students will present a 10 minute closing argument in the case of Steele v. Kitchener. Fellows of the College will discuss ways in which the closing argument is used by trial lawyers to identify and test the strength of their developing theory(ies) of the case. The closing argument is an effective tool for diagnosis that can inform lawyers of the need for additional discovery, investigation or witnesses and can help identify potential evidentiary objections and ethical issues.

Students are encouraged to review the excellent discussion of the Closing Argument found in the many library research page materials. I prefer those by Tom Mauet, such as, Trials: Strategies, Skills and the New Powers of Persuasion, and Steven Lubet’s, Modern Trial Advocacy: Analysis & Practice.

SESSION 3- (UM) Feb 6, 2012

TOPIC: Discovery - Brief Overview of Conventional and Electronic Discovery, Interrogatories and Depositions,

The fellows the focus on the Effective Use of Depositions as a Discovery Tool.

ACTL Fellows: TBA

Students will conduct a deposition of an expert witness in the case of Steele v Kitchener. Each student will be given approximately 40-45 minutes (ca. 10 minutes per student attorney per witness) to conduct a
portion of the examination of a deposition witness for the plaintiff and for the defense in the Kitchener case. Students will be identified by 1/23/2012.

Again, there are many fine resource materials available via the Bboard library research page. Several Fellows prefer Pattern Deposition Checklists, and-- Pattern Discovery (Various Topics) both by Douglas Danner and Larry Varn; Effective Depositions, Henry Hecht;

A favorite comes from our own, Judge Paul Grimm, Paul M. Sandler and Charles Fax, Discovery Problems and Their Solutions.

You may also want to look at Pretrial Discovery: Strategy and Tactics by Edward Imwinklereid and Theodore Blumoff.

These are but a few resources listed in the Discovery section of Bboard research page.