

Trial Advocacy

Spring 2023

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Tuesdays 6:30 p.m. – 9:00 p.m.

Office Hours: By appointment only

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Course Memorandum & Syllabus

Course Overview and Learning Objectives

Thank you for choosing and welcome to Trial Advocacy.

Think of Trial Advocacy like an incubator where transformation will occur. If successful, Trial Advocacy will transform Evidence from theory to practice and from rule to presentation. It will be where the courtroom is transformed from an intimidating and unfamiliar place, to a place where you will feel comfortable and perhaps even long to be. If exceedingly successful, a course in Trial Advocacy will manifest a lifelong desire to forever hone your skills for the betterment of your clients, community, state, and nation.

In this course, you will be introduced to that part of the law practice that occurs inside a courtroom. You will learn basic skills: how to address the Court, its staff, your opponent, witnesses, and a jury. You will learn the structure of a trial: from pre-trial motions to opening statements, presentation of one's case in chief, defense of your opponent's case in chief, and closing arguments.

You will learn to introduce and oppose the introduction of evidence, lay foundation for evidence, both real and demonstrative, present and cross examine witnesses, both lay and expert, introduce opinion testimony, both lay and expert, and you will learn how to do these consistent with the theory of your case, while developing themes that allow you to advocate and persuade.

Classroom participation is critical. "Classroom participation" means everything that comes before the mock case you will try toward the end of the semester.

Lastly but very importantly, consistent with the profession's continuing efforts to help develop professional identity with a focus on diversity, equity and inclusion, the course will strive to employ strategies of active listening, empathy and effective allyship during classroom discussions and group work, as well as, to critically reflect on one's professional identity, while recognizing the impact of internal and external factors on identity.

Grading

This course is graded. Law school rules allow sections with 12 or fewer students greater leeway on the mean grade, but there remains a requirement to grade nonetheless. As difficult as it may be, motivate yourself to excel not for the grade but for yourself and your classmates. Again, this is an incubator. We want all to transform.

“Classroom participation” will represent 50% of your grade cumulatively earned in the weeks leading up to the trial.

Your performance at trial will represent the other 50%.

Grading for trial will be scored based upon the following categories:

<u>Categories</u>	<u>Potential Points</u>	<u>Earned</u>
Appropriate Attire	5	
Courtroom Demeanor/Presence	5	
Language and Voice	5	

Use of Theory and Theme	5	
Opening Statement	5	
Direct Examination	5	
Cross Examination	5	
Knowledge of Evidence/ Foundation and Objections	5	
Closing Argument	5	
Trial Notebook	5	
Totals	50	

Trial scores will be solely based upon the performance at trial compared to your classmates. Classroom participation scores will not necessarily reflect who was the best, but who through effort and determination, mastered, and by their participation, assisted others in mastering the categories that will be ultimately judged at trial.

To that end, in class, you will be expected to serve as advocates, witnesses, and even judges. You will be expected to professionally encourage and critique each other, understanding that trial advocacy, especially jury trial advocacy, requires us to take into account a multitude of perspectives.

Course Objective

By the end of the course, the objective will be for you:

- to have competence and confidence in a courtroom;
- to master basic trial skills; and
- to be able to competently try a mock case to verdict before a jury.

Course Subjects

The Course will focus on ten main subjects, but not necessarily in the order set out below:

I. Theory and Theme (Law and Story)

II. Laying Foundation

III. Objections

IV. Direct Examination

V. Opinion Testimony

VI. Exhibits

VII. Cross Examination

VIII. Opening Statement

IX. Closing Arguments

X. Trial Motion Practice

Ideally, these ten subjects will be introduced and significantly explored in the first 8 weeks. The remaining weeks will be focused on trial preparation.

Your Mock Trial

You will either prosecute or defend the case of *People v. Fitzpeter*.

People v. Fitzpeter is the creation of Professor Behan. It is masterfully crafted for use in Trial Advocacy.

It is also generously provided by Professor Behan without charge.

Textbooks

Required Course Materials:

There are dizzying number of text books dedicated to Trial Advocacy. None necessarily follow the rhythm of an introductory course. I have chosen:

Mastering Trial Advocacy 2d, Charles H. Rose III and Laura Anne Rose, West Academic, ISBN: 9781684671212.

<https://www.westacademic.com/Rose-and-Roses-Mastering-Trial-Advocacy-2d-9781684671212>

Mastering Trial Advocacy: Case, Problems, and Exercises 2d, Charles H. Rose III and Laura Anne Rose, West Academic, ISBN; 9781684671229

You are encouraged to explore any and all sources beyond these texts: Supplemental resources include The Advocacy Teaching Blog, Charlie Rose's Advocacy YouTube channel, Wes Porter's Advocacy YouTube channel, the National Institute for Trial Advocacy YouTube channel, Younger on Cross Examination YouTube (The Ten Commandments of Cross Examination)

Class Recordings

Video and Audio Recordings. This class will not be video or audio recorded, but you can arrange for your trial to be video recorded if you desire.

Professor's Plea

Being a trial lawyer is humbling, so please check your egos at the door. Each of you will have a natural skill set that will serve you well in some aspect of advocacy. Few, however, naturally possess a skill set that will serve you well in all aspects of advocacy. We will endeavor to identify your strengths and your weaknesses, so be open and prepared to learn that Trial Advocacy is not a "one size fits all" course.

Dress

At the beginning of the semester, you may but are not required to dress in courtroom attire. At trial, however, you will be expected to dress in courtroom attire. A great deal of one's competency depends on being comfortable in the courtroom, so if introducing formal dress will impact your comfort level, you should dress professionally early.

Phones, Tablets, Laptops

Use of a cell phones, a Tablet, or Laptops for anything unrelated to class is not permitted.

Partnerships

Your mock trial will require you to have a partner. Your partner must be someone in this class. Depending on enrollment numbers, it is possible that someone may have to try a case without a partner. This will be determined as needed.

Other Important Stuff

EMERGENCY PROCEDURES: We ask that you become familiar with **Emergency Preparedness @ SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts, visit

<http://emergency.siu.edu/>.

DISABILITY POLICY. SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to ensure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreements for each course 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) 453-2461, or siucares@siu.edu, <https://salukicare.siu.edu/>. Assistant Dean Judi Ray is available at the School of Law to help students access university resources. Please email her at judiray@siu.edu, or call 618-453-3135.

COVID-19. SIUC's policy on face masks and social distancing is consistent with the guidance from the Centers for Disease Control and Prevention and the Illinois Department of Public Health. For up-to-date information, students, faculty, and staff should visit SIUC's COVID website (<https://siu.edu/coronavirus>), which includes the Saluki Safety Plan. People can also send email to pandemicinfor@siu.edu.

SAFETY AWARENESS FACTS AND EDUCATION Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here: <http://safe.siu.edu>

The University's Syllabus Attachment will be posted on the course TWEN page.

Here is a link to it: <https://pvcaa.siu.edu/common/documents/syllabus-attachments/syllabus-attachment-spring-2023.pdf>