

**Trial Advocacy
Common Course Memorandum and Syllabus
Spring 2023**

Law 537 Section 3

Instructor: J. Cervantez

1. Course Overview and Objectives:

The purpose of this course is to build the foundational skills you will need to try a bench trial and jury trial in a courtroom setting. The trial advocacy course will focus exclusively on those skills. The course objectives are three-fold:

- Gain proficiency at basic trial skills, including case analysis, opening statements, direct examinations, cross examinations, and closing arguments;
- Conduct at least one bench trial and one jury trial in an actual courtroom setting;
- Develop confidence in courtroom procedures and public speaking.

2. Weekly Course Rhythm

In order to accomplish the course learning objectives, the course follows a standard rhythm oriented around the advocacy exercises that you will perform each week.

Pre-Class Preparation

The reading assignments for the course are listed in the syllabus and should be completed before each class. Each assignment has its own assignment memorandum. You are responsible to read the assignment and prepare for the assignment prior to each class.

Scheduled Advocacy Class

Each student will participate in the opening exercise which will involve the readings from the supplemental text, *The Articulate Advocate: Persuasive Skills for Lawyers in Trials*.

Lecture from the assigned reading. Students will be asked questions from the reading.

Each member of the class will then perform the assigned primary exercise live in front of the other members of the class.

The instructor will guide the class in all exercises identifying common mistakes and areas for improvement. The goal of this process is to improve your individual and collective performance. These performances are graded Prepared/Unprepared. Class will end with a short preview lecture for the following week.

3. A Few Key Concepts and Rules:

I expect a high level of preparation, professionalism, and performance from all students in this class. To the extent possible, we will treat the classroom environment as if it is an actual courtroom.

- a. Dress - The class sessions will be court room attire (subject to change.) Everyone can attend the first class in your normal class appropriate attire.
- b. Computers - Computers will be allowed but you will be instructed to close them at certain points during the class to optimize participation. I suggest using a legal pad and pen for notes instead of your computers.
- c. Class Participation - You are never allowed to “note out,” “pass,” or decline to participate, whether as an attorney, witness, or observer. Abiding by this rule means you must show up prepared for class, every time. Additionally, keep in mind that all trial work takes place in front of other people. You must learn now to overcome embarrassment, self-consciousness, fear of public speaking, and other phobias that might interfere with your effective court appearance.
- d. Timeliness - Please be courteous to your fellow classmates and your instructors and be on time.
- e. Partners - You will be required to have a partner in many of the exercises.

4. Course Materials:

- a. Text - Our course text is Charles H. Rose III, *Mastering Trial Advocacy* (Thomson-West) (1st ed 2014); and
- b. Text - Marsha Hunter & Brian K. Johnson, *The Articulate Advocate: Persuasive Skills for Lawyers in Trials, Appeals, Arbitrations, and Motions* (Crown King Books, Second Edition)(March 2016.)
- c. Case Files - You will use multiple case files for the course. They will be provided.

5. Grading and Workload:

- a. Grading Philosophy. 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 graded. To the contrary, there are objective evaluation criteria that can be applied to every skill we will learn this term.
- b. How Your Grade is Determined. There are several components to your grade.

1. *Written Case Analysis Memorandum*, (10%). This is a written case analysis of the final trial case. A template will be provided for you.

2. *Weekly Advocacy Exercises*, Prepared/Unprepared (20%). In class, you will perform the skill live, receiving critiques and coaching from your professor. reduction in your final course grade for every such lapse.

3. *Opening Statement Project*, (10%) you will team up with another and present an opening statement to the court.

4. *Admitting Evidence Project*, (10%) you will work together as a class to admit evidence. This will be a combined exercise of writing and practical application.

5. *Graded Trials*. In the graded trials, you put together the individual skills you've worked on during the weekly advocacy exercises. It is in the trials themselves that you earn a grade.

A. Bench Trial (20%). In this trial, you will try a small case with one witness per side. This will give you experience giving an opening statement, conducting a direct and cross examination, and arguing on closing. You will be graded on your performance for each of these skills using a detailed rubric that you will be provided in advance of trial and according to the grading standards listed in subparagraph "c" below.

B. Final Trial (30%). In the final trial, you will be expected to give either an opening or closing statement, to conduct the direct examination of at least one witness, and to conduct the cross examination of at least one witness. You will also serve as a witness in another trial. You will be graded on your performance for each of these skills—including your performance as a witness—using a detailed rubric that you will be provided in advance of trial and according to the grading standards listed in subparagraph "c" below. In addition, you will be expected to serve as a juror in another group's trial.

C. Grading Standards for Trials:

- **Outstanding (16 -20 points)**. Prepared and gives an exceptional performance—considerably and objectively exemplary when compared to the typical student performance for this section. Such a performance must demonstrate complete mastery of the evaluation criteria and be on par with the performance of an experienced and talented attorney.

- **Superior (11 - 15 points)**. Prepared and gives a very good performance that satisfies the evaluation criteria and is noticeably and objectively superior to the typical student performance for this section. Such a performance must demonstrate mastery of the evaluation criteria and be on par with the performance of a talented junior attorney.
- **Meets Standards (7-11 points)**. Prepared and gives a performance that meets most of the evaluation criteria and is typical of the students for this section.
- **Below Standards (6 points or below)**. Prepared and gives a below average performance (for students of this section) that meets some, but not all, of the evaluation criteria.

6. *Ungraded Assignments* - You will have 8 ungraded written assignments and 2 Trial Prep Progress assignments. Although they are ungraded, you will not pass the class unless you turn the assignments in. The assignments are short written assignments meant to assist you with your end goal of conducting a Jury Trial. They are due each Monday by 7 P.M.

7. *All Assignments Must Be Complete to Pass the Course* - Although there are weights assigned to each component of the class, you cannot pass unless you complete them all. For example, if you decide not to turn in your case analysis or participate in the final trial, yet complete all other requirements, I cannot allow you to pass the class.

8. *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 plenary 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 term (and when you practice, neither will your supervisors, judges, clients or opponents).

6. Attendance:

In a skills class, it’s difficult to learn if you aren’t present. An advocacy course requires your

presence so you can learn, and through you, others can learn.

If you are aware of a scheduling conflict for a class, please bring this up at the earliest possible time with your professor to see if any make-up arrangements are possible. If you do not make arrangements in advance, you will receive a .1 reduction from your final course grade for every such missed class.

7. Policy on Recording Class:

Your participation in the class may involve granting permission for others to record your participation as a witness or opposing counsel in their advocacy exercises.

8. Students with Disabilities.

The law school's policies and procedures regarding students with disabilities may be found online at <http://www.law.siu.edu/>. Students with disabilities requiring reasonable accommodations should contact the Registrar's office.

9. 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 the BERT's website at www.bert.siu.edu, Department of Public Safety's website www.dps.siu.edu (disaster drop down) and in the Emergency Response Guidelines 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 BERT will provide assistance to your instructor in evacuating the building or sheltering within the facility.

10. Reading and Assignment Schedule

Week	Dates	Topic	Reading Assignment & Mastering Trial Ad by Rose	Advocacy Assignment / Reading The Articulate Advocate by Marsh Hunter	Written Assignments Due Monday before the next class by 7PM
1	Jan 18	Course Introduction Trial Overview Opening Statement	Rose Chapter 1: How Trials Work	In Class Assignment on the 18 th	Assignment 1 given in Class Due Monday, January 23.

Week	Dates	Topic	Reading Assignment & Mastering Trial Ad by Rose	Advocacy Assignment / Reading The Articulate Advocate by Marsh Hunter	Written Assignments Due Monday before the next class by 7PM
2	Jan 25	Case Analysis, Theme and Theory Development. Organizing your Case	Rose Chapter 2: Case Analysis & Prep Review Case File for First Trial	TBD	Assignment 2 given in Class Due Monday, January 30.
3	Feb 01	Opening Statements Courtroom Persuasion	Rose Chapter 4: Opening Statements	TBD	Assignment 3 given in Class Due Monday, February 06.
4	Feb 08	Intro to Direct Examination Intro to Cross Examination	Rose Chapter 5; Direct Examination Rose Chapter 7: Cross Exam Pages 273-296 Only	TBD	Assignment 4 given in Class Due Monday, February 13.
5	Feb 15	Cross Examination Entering Exhibits	Rose Chapter 7: Cross Exam Pages 297-315 Rose Chapter 6: Exhibits Pages 221-246	TBD	Assignment 5 given in Class Due Monday, February 20.
6	Feb 22	Entering Exhibits	Rose Chapter 6: Exhibits Pages 248-271	TBD	Assignment 6 given in Class Due Monday, February 27.
7	Mar 1	Advanced Direct Examination Advanced Cross Examination	Rose Chapter 9: Advanced Direct and Cross	TBD	Assignment 7 given in Class Due Monday, February 27.
8	Mar 08	Expert Witnesses	Rose Chapter 10: Expert Witnesses	TBD	Assignment 8 given in Class Due Monday, February 27.
9	Spring Break	Spring Break	Spring Break	Spring Break	Spring Break

Week	Dates	Topic	Reading Assignment & Mastering Trial Ad by Rose	Advocacy Assignment / Reading The Articulate Advocate by Marsh Hunter	Written Assignments Due Monday before the next class by 7PM
10	Mar 22	Closing Argument	Rose Chapter 11: Closing Arguments Pages 443-462 Rose Chapter 12: Objections 527-539	TBD	Trial Prep
11	Mar 29	Closings Arguments Trial Prep: Witness Prep for Trial	Rose Chapter 11: Closing Arguments Pages 462-488	TBD	Trial Prep
12	April 5	Trial Prep: Visual Aids and Exhibit Presentation	TBD	TBD	Trial Prep Progress Assignment Due Monday April 10.
13	April 12	Trial Prep	Trial Prep	Trial Prep	Trial Prep Progress Assignment Due Monday April 17.
14	April 19	Final Trial Week One	Final Trial Week One	Final Trial Week One	Final Trial Week One
15	April 26	Final Trial Week Two	Final Trial Week Two	Final Trial Week Two	Final Trial Week Two