TRIAL ADVOCACY

LAW 6360 / SECTION 03FF

SYLLABUS – SPRING 2017
Professor Rod Smith

Contact: c/o Linda Curry, lcurry@law.ufl.edu 273-0859

TEXTS:
1. Trial Techniques and Trials, Thomas A. Mauet (Aspen)
2. NITA Casefiles:
   (a) Potter v. Shrackle, (NITA Latest), Kenneth S. Broun and James H. Seckinger
   (b) State v. Diamond, (NITA Latest), James H. Seckinger

The University of Florida Levin College of Law Legal Information Center has a number of DVDs relating to trial practice. We recommend that you use this library frequently. It has a collection of trial instruction DVDs from the National Institute of Trial Advocacy (NITA) and the American Bar Association. A recommended categorized listing is attached.

CLASS TIMES:
Monday and Thursday - 5:00 to 6:50 PM in Advocacy Center Room 209

❖ ATTENDANCE IS MANDATORY ❖
IT IS THE RESPONSIBILITY OF STUDENTS TO KEEP MONDAYS AND THURSDAYS FROM 5:00PM TO 6:50PM AVAILABLE DURING THE SEMESTER TO ACCOMMODATE POTENTIAL RESCHEDULING OF CLASS TO AN OPEN DATE IN THE SYLLABUS

All classes will meet in the Levin Advocacy Center Room 209 unless indicated otherwise on this Syllabus. Should any changes occur, they will be posted on TWEN and sent via TWEN email. All Trial Advocacy students should register on the TWEN site. Workshops are scheduled on the calendar.

Courtroom attire for all workshops.

ABSENCES:

Excused absences: Documented illness, serious sickness in the family, death in the family.

Unexcused absences: Ski trips, job interviews, trial competitions, weddings, vacations, etc.

Note: If you must miss a class, please contact Linda Curry, Trial Skills Programs, Faculty and Academic Support, Holland Hall, Room 323A, at 273-0859 or via email lcurry@law.ufl.edu before 12:00 PM on the scheduled class day.
# CLASS SCHEDULE – SPRING 2017

<table>
<thead>
<tr>
<th>DATE</th>
<th>CLASS</th>
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<tbody>
<tr>
<td>Monday, January 9</td>
<td>Class roll finalized</td>
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<tr>
<td>Adv. Center 209</td>
<td>Course organization and assignments</td>
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<tr>
<td>Thursday, January 12</td>
<td>Lecture: The Trial Process</td>
</tr>
<tr>
<td>Adv. Center 209</td>
<td>Assignment: Study and be ready to discuss Mauet, Chapters 1 and 2</td>
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<tr>
<td>Monday, January 16</td>
<td>MARTIN LUTHER KING HOLIDAY</td>
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<tr>
<td>Thursday, January 19</td>
<td>Guest Lecture on Jury Selection</td>
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<tr>
<td>Adv. Center 209</td>
<td>Lecture and demonstration: Jury Selection</td>
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<tr>
<td>Assignment: Study and be</td>
<td>ready to discuss Mauet, Chapter 3</td>
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<tr>
<td>Monday, January 23</td>
<td>Workshop #1: Jury Selection</td>
</tr>
<tr>
<td>Adv. Center 209</td>
<td>Assignment: Submit written questions for Jury Selection</td>
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<tr>
<td>Group A:</td>
<td>Be prepared to choose a jury for the defendant in the case of</td>
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<td><em>State v. Diamond</em> and for the plaintiff in the case of</td>
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<td><em>Potter v. Shrackle</em></td>
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<td>Group B:</td>
<td>Be prepared to choose a jury for the state in the case of</td>
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<tr>
<td></td>
<td><em>State v. Diamond</em> and for the defendant in the case of</td>
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<td><em>Potter v. Shrackle</em></td>
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<td>Monday, February 6</td>
<td>Lecture and Demonstration: Opening Statements</td>
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<tr>
<td>Adv. Center 209</td>
<td>Assignment: Study and be ready to discuss Mauet, Chapter 4</td>
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<tr>
<td>Thursday, February 9</td>
<td>Workshop #2: Opening Statements</td>
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<tr>
<td>Adv. Center 209</td>
<td>Assignment: Submit a written Opening Statement</td>
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<td>Group A:</td>
<td>Be prepared to deliver the opening statement for the defendant in</td>
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<td>the case of <em>State v. Diamond</em> and for the plaintiff in the case of</td>
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<td><em>Potter v. Shrackle</em></td>
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<td>Group B:</td>
<td>Be prepared to deliver the opening statement for the state in the</td>
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<td>case of <em>State v. Diamond</em> and for the defendant in the case of</td>
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<td><em>Potter v. Shrackle</em></td>
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<td>Date</td>
<td>Event Description</td>
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<tr>
<td>Monday, February 13</td>
<td>Lecture: Demonstration on Direct Examination of the Lay Witness</td>
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| Thursday, February 16| Lecture and Mini Workshop: Demonstration on Direct Examination of the Lay Witness (continued) | **Group A:** Be prepared to do the direct examination of Sgt. Emery Cook.  
**Group B:** Be prepared to do the direct examination of Mr. Lawson.  
*United States v. Lawson.* (TWEN) |
| Thursday, February 23| Workshop #3: Direct Examination of the Lay Witness                                 | Assignments:  
1. Submit a written direct examination assignment  
2. Be prepared to perform the following:  
   **Group A:** 1. Perform the Direct Examination of Marilyn Kelly from the case of *Potter v. Shrackle.*  
                  2. Oppose the Direct Examination of Estelle Mason from the case of *State v. Diamond.*  
   **Group B:** 1. Perform the Direct Examination of Estelle Mason from the case of *State v. Diamond.*  
                  2. Oppose the Direct Examination of Marilyn Kelly from the case of *Potter v. Shrackle.*  
Notes on Assignments:  
❖ Students should be prepared to perform the direct examinations and also to function as opposing counsel for the other direct examination. **This function includes interposing all appropriate objections to the direct examination.** You are not expected to perform a cross examination at this point.  
❖ **NO DEMONSTRATIVE AIDS** are to be used during this initial direct examination |
| Monday, February 27 | Lecture: Demonstration and Mini Workshop – Basic Cross Examination of the Lay Witness. See *State v. Lawson* (TWEN) | **Group A:** Be prepared to perform a cross examination of Sgt. Emery Cook.  
**Group B:** Be prepared to perform a cross examination of Mr. Lawson. |

*Trial Advocacy  
Spring 2017  
Smith*
Thursday, March 2
Adv. Center 209

**Workshop #4: Cross Examination**

*Assignments:*
1. Submit written cross examinations
2. Be prepared to perform the following:

   **Group A:**
   3. Perform the Cross Examination of Estelle Mason from the case of *State v. Diamond.*
   4. Oppose the Cross Examination of Marilyn Kelly from the case of *Potter v. Shrackle.*

   **Group B:**
   3. Perform the Cross Examination of Marilyn Kelly from the case of *Potter v. Shrackle.*
   4. Oppose the Cross Examination of Estelle Mason from the case of *State v. Diamond.*

*Notes on Assignments:* No demonstrative aids are to be used in the exercise this week.

March 6 – March 10

**SPRING BREAK**

Monday, March 13
Adv. Center 209

Lecture and Demonstration: Evidence

*Assignments:*

Study and be ready to discuss Mauet, Chapter 6

Thursday, March 16

Guest Lecture: Evidence

Thursday, March 23
Adv. Center 209

**Workshop #5: Introduction and Use of Real and Demonstrative Evidence**

*Assignments:*
1. Review the case of *State of Florida v. Frankie Tone*
2. All students submit written preparation for introducing into evidence the following items:
   Consider the case against Frankie Tone at trial. Officer Gray is on the stand and you represent the State:
   - Graffiti Photos
   - Wal-Mart diagram
   - Paint Cans
   - Cell phone Records
   Consider the civil case of Ms. Rose Hughes at trial and you are representing the plaintiff, Ms. Hughes. Introduce the medical records (produced by custodian of the records from the hospital):
   - Medical Records – Rose Hughes (see TWEN as part of Tone case file)
3. All students should be prepared to introduce all items of evidence.
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<tr>
<th>Date</th>
<th>Time/Location</th>
<th>Event</th>
<th>Assignment</th>
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<tbody>
<tr>
<td>Monday, March 27</td>
<td>Adv. Center 209</td>
<td>Lecture: Demonstration and Discussion – The Expert Witness</td>
<td><em>Assignment: Study and be ready to discuss Mauet, Chapter 8</em></td>
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<tr>
<td>Thursday, March 30</td>
<td>Adv. Center 209</td>
<td>Guest Lecture: Examining the Expert Witness</td>
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| Thursday, April 6 | Adv. Center 209      | Workshop #6: The Expert Witness | *Assignments:*  
1. Submit written preparation for direct or cross examination  
2. Be prepared to perform the following:  
   - **Group A:** Problem A Perform direct examination of Dr. Pierce in *State v. Diamond.*  
   - *Problem B* Perform cross examination of Dr. Macdonald in *State v. O’Reilly.*  
   - **Group B:** Problem A Perform cross examination of Dr. Pierce in *State v. Diamond.*  
   - *Problem B* Perform direct examination of Dr. Macdonald in *State v. O’Reilly.*  
   - **Note:** *Problem B, State v. O’Reilly,* assigned for this workshop, is not in your textbook. Materials will be posted on TWEN by Linda Curry. |
| Monday, April 10 | Adv. Center 209        | Lecture and Demonstration: Closing Argument | *Assignment: Study and be ready to discuss Mauet, Chapter 9* |
| Thursday, April 13 | Adv. Center 209      | Workshop #7: Closing Argument   | *Assignments:*  
1. Submit written closing argument  
2. Be prepared to deliver the closing argument (see below)  
   - **Group A:** Be prepared to deliver the closing argument for the defendant in the case of *State v. Diamond* and for the plaintiff in the case of *Potter v. Shrackle.*  
   - **Group B:** Be prepared to deliver the closing argument for the state in the case of *State v. Diamond* and for the defendant in the case of *Potter v. Shrackle.* |
| Monday, April 17 | Adv. Center 209        | Discussion: Professionalism – “The Lawyer as Liar”  
*Assignment:* Read articles and prepare to discuss problems from the information posted by Linda Curry on TWEN. |
TRIAL ADVOCACY

Format for Workshop Preparation Assignments

Your assignments should be typewritten with your name, date and workshop title located at the top. Include your fully-developed objectives and reasoning, as appropriate for the specific assignment.

**Two copies required: Please submit one copy of your workshop assignment PRIOR to each workshop to my assistant, Linda Curry. She will log-in receipt of your papers. Your original will be useful to you as you prepare for the workshop.

Format for Workshop Video Review

You will review your workshop performance online after each workshop and complete the video review form (see p. 7 in Syllabus).

To access them, simply login via the link below (gatorlink credentials required):

https://mediasite.video.ufl.edu/Mediasite/Catalog/Full/08fd2c7ff718488c84db3cd25dc5ccfc21

Students will be able to access the videos for the entire semester.

You will complete the video review form (see p. 7 of syllabus) and submit to Linda Curry. Review forms are due no later than the evening of the next workshop (but you may submit at any time prior). The review sheet for the final workshop (Closing Arguments) is due by Friday of the next week after the workshop.

“Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodations. Students with disabilities should follow this procedure as early as possible in the semester.”
TRIAL ADVOCACY
VIDEO REVIEW FORM

Name: ___________________________________________________________

Date of Performance: __________________________ Date of Review: __________

Workshop Title: _______________________________________________________________________________________

VOICE:

POSTURE:

DEMEANOR:

GESTURES:

MOVEMENT:

PACE:

JURY’S FOCUS:

USE OF NOTES:

CLOTHING:

COURTROOM ETIQUETTE:

OVERALL IMPRESSION TO JURORS:
Library Listing of Tapes/DVDs on Reserve for Trial Advocacy (some may indicate Trial Practice)

DIRECT AND CROSS EXAMINATION (NITA TAPES)
*These are on 1 disc:
413-4  Direct Examination
413-5  Cross Examination

DIRECT AND CROSS SERIES
438-2  Direct and Cross in a Criminal Case
438-3  Direct and Cross of a Party in a Civil Case
438-7  Direct and Cross of a Defendant in a Criminal Case
438-8  Comparative Cross Exam of a Witness, Criminal

DIRECT AND CROSS EXAMINATION (non-NITA TAPES)
613  Science of Cross Examination
*These are on 1 disc:
636-1  A.B.A. The Art of Cross Examination Pt. 1
636-2  A.B.A. The Art of Cross Examination Pt. 2

EXPERT WITNESS (NITA TAPES)
435-9  Discovery of and About Expert Witnesses

EXPERT WITNESS SERIES
436-3  Direct and Cross of an Expert Pathologist
436-4  Direct and Cross of a Medical Records Custodian
436-5  Direct and Cross of a Psychiatrist
436-6  Direct and Cross of an Expert Witness

EVIDENCE (NITA TAPES)
413-3  Laying Foundations for Exhibits and Witnesses
413-8  Demonstrative Evidence
*These are on 1 disc:
435-13 Developing and Using Tangible Evidence Pt. 1
435-14 Developing and Using Tangible Evidence Pt. 2

EVIDENCE (non-NITA TAPES)
635  A.B.A. Basic concepts in Evidence: The Ten Commandments of Cross Examination

EXHIBITS-SERIES
440-1  Liturgy of Foundation
440-3  Introduction and Use of Exhibits
440-4  Evidentiary Objections
440-5  Problem Witness Tactics

EVIDENCE (non-NITA TAPES)
391  Evidence Update: Faust Rossi
392  Experts: Law of Evidence: Edward Stein Pt. 1
393  Experts: Law of Evidence: Edward Stein Pt. 2
394  Demonstrative Evidence: Thomas Singer
JURY SELECTION (NITA TAPES)
413-1  Jury Selection
538-7  The Art of Advocacy: Persuading the jury in a criminal case

JURY SELECTION (non-NITA TAPES)
651   Tipping the Scales: Jury Research and Selection

PICKING AND PERSUADING A JURY-SERIES
*359-1 to 4 of Selecting a Jury on 1 disc
359-1  Selecting a Jury Pt. 1
359-2  Selecting a Jury Pt. 2
359-3  Selecting a Jury Pt. 3
359-4  Selecting a Jury Pt. 4
359-5  The Jurors Perspective
359-8  Persuading the Jury
387   Jury Selection: General and Specific
388   Jury Selection: Charles Becton
389   Jury Selection: Communicating Information
538-5  Selecting the Jury in a Criminal Case
541   The Jury Trial

OPENING STATEMENTS
Opening Statements: A Modern Approach-*This item is shelved by title in the library DVD collection NITA (Under Zedalis).
694-1to  Jerry Spence in Trial:
694-7  How To Win In the Opening Statement
*694-1, 2, 3 and 4 of Jerry Spence are all on separate discs.

CLOSING ARGUMENTS (NITA TAPES)
*These are on 1 disc:
413-9  Closing Statements Pt. 1
413-10 Closing Statements Pt. 2

CLOSING ARGUMENTS (non-NITA TAPES)
396   Closing Arguments-Civil Case-Personal Injury
454-8  Making the Closing Argument
512-8  Closing Arguments