

**Trial Advocacy
Course Memorandum & Syllabus
Summer 2020**

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:

- to achieve mastery of basic trial skills, including case analysis, opening statements, closing arguments, direct examinations and cross examinations;
- to try two cases (a bench trial and a jury trial) in a realistic courtroom setting; and
- to develop confidence in public speaking and courtroom procedures.

2. Weekly Course Rhythm

This is an online course with both asynchronous and synchronous components. Asynchronous components include reading assignments, podcast lectures, and materials that you prepare and submit on your own according to deadlines in the course syllabus. Synchronous components include live meetings that will take place using the Microsoft Teams platform. The synchronous class meetings are scheduled for Tuesdays and Thursdays from 5-7 pm, CST, via Microsoft Teams.

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.

Asynchronous Component (Pre-Class Preparation & Assignments)

The reading assignments for the course are listed in the syllabus. The lectures for this course are pre-recorded and will be posted on the course webpage, one week at a time. Each advocacy assignment has its own assignment memorandum, also posted to the course webpage. You are responsible to read the assignment, watch the lecture, submit any required materials, and prepare for the synchronous class component by the deadlines posted in the course assignment schedule.

Synchronous Component

Each week of the course, there are two scheduled synchronous online classes: Tuesday from 5-7 and Thursday from 5-7. Pay careful attention to the syllabus to ensure you are prepared for the synchronous online classes.

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. For synchronous class sessions you may wear your normal (appropriate for law school) attire. For the trials, you must wear appropriate courtroom attire.
- b. Class Participation. You are never allowed to “note out,” “pass,” or decline to participate, whether as an attorney, witness, or observer. *If you can't live by this rule, please drop the class now so you don't waste everyone else's time.* 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 representation of a client in court.
- c. Timeliness. Please be courteous to your fellow classmates and your instructors and be on time.
- d. Partners. A few exercises during the term, including the final trial, require a partner. Depending on enrollment numbers, it is possible that someone may have to try a case without a partner. If you would prefer to work alone, please let me know.

4. Course Materials:

- a. Text. Our course text is Steven Lubet & J.C. Lore, *Modern Trial Advocacy: Analysis and Practice* (5th edition). The book is published by the National Institute for Trial Advocacy (NITA). The ISBN is 9781601564740. This edition of the book has been in print for several years, so it should be quite easy to find used copies of the book online at a reasonable price.
- b. Case Files. You will use two case files for the course. Both case files are provided to you free of charge on the course web page.
- c. Advocacy Resources. When assigned, supplemental resources will be available at no charge to you on the course web page.
- d. Video Recordings. We will record your synchronous session performances, including both trials, on video through MS Teams.

5. Grading and Workload:

- a. Grading Philosophy. This course is graded. 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. *MPT Assignment (10%)*. Early in the term, you'll receive a timed, MPT assignment on a trial advocacy problem.

2. *Written Elements and Proof Checklist (10%)*. This is a written elements and proof checklist for the first trial. A template will be provided for you on the course website.

3. *Written Case Analysis Memorandum (20%)*. This is a written case analysis of the final trial case. A template will be provided for you on the course website.

3. *Weekly Advocacy Exercises (Prepared/Unprepared)*. Throughout the semester, you'll perform different advocacy skills live on MS Teams with the rest of the class as an audience, receiving critiques and coaching from me. These exercises are not graded, but if you show a lack of preparation in these exercises, you will receive a .1 reduction in your final course grade for every such lapse.

4. *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. First 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 making a closing argument. 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.

b. Final Trial (40%). 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. In addition, you will be expected to serve as a juror in another group's trial.

5. *Ungraded Assignments*. You will have one ungraded written assignment. Although it is ungraded, you will not pass the class unless you turn this assignment in. This assignment is a memo assessing your final trial performance at the end of the semester. A template will be posted on the course web page.

6. *All Assignments Must Be Complete to Pass 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, you will fail the class.

c. 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, which means we will have six hours of class per week; approximately two of those hours will be asynchronous (podcasts, etc.), and the other four will be synchronous (class meeting all together on MS Teams). The amount of assigned reading and out of class preparation should take you, on average about 12 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 18 hours per week (6 in class and 12 preparing for class) on course-related work. Please understand from the beginning that this class carries a heavy workload. We are compressing a class that normally takes 14 weeks into 7 weeks. I 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.

All synchronous course sessions and the two trials will be recorded. Your participation in the class constitutes permission for others to record your participation as a witness or opposing counsel in their advocacy exercises.

8. Additional Information on Law School and University Policies.

See the standardized syllabus attachment available at <https://law.siu.edu/academics/semester-info/syllabi/su-20.html>

9. Reading and Assignment Schedule

Week	Date	Topic	Reading Assignments (must be complete before class)	Podcasts	Advocacy Exercises	Other Assignments
1	ASync 8 June	Storytelling	Storytelling Assignment Materials (TWEN)	Podcast #1: Trials and Storytelling	Prepare AE1: Storytelling Exercise	Turn in written AE1 on TWEN NLT noon on 9 June.
	Sync 9 June	Storytelling	Lubet, Chapter One		Perform AE1: Storytelling	
	ASync 10 June	Storytelling in a Trial Context	Lubet, Chapter Two	Podcast #2: Introduction to Case Analysis	Prepare AE2: Storytelling in a Trial Context.	Turn in written, revised AE 2 on TWEN NLT noon on 11 June.
	Sync 11 June	Case Analysis and Storytelling	Lubet, Chapter Three		Perform AE2	
2	ASync 15 June	Closing Argument	Lubet, Chapter 13	Podcast #3: Closing Argument as Case Analysis Foundation		
	Sync 16 June	In-class, graded MPT. This is timed and will occur during the regularly scheduled class time. You'll receive an MPT exercise that is based on the bench trial case file.			MPT File, on TWEN <u>During time scheduled for class</u> , submit and return MPT exercise. This is a timed exercise that relates to case analysis, closing arguments, and storytelling.	
	ASync 17 June	Introduction to Direct Examination	Lubet, Chapter Four	Podcast #4: Introduction to Direct Examination	Prepare AE3: Direct Examination	Turn in AE3 by noon on 18 June
	Sync 18 June	Direct Examination			Perform AE3: Direct Examination	
3	ASync 22 June	Direct	Selby Article on 3-D Direct Examination	Podcast #5: 3-D Direct	Prepare AE4: 3-D Direct	Turn in AE4 by noon on 23 June
	Sync 23 June	Direct			Perform AE4: 3-D Direct	
	ASync 24 June	Cross Examination	Lubet, Chapter 5	Podcast #6: Introduction to Cross- Examination	Prepare AE5: Cross- Examination	Turn in AE 5 by noon on 25 June

Week	Date	Topic	Reading Assignments (must be complete before class)	Podcasts	Advocacy Exercises	Other Assignments
	SYNC 25 June				Perform AE 5: Cross-Examination	
4	ASYNC 29 June	Cross-Examination & Impeachment	Lubet, Chapter 6	Podcast #7: Cross-Examination & Impeachment	Prepare AE6: Cross-Examination 2	Turn in AE 5 by noon on June 30
	SYNC 30 June				Perform AE6: Cross-Examination 2	
	ASYNC 1 July	Opening Statements	Lubet, Chapter 12	Podcast #8: Opening Statements	Prepare AE7: Opening Statement/Bench Trial	Turn in AE7 by noon on 2 July
	SYNC 2 July	Opening Statements			Perform AE7: Opening Statement/Bench Trial	
5	ASYNC 6 July	Bench Trial Week Preparation	Read Materials for AE8: Elements and Proof Checklist	Podcast #9: Preparing for Bench Trial	Prepare AE8: Elements and Proof Checklist	Turn in AE8 by regularly scheduled class time on 7 July. Graded.
	SYNC 7 July	No Class. Prepare for AE 9: Bench Trial. Trial assignments are contained in AE8.				
	SYNC 8 July	AE 9: Bench Trials. Times, etc., will be determined by 6 July. Courtroom dress. Graded. All trials will be recorded.				
	SYNC 9 July	AE 9: Bench Trials. Times, etc., will be determined by 6 July. Courtroom dress. Graded. All trials will be recorded.				
6	ASYNC 13 July	Bench Trial Postmortem	Read Materials for AE10: Bench Trial Self-Guided Video Review		Prepare AE 10: Bench Trial Self-Guided Video Review	Turn in AE 10: Bench Trial Self-Guided Video Review by 11:59 PM on 13 July
	SYNC 14 July	TBD	TBD (Most likely jury selection)			
	ASYNC 15 July	Advanced Case Analysis/Theme & Theory Development	Read Karton article on TWEN Read Case File	Podcast #10: Advanced Case Analysis	Receive case file and assignments for AE12: Case Analysis Memo; and AE 13: Final Trial	AE12: Case Analysis Memo (Graded) due by 11:59 pm on Saturday, July 25.

Week	Date	Topic	Reading Assignments (must be complete before class)	Podcasts	Advocacy Exercises	Other Assignments
	SYNC 16 July	Case Analysis & Final Trial	Read Case File		Professor will meet separately with prosecutors/plaintiffs (hour one) and defense counsel (hour two) for case analysis	
7	ASYNC 20 July	Using Exhibits to Illustrate Story	Lubet, Chapter 10	Podcast #11: Exhibits	Prepare AE 11: Exhibits to Illustrate Story	Turn in AE 11 by noon on 21 July.
	SYNC 21 July	Using Exhibits to Illustrate Story			Perform AE11: Exhibits to Illustrate Story	
	22 July	No class. Prepare for Final Trial with partner. Work on case analysis memo, with Partner. Both are graded, and together, they are a significant percentage of your final grade. Turn in AE 12: Case Analysis Memo by 11:59 pm on 24 July.				
	23 July					
8	27 July	AE 13: Final Trial	As per assignment memo and trial pairings. Graded. Courtroom attire. Will be recorded.			
	28 July	AE 13: Final Trial	As per assignment memo and trial pairings. Graded. Courtroom attire. Will be recorded.			
	29 July	AE 13: Final Trial	As per assignment memo and trial pairings. Graded. Courtroom attire. Will be recorded.			
	30 July					
	31 July	Final Trial/Course Postmortem.		Watch recording of final trial.	Turn in AE14: Self- Analysis Memorandum.	