

Trial Advocacy

Law 537-3, § 201

Summer 2021

Monday and Thursday, 5:30 p.m. to 8:00 p.m.
Classroom 108 (courtroom) in Lesar Law Building

SYLLABUS

Professor Julie A. Thompson

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Office Hours

No specific office hours will be kept. I am always available to meet with students before or after class, and specific individual meetings can always be requested by any student. Also, I can be contacted by email or text message to my cell phone between 9:00 a.m. and 11:00 p.m. any day of the week to discuss problems or answer questions.

Required Textbooks and Materials

Mastering Trial Advocacy, Charles H. Rose III and Laura Anne Rose
(Thomson West, 2d ed., 2020) ISBN: 978-1-68467-121-2

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

Advocacy Resource Center (ARC): You may use video taped 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 are video discussions and demonstrations on all aspects of trial advocacy. Reviewing the applicable video for each class meeting is suggested, but not required.

You will also need access to the following materials, all of which are available on-line: 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, Local Rules of the Circuit Courts of Illinois. Everything you've ever known.

Additional Recommended Materials

Evidentiary Foundations by Edward J. Imwinkelried, gives the script for laying a foundation for the admissibility of all types of evidence. Any edition is useful, but the more recent editions contain foundations for electronic evidence (Facebook messages, emails, texts, etc.)

Trial Handbook for Illinois Lawyers, Robert S. Hunter, Thomson West. There is a set for criminal, civil, homicide and sentencing. These are heavily relied upon by trial attorneys and judges regarding the admissibility of all types of evidence at trial.

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 argument, direct and cross-examinations, and the admission of various types of physical and testimonial evidence; 2) to try two cases in an actual adversarial courtroom setting; and 3) to develop confidence in public speaking and courtroom procedures.

Class Meetings

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 answer questions about the assigned reading materials that will make it clear whether you read the assignment.

During class, we will discuss the assigned materials. The class will consist of lecture, reviews of articles and videos applicable to the class topic, and skill drills focusing on all aspects of trial advocacy.

Basic Rules for Class

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 clothes are not necessary.
2. Computers: No computers are permitted in this class. Bring your textbook, assignments, and legal pads to take notes.
3. Class Participation: If you are in the room, you are participating. You are not allowed to “note out,” “pass,” or decline to participate, whether as an attorney, witness, or observer. This class requires a commitment of your time and attention, and you must be prepared for class every time. This class is designed to teach you trial practice skills for the real world, where trial work occurs with and in front of other people, including opposing counsel, clients, judges, bailiffs, witnesses, court reporters, circuit clerks and court watchers. Also, none 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 the courtroom. Do the work or you will not be an effective advocate for your client (and it will be reflected in your grade).

4. Punctuality: Please arrive on time for all classes. I will start without you.

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 a case twice. If you absolutely prefer to work alone, let me know as soon as possible. I will make the final decision on partners when I provide you the trial file for your jury trial.

Grading

This course is graded, I do not offer pass/fail. Law school rules allow sections with 12 or fewer students to use a median grade between 3.1 and 3.4.

Your grade will be based on the following:

1. Written Case Analysis Memorandum/Bar Prep Assignment (20%) of final grade. This is a written case analysis of the final jury trial and will be due before the 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 5 points each if you are prepared and 0 points if you are not prepared. This is 5% of your final grade.

3. The weekly quizzes will be graded and are worth 5% of your final 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, present a direct examination, conduct a cross-examination, and give 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 the opening or closing and conduct one direct exam and one cross exam of a witness.

6. Ungraded Assignment. You will have one ungraded written assignment and you will not pass this class without timely submitting assignment absent extraordinary circumstances such as 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, and should be no longer than three pages.

7. All assignments must be timely completed to pass this course. You will not pass this class unless you complete each component of the class, and no exceptions will be made.

8. Written assignments are due by submitting them to my email no later than midnight on the date due.

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, and the summer workload hours are doubled due to the shortened semester.

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 make it up later, and each skill builds upon the last skill you learned. If you absolutely must miss a class for some extraordinary reason, please notify me as far in advance as possible so that we can attempt to minimize the impact on you and your classmates.

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 both unethical and a violation of the Honor Code. Because of the nature of the work in this class, and the fact that this should be as real an experience as 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 future practice. There will be an exception to this rule to assignments that specifically pair you with another student.

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 insure 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. Accommodation [request](#) and [renewal](#) forms can be found here: <https://law.siu.edu/academics/>.

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 student access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

COVID-19

As a condition of on-campus enrollment, all SIUC students are required to engage in safe behaviors to avoid the spread of COVID-19. SIUC will follow federal, state and county public health recommendations and mandates in all decisions relating to university operation. Students should regularly review the link for the [SIUC COVID-19 response](#).

Notice of Recording Policy

The School of Law will be recording all classes beginning in the Spring Semester of 2018 unless the 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, please 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 assignment and the requirements of the controlling rules. In general, use an easily readable font at 12 point and double-space your text with a one-inch margin.

Final Exam

There is no written final examination for this course.

Schedule and Assignments

If we need a Make-up Assignment: Go to a local courtroom and observe three hours of court. Ideally, you would observe a jury trial, but any active courtroom will do. In general, traffic, small claims, and criminal courts are usually active. 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, was a decision made, what did you learn? If you got to see a trial, tell me the story that you heard.

June 7, 2021 (Class 1)

Story Telling and what happens in a trial. Read Chapter 1 on How Trials Work and be prepared to discuss it in class. Courtroom Dress for class.

June 10, 2021 (Class 2)

Theme and Theory and how to tell the story. Read chapter 2 on Case Analysis and Preparation and the case file on Derek Steele. Begin case analysis and come to class with the beginnings of two trial notebooks for Derek Steele's case, one as the prosecutor and one as defense counsel. Casual Dress is fine.

June 14, 2021 (Class 3)

Opening Statements. Read chapter 4 on opening statements. Prepare and be ready to perform an opening statement for Derek Steele's case as both prosecutor and defense counsel. Courtroom Dress for class.

June 17, 2021 (Class 4)

Direct Examinations. Read chapter 5 on direct examination and prepare defense counsel's direct examination of Derek Steele and the prosecutor's direct examination of Officer Parker and be ready to perform both. Courtroom Dress for this class.

June 21, 2021 (Class 5)

Cross-Examinations. Read chapter 7 on cross-examinations. Prepare the prosecutor's cross-examination of Derek Steele and defense counsel's cross-examination of Officer Parker and be ready to perform both. Courtroom Dress for Class.

June 24, 2021 (Class 6)

Closing arguments. Read chapter 11 on closing arguments. Prepare the prosecution and defense closing argument and be ready to perform both. During class, you will make notes for a rebuttal argument for the prosecution and perform it also. Courtroom Dress for Class.

June 28, 2021 (Class 7)

Bench Trial. Students will perform a bench trial in the Steele case.
Courtroom Dress for Class.

July 1, 2021 (Class 8)

Bench Trial. Students will perform a bench trial in the Steele case.
Courtroom Dress for Class.

July 5, 2021 (Class 9)

Advanced examinations. Read chapter 9 on advanced direct and cross, and receive jury case files. Courtroom Dress for Class for skill drills.

July 8, 2021 (Class 10)

Read chapter 10 on expert witnesses. Courtroom Dress for Class for skill drills.

July 12, 2021 (Class 11)

Jury Trial Preparation. Each set of student partners will meet privately with professor to review trial notebooks and discuss their trial plan. Casual Dress is fine.

July 15, 2021 (Class 12)

Read chapter 6 on exhibits. Direct examination with exhibits will be taught by students to each other using various items and laying various foundations for admissibility. Courtroom Dress for Class.

July 19, 2021 (Class 13)

Voir dire. Read chapter 3 on jury selection. Meet for class discussion and final trial preparation. Casual Dress is fine.

July 22, 2021 (Class 14)

Jury Trial. Dress for courtroom.

July 26, 2021 (Class 15)

Jury Trial. Dress for courtroom.