

TRIAL ADVOCACY
LAW 537-3, Section 1
Fall, 2019
Tuesday, 5:30 p.m. to 8:00 p.m.
Classroom 108 (courtroom) in Lesar Law Building

SYLLABUS

Professor Julie A. Thompson
Lesar Law Building
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Office Hours: No specific office hours will be kept. The best way to contact me is either email or text message to my cell phone. I will be available between the hours of 9 a.m. and 11 p.m. any day of the week to discuss problems, answer questions, or meet with students.

Required Textbooks and Materials

Mastering Trial Advocacy, Charles H. Rose III, (Thomson West, 1st ed., 2014).
ISBN: 978-0-314-28997-1

Case Files: You will be provided with two case files, one for the bench trial and one for the jury trial.

TWEN: Check it once or twice per week. I will post articles, updates, video links throughout the week to help you with your assignments.

Advocacy Resource Center (ARC): You may use videotaped lectures, articles and other information from Stetson University College of Law's Advocacy Resource Center at <http://www.law.stetson.edu/advocacy-resource-center/>. There is a large volume of video discussion on every aspect of trial advocacy. Search it and use it to help you.

You will also need access to the following: Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, Illinois Code of Civil Procedure, Illinois Code of Criminal Procedure, Illinois Rules of Professional Conduct, Federal Rules of Evidence, Illinois Rules of Evidence and Local Rules for the Circuit Courts of Illinois, all of which are available online, or through your computerized legal research access, or in hard copy at the Law Library. I may also provide you with additional material as hand-outs during class.

Recommended Books and Materials

Evidentiary Foundations by Edward J. Imwinkelried, any edition, gives the script for laying a foundation for the admissibility of all types of evidence.

Trial Handbook for Illinois Lawyers, Robert S. Hunter, Thomson West. He has written a set for

criminal lawyers, including homicide and sentencing, as well as a set for civil lawyers. It gives a breakdown of the entire trial process and explains what evidence is admissible under the statutes and case law for Illinois. This book goes with me to every trial, every time. It is often referred to as Hunter's Handbook or just Hunter's.

Irving Younger was a law professor who taught trial advocacy. We will use his YouTube videos for some of our classes. However, anytime you get a chance to hear or watch Professor Younger, take it. He is one of the greats!

Course Description and Learning Objectives

The purpose of this course is to build the foundational skills you will need to try a bench trial and a jury trial in a courtroom setting. This trial advocacy course will focus exclusively on those skills. There are three course objectives: 1) to achieve mastery of basic trial skills, including case analysis, opening statement, closing arguments, direct examinations, cross-examinations, and the admission of various types of physical evidence; 2) to try two cases in an actual adversarial courtroom setting; and 3) to develop confidence in public speaking and courtroom procedures.

Weekly Course Rhythm for the Semester

PRIOR to each class meeting, there will be specific reading assignments that **MUST BE COMPLETED** before you arrive to class. Before we begin most classes, there will be a brief quiz covering the reading assignment. The quiz will consist of three to five short questions that will cover various aspects of the assigned chapter and reading materials and will make it clear whether you completed the reading assignment.

Following the quiz, we will discuss the assigned materials. The entire class will meet at the beginning of each evening to discuss the substantive topic from the syllabus. The class will consist of some lecture, brief review of pertinent articles/videos, and intermittent skill drills focusing on the areas of evidentiary objections and cross-examination. The drills will be brief, fun, and will assist you in making your trials easier and more productive.

Basic Rules

It is critical that you adhere to the following rules in order to achieve the goals/objectives referenced above.

1. **Dress:** For the class sessions and trials, you must wear courtroom appropriate attire. I will let you know when formal dress clothes are not necessary.
2. **Computers:** **Computers are not permitted in this class.** Bring your textbook, assignments, and legal pads to take notes.
3. **Class Participation:** You are never allowed to "note out," "pass," or decline to

participate, whether as an attorney, witness, or observer. **IF YOU CANNOT LIVE WITH THIS RULE, DROP THIS CLASS NOW BECAUSE YOU ARE WASTING YOUR OWN TIME AS WELL AS EVERYONE ELSE'S, INCLUDING MINE.** Abiding by this rule means you must show up prepared for class every time. Keep in mind that in the real world, all trial work occurs in front of other people (opposing counsel, judge, bailiffs, witnesses, court reporter, co-counsel, circuit clerk, and court watchers). Also keep in mind that not one of you has the ability to “wing it” at this point in your training. Cases are often won or lost based on the preparation that occurs before anyone walks into a courtroom. Now is the time to learn methods of overcoming embarrassment, self-consciousness, fear of public speaking or other phobias that may interfere with your effective representation of a client in court.

*******ANY MISSED CLASS WILL RESULT IN .10 REDUCTION IN FINAL COURSE GRADE*******

4. Punctuality: Please arrive on time for all classes.

5. Partners: The jury trial exercise during the semester requires a partner. Depending on enrollment numbers, it is possible that someone may have to try a case without a partner or try the case two times. If you absolutely prefer to work alone, let me know as soon as possible. I will be selecting your partners for you, however, I will be seeking your input as to preferences for certain exercises.

Grading

This course is graded. Law school rules allow sections with 12 or fewer students to use a median between 3.1 and 3.4. Some of you may be worried that advocacy is all about style and therefore cannot be objectively graded. To the contrary, there are objective evaluation criteria that can be applied to every skill we will learn this semester.

How your grade is determined. There are several components to your grade.

1. Written Case Analysis Memorandum/Bar Prep Assignment (20%) of final grade. This is a written case analysis of the final jury trial and is to be turned in on the night of the jury trial.

2. Weekly Advocacy Exercises (Prepared/Unprepared). In class, you will perform certain skills and receive critiques and coaching from your professor. These performances are worth five (5) points each. You are prepared and earn five points, or you are unprepared and earn 0 points. This is 5% of your grade.

3. The weekly quizzes will be graded and are worth another 5% of your grade.

4. Bench Trial is 20% of your final grade. You will try a case with one witness per side. You will give an opening statement, conduct a direct and a cross-examination, and perform a closing argument.

5. Jury Trial is 50% of your final grade. You and your partner will try a jury case. You will give either an opening or a closing, and conduct at least one direct exam and one cross exam of a witness.

6. Ungraded Assignments. You will have one ungraded written assignment. You will not pass this class if you do not turn in this assignment absent some set of extraordinary circumstances (something like alien abduction). This assignment is a memo assessing your final trial performance at the end of the semester, including what you learned during this course.

7. All Assignments Must be Completed to Pass this Course. Although there are weights assigned to each component of the class, you cannot pass the class unless you complete them all. No exceptions will be made.

Workload

The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” This is a 3 credit hour class, divided into a one-hour lecture session and a two-hour lab session. The amount of assigned reading and out of class preparation should take you, on average, about six (6) hours each week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending an average of 9 hours per week (3 in class and 6 preparing for class) on course related work. Please understand from the beginning that this class carries a heavy workload. We make no apologies for the demands placed on your time during the semester (and when you practice, neither will your supervisors, judges, clients or opponents!).

Attendance

In a skills class, you will not learn if you are not present. An advocacy course **absolutely requires** your presence so you can learn, and through you, others can learn. Do not skip class because you cannot just make it up later, and each skill builds on the last skill you learned.

Bar Type Assessment

As part of the law school’s requirement to conduct MEE, MPT or MBE type questions during the semester, we will incorporate the Written Case Analysis Memorandum of the final jury trial.

Honor Code

The Honor Code requires that all students submit their own individual work, unless collaboration is specifically authorized by your professor. Plagiarism, or the submission of someone else’s work as your own, is unethical and is a violation of the Honor Code. Because of the nature of

the work in this class, and the fact that I want this to be as real an experience as is possible, there will be times when I allow you to discuss your work and assignments with others. However, each written assignment must be your own individual work, or you will not learn anything beneficial to your career. There will be an exception to this rule for assignments that specifically pair you with another student.

Emergency Procedures

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety's website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Disability Policy

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

Notice of Recording Policy

The School of Law will be recording all classes beginning in the Spring Semester of 2018 unless professor opts out. **I am opting out.** These class sessions will not be recorded either by video or audio recording device. If a student wishes to have classes recorded, they can bring that to my attention and if the rest of the class agrees, I will reconsider the issue of recording classes.

Furthermore, it is a violation of the Honor Code for any student to create and/or distribute such class recordings when the instructor has prohibited class recording.

Style and Format of All Writing Assignments

This will be determined based on the nature of the writing assignment and the requirements of the controlling rules.

Final Exam

There is no written final examination for this course. Your jury trial is your final exam.

SCHEDULE and ASSIGNMENTS:

If we need a Make-up Assignment: Go to a courtroom and observe 3 hours of court. Ideally, you would observe a jury trial, but any active courtroom will do. Write a two to three page essay about what you saw. Who was in the courtroom, what type of case was handled, what did the lawyers do, what did the judge do, how did the litigants act, what did you learn?

August 20, 2019 (Class 1)

Read Chapter 1 and be prepared to discuss it in class. Dress for class.

August 27, 2019 (Class 2)

Theme and Theory. Read chapter 2 and the case file on Derek Steele. Begin case analysis and come to class with the beginning of a trial notebook for Derek Steele's case. Prepare two, one as a prosecutor and one as a defense attorney.

September 3, 2019 (Class 3)

Opening Statement. Read chapter 4. Write and be ready to perform an opening statement for Derek Steele's case as both a prosecutor and defense attorney.

September 10, 2019 (Class 4)

Direct Examination. Read chapter 5 on direct and read chapter 6 on exhibits. Prepare a direct examination of Derek Steele as a defense attorney, and a direct examination of the police

officer as a prosecutor, and be ready to perform both.

September 17, 2019 (Class 5)

Cross-Examination. Read chapter 7. Prepare a cross-examination of Derek Steele as a prosecutor and a cross-examination of the police officer as a defense attorney, and be ready to perform both.

September 24, 2019 (Class 6)

Closing Argument. Read chapter 10. Prepare a closing argument for the state and for the defense and be ready to perform. Make notes for a rebuttal argument for the state and be ready to perform.

October 1, 2019 (Class 7)

Bench Trial. Teams 1 and 2.

October 8, 2019 (Class 8)

Bench Trial. Teams 3 and 4.

October 15, 2019 (Class 9)

Receive jury problems. Cross-examination with impeachment. Read chapter 8 and meet for class discussion and skill drills.

October 22, 2019 (Class 10)

Preparation for Jury Trials. Students will be divided into 4 groups of 2 and each will meet privately with professor for one-half hour to review trial notebooks and prepare for jury trials.

October 29, 2019 (Class 11)

Direct examinations with exhibits taught by students and expert witnesses. Read chapter 9.

November 5, 2019 (Class 12)

Voir dire. Read chapter 3 and meet for class discussion and skill drills.

November 12, 2019 (Class 13)

Jury Trial.

November 19, 2019 (Class 14)

Jury Trial.

NOTICE: This Syllabus is a work in progress. Additions for class assignments may be made during class. Students will be notified via text message of changes to syllabus and class plan.