

TRIAL ADVOCACY SYLLABUS

UNIVERSITY OF BALTIMORE SCHOOL OF LAW FALL 2017

Course: Trial Advocacy
LAW 825.422

Instructor: Adjunct Professor Martin Clarke
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Days/Time: Thursdays, 6:15- 9:00 p.m.

Location: Room 021

Course Description:

This course is devoted primarily to developing trial advocacy lawyering skills by engaging students in exercises that simulate trial practice. Students prepare lay and expert witnesses, perform exercises including direct and cross-examination and opening and closing statements, learn to develop and implement a case theory, and practice making and responding to objections. Students consider ethical and tactical issues arising in the trial process. Students conduct regular self-evaluation of their preparation and performance, and the exercises are critiqued with respect to substance, strategy, and courtroom demeanor. At the conclusion of the course, students, acting in teams, take part in full trials.

Course Materials:

Mauet, *Trial Techniques and Trials* (9th ed. 2013)

Bocchino, *Problems in Trial Advocacy* (NITA, 2013 or 2015)

Stein et al., *Dixon v. Providential Life Insurance Case File* (NITA, 2014 Sixth edition)

Student Learning Outcomes:

By the end of this course, successful students will be able to: (1) identify relevant sources of evidence to prove and defend criminal and civil cases; (2) conduct pretrial preparation of witnesses and documentary evidence to effectively address issues relevant to their theory of the case; (3) deconstruct factual scenarios during direct and cross-examination of witnesses to highlight key evidentiary points; (4) organize factual and legal arguments to persuasively summarize evidence during opening statement and closing argument; and (5) utilize their unique presentation skills and courtroom demeanor during the trial process to tell their client's story and maintain the focus and attention of the fact-finder.

Course Expectations:

Welcome to Trial Advocacy! This is a course in methodology for attorneys. Over the course of this semester, you will learn to become an effective trial attorney and advocate for your clients by trying cases and watching your peers do the same. You will be asked to play the roles of attorney, witness, and principal evaluator in both criminal and civil trials. This requires you to read the case scenario, think through potential issues and trial strategy, and then thoroughly prepare to execute your role in class.

The majority of the classes will be devoted to the direct and cross-examination of witnesses by student-attorneys. We will also discuss the rules of evidence as they apply to each problem. The Federal Rules of Evidence are controlling.

Witnesses will be prepared by the attorneys who call them to the stand. Each witness is expected to be “in role” and aware of any prior testimony or statement that he or she has given with regard to the case. It is very important that you are well prepared to testify as a witness, because your performance in that role will be important to your classmates and will be considered as part of your grade for the exercise.

In this class, critiques by your colleagues are an important tool for developing the skills needed to become a confident and effective advocate. One student will be assigned to the role of principal evaluator for each class. The role of the evaluator is an important one. “Ann stammered a bit and seemed somewhat nervous, but other than that she did a fine job” is not sufficient feedback. The evaluator should address the qualities of a competent litigator by analyzing the student’s knowledge of the facts, witness preparation, understanding of the legal issues, presentation, form and style, and all other criteria necessary to effectively examine witnesses and argue one’s case in a trial setting. The students not assigned a role in the case, or as a principal evaluator, will be asked to give a brief critique of each attorney’s performance as well.

This is a simulation course that depends on the preparation and participation of everyone who is assigned a role for a particular class exercise. If you find it necessary to miss a class in which you have a role to play, you must arrange for a classmate to fill that role.

The American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

Grades:

The course will be graded on the basis of in-class performances as an attorney, witness and principal evaluator, and the final exam, which is a mock trial. Factors to be considered when awarding grades include preparedness, thoroughness, organization, and improvement over the course of the semester.

The method of grading is as follows:

Direct Examination	15%
Cross Examination	15%
Opening Statement	15%
Closing Argument	15%
Final Mock Trial	40%

Attendance:

Continued enrollment in the course and being able to take the final examination are conditioned upon a record of attendance satisfactory to the professor. Regular and punctual attendance is expected. A student whose unexcused absences exceed two (2) classes may be compelled to withdraw from the course or barred from sitting for the final exam. This policy is consistent with American Bar Association Standards for Law Schools. Because other students rely on your attendance and participation for the course to work

properly, and because the course meets only once per week, **it cannot be overstated that attendance is critical and will be a significant consideration in grading decisions.**

Course Website:

This course has a TWEN page that links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling in the TWEN page and for checking it regularly for course information.

Computers:

Laptop computers are permitted for note taking only. Cell phone usage is prohibited except during class breaks.

Class Cancellation:

If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

Office Hours:

The professor is available to meet with individual students at the classroom before or after the scheduled class period, and outside the classroom by appointment.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Title IX Sexual Misconduct and Nondiscrimination Policy:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

Assignments:

For each class following our introductory session, students will be asked to prepare and conduct a direct or cross examination, give an opening statement or closing argument, play a witness, and/or serve as an evaluator. The assignments will be based upon hypothetical case scenarios in the required textbooks.

In addition to the in-class exercises, students will be required to read the following excerpts from Mauet prior to each class:

- 8/24: "Direct Examination," pages 109-139 (Sections 5.1 - 5.4)
- 8/31: "Cross Examination," pages 197-221; 249-254 (Sections 6.1 - 6.6; 6.8-6.9)
- 9/7: "Foundation Procedure (How to get exhibits into evidence)," pages 271-282 (Sections 7.1-7.2)
"Using/Marking Exhibits and Visual Aids," pages 366-374 (Section 7.6)
"Redirect Examination," pages 190-192 (Section 5.15)
- 9/14: "Refreshing a Witness's Recollection," pages 184-186 (Section 5.13)
"Impeachment," pages 199-201; 221-248 (Sections 6.2; 6.7)
- 9/21: "Lay Witness Opinions," pages 177 -178 (Section 5.11)
"Character Trait Witnesses," pages 168-173 (Section 5.9)
- 9/28: "Opening Statements," pages 73-98 (Sections 4.1-4.5)
- 10/5: "Business Records," pages 322-331 (Section 7.4)
"Trial Notebook," pages 192-195 (Section 5.16)
- 10/12: "Closing Arguments," pages 443-464 (Sections 9.1 - 9.6)
- 10/19: "Experts," pages 377-382, 384-407 (Sections 8.1 - 8.3, 8.5)
"Experts - Cross-Examination," pages 421-436 (Section 8.7)
- 10/26: "The Psychology of Persuasion," pages 13-29 (Chapter 2)
- 11/2: Final Exam: Mock trial #1
- 11/9: Final Exam: Mock trial #2
- 11/16: Final Exam: Mock trial #3