TRIAL PRACTICE
Spring Semester, 2017

Room: MLAC Courtroom  Professor Jennifer Zedalis
Class Times: Tu/W/Th 1:00 - 1:50pm  Office: 327 Holland Hall
Workshops: Tuesday Evenings 5:30-8:30pm  E-mail: zedalis@law.ufl.edu
(workshops begin 1/17)
Office Hours: Wednesdays and Thursdays 1-3pm
Open door policy/appointments are also welcome

Grading: 4 credits, S+/S/U

Final Trials March 24, 25 and April 7,8
(FINAL TRIALS ARE MANDATORY)

Textbook and Course Materials:
(1) Thomas A. Mauet, Trial Techniques and Trials, latest edition preferred (Aspen)
(2) Workshop/Trial Coursebook: available for this course on TWEN and also in hard copy at Book-It
(3) Florida Evidence Code Summary Trial Guide (available at the Levin College of Law Bookstore)

Other Good Resources (not required, suggested):
Carlson, A Student's Guide to Elements of Proof (Thomson West)
Ehrhardt, Florida Evidence
Ehrhardt, Florida Trial Objections.
Imwinkelried, Evidentiary Foundations
Dubin and Guernsey, Trial Practice (Anderson)
Lubet, Modern Trial Advocacy (NITA)
McElhaney, Trial Notebook (ABA)

Course Schedule

Tuesday, January 10  Introduction to Trial Practice
Reading: Chapters 1 and 2 in Mauet, Trials

The jury trial is the ultimate forum for justice. We will consider the goal of persuasion as well as the mechanics of advocacy at each stage. This course focuses on skills necessary for excellent courtroom practice.
Wednesday, January 11  Relevance, Proof, and Storytelling

Lawyers should prepare for trial by exhausting every avenue of discovery. In this process issues are framed, and plans are developed to prove claims or defenses and challenge the other party’s case. Ask yourselves this: What do we need to prove or challenge? How do we prove or challenge it? How do we make it interesting? How do we appeal to the jury’s sense of justice? What is the story in this case?

Thursday, January 12  Direct Examination

Reading: Chapter 5 in Mauet, *Trials*

Lawyers question their own witnesses and introduce other forms of evidence during direct examination. The sum of a party’s direct exam evidence is the “case in chief”. A skilled advocate presents witnesses in a straightforward and engaging style. A direct exam is like a slightly formal interview.

Tuesday, January 17  Direct Examination (continued)

How do we present our proof and our client’s story in a clear and interesting manner?

**Tuesday Evening Workshop:** Be prepared to conduct direct examinations in Problems #1 and #2 in Trial Practice Cases and Materials, *State of Florida v. Sheila Menlo* and *State of Florida v. Cynthia Baker*. All students should prepare their questions in writing as part of the training process. Courtroom attire is worn in the workshops.

Wednesday, January 18  Cross Examination

Reading: Chapter 6 in Mauet, *Trials*

We will begin work on cross examination by considering our goals-- discrediting, impeaching, and exposing weaknesses in the opposing side’s case.

Thursday, January 19  Cross Examination (continued)

Techniques for controlling the witness and maintaining the focus of the cross examination will be considered. We will address scope of cross. Foundations and methods of impeachment will be discussed.

Tuesday, January 24  Making and Meeting Objections (Direct and Cross Exam)

We will discuss objections, beginning with relevance. We will also consider other common issues like hearsay and improper impeachment.
**Tuesday Evening Workshop:** Be prepared to conduct direct and cross examinations in:
Problems #3 and #4 in Trial Practice Cases and Materials, *Winthrop v. Preston’s Tree Service* and *State of Florida v. Strong*.

**Wednesday, January 25**  
**Exhibits and Visual Aids**

**Reading: Chapter 7 in Mauet, Trials**

Evidence comes in many forms, such as documents, pictures, audio and video recordings, substances, x-rays, charts, diagrams, firearms, and any other item that is relevant in a case. There are other visual elements in a trial that are very important although they are not technically admitted as evidence. Everything the jury can see has significance.

**Thursday, January 26**  
**Exhibits (continued)**

Foundations for moving items into evidence should become second-nature to a trial lawyer. It is helpful to view foundation as a sort of courtroom mini-quiz to test relevance and reliability. We will begin with the basic foundations for tangible items, pictures, diagrams, and writings.

**Tuesday, January 31**  
**Expert Witnesses**

**Reading: Chapter 8 in Mauet, Trials**

Lawyers rely heavily on experts in various fields. A properly qualified expert is often needed to give opinions on causation, medical procedures, forensic testing and comparison, and any other area that calls for specialized knowledge. Lawyers need to be skilled in handling expert witnesses.

**Tuesday Evening Workshop:** Be prepared to lay foundations for real and demonstrative evidence in Problems #5 and #6, Trial Practice Cases and Materials. *State v. Menlo* (exhibits only) and *Gentry v. Antiques-4-Less*. Students should be prepared to introduce the exhibits with the appropriate foundation witness and the appropriate questions. Additionally, students should use the exhibits after they have been admitted as evidence.

**Wednesday, February 1**  
**Expert Testimony (continued)**

Consider preparing and calling expert witnesses, laying proper foundations for expert opinion testimony, and potential objections.
Thursday, February 2  Motion practice and Objections

Reading: Chapter 10 in Mauet, Trials

A lawyer must ask the court to exclude irrelevant or otherwise inadmissible evidence in order to protect the client’s right to a fair trial. We will discuss various types of motions and procedures for making objections pretrial and during trial.

Tuesday, February 7  Motions and Objections continued.

**Tuesday evening workshop:** Examination of Expert Witnesses and Key Witnesses:
Problems #7 and #8 in Trial Practice Cases and Materials
*State v. Harris* (full direct/cross) and *Justine Minor v. Paradise Police Department*
Be prepared to conduct full direct and cross examinations.

Wednesday, February 8  Voir Dire

Reading: Chapter 3 in Mauet, Trials

We will consider the goals and the process of jury selection, and ways in which lawyers can best serve the interests of clients at this stage of a trial. Basic procedures and juror questionnaires will be discussed.

*** Trial assignments will be posted in order to give all students a chance to think about voir dire in their assigned cases. The trial practice cases are all “filed” in state court, so state court rules govern the proceedings.

Thursday, February 9  Voir Dire (continued)

*Discussion and Demonstration:* (1) Who are the potential jurors and (2) How will they react to the case? (3) How do we intelligently exercise our challenges? Jury selection involves careful listening and observation, pre-supposing that a lawyer is skilled in getting jurors to express themselves. We must know the potential jurors well enough to make an educated guess about their reactions to the people and the facts of the case. Thorough and accurate case analysis is critical to a lawyer’s decision making during jury selection.

Tuesday, February 14  Opening Statements

Reading: Chapter 4 in Mauet, Trials

What do the jurors need to hear from us before we present our case? Jurors want to know what happened and who is responsible for it. They want to know what the big issues are. They want to be interested and engaged at the outset. We will discuss ways of opening the case in the best manner possible.
The theme of a case is the universal human factor that lies naturally in the story. Lawyers need to recognize themes and offer themes to the jurors as a proper way of allowing shared human experience to inform deliberations. Themes can be very powerful.

**Tuesday Evening Workshop:** Voir Dire: Be prepared to ask at least three significant questions and then follow-up based on your case and your client. What do you need to know about the potential jurors in order to decide whether they will be receptive to your case and fair to your client? How should you exercise your challenges?

**Wednesday, February 15**  Closing Arguments

Reading: Chapter 9 in Mauet, Trials

What do the jurors need to hear from us before they go to the jury room to decide the case? Closing is the time to argue the merits of the case, and challenge the credibility or weight of the other side’s evidence. What are the best arguments we can make, and how can we support them with the facts? How can we discredit or neutralize the other side’s case?

**Thursday, February 16**  Opening Statements and Closing Arguments (continued)

We will discuss persuasion. We will also discuss objections that arise during opening and closing and issues of constitutional fairness.

**Tuesday, February 21**  Professionalism and Civility

**Tuesday Evening Workshop:** Be prepared to conduct an opening statement and a closing argument in your assigned trial case.

**Wednesday, February 22**  Intensive Review for case analysis and story

**Thursday, February 23**  Intensive review for evidence and objections

**Tuesday, February 28**  Views from the Bench

**Wednesday, March 1**  Prosecutors and Defense Attorneys: A Day in the Life

**Thursday, March 2**  Civil Litigators: A Day in the Life

**March 6 – March 10**  HAPPY SPRING BREAK
****PRACTICE TRIALS March 14, 16, 21****

All practice trials begin at 5:30pm in your workshop rooms

(5:30pm)

**Tuesday, March 14** (regular workshop date) *Darcy v. Beauchamp & Mobile Medic*

**Thursday, March 16** ***(please note this is Thursday) State v. Wynn***

**Tuesday, March 21** (regular workshop date) *Temple v. Prime Global Ins.*

***There is no 1pm lecture class on March 14, 16 or 21 because of practice trials***

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**Wednesday, March 22**

Plaintiff/Prosecution Trial Review Class (1pm)

**Thursday, March 23**

Defense Trial Review Class (1pm)

All students should be preparing for final trials at this time

During trial preparation, remember this:

Trials are searches for truth, justice, conflict resolution, closure, or all the above.

The rules of evidence should operate to ensure that jurors will only consider relevant and reliable information in this search. It is essential that trial lawyers understand how to analyze every bit of information in the case in terms of relevance, probative value, and reliability based on the evidence code. Lawyers also need to be appealing, professional, and persuasive.

Quick summary of workshop dates: 1/17, 1/24, 1/31, 2/7, 2/14, 2/21

Quick summary of practice trial dates: 3/14, 3/16 (Thursday), 3/21

Quick summary of final trial dates: 3/24, 3/25, 4/7, 4/8
# Final Trial Schedule

All final trials will be held at the Criminal Justice Center on South Main Street unless otherwise posted/announced in class.

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<tr>
<th>Date</th>
<th>Time</th>
<th>Activity</th>
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<tr>
<td>Friday, March 24</td>
<td>5:00pm</td>
<td>Trial and Critique, Round I.</td>
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<tr>
<td>Saturday, March 25</td>
<td>8:30am</td>
<td>Trial and Critique, Round II.</td>
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<tr>
<td>Saturday, March 25</td>
<td>1:30pm</td>
<td>Trial and Critique, Round III.</td>
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Regular 1pm class sessions:

- **Tuesday, March 28**: Review of Trial Rounds I, II, III
- **Wednesday, March 29**: Intensive Objections Clinic
- **Thursday, March 30**: Intensive Cross Examination Clinic
- **Tuesday, April 4**: prosecution/plaintiff review for the upcoming rounds
- **Wednesday, April 5**: defense review for the upcoming rounds

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<td>Friday, April 7</td>
<td>5:00pm</td>
<td>Trial and Critique, Round IV.</td>
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<tr>
<td>Saturday, April 8</td>
<td>8:30am</td>
<td>Trial and Critique, Round V.</td>
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<tr>
<td>Saturday, April 8</td>
<td>1:30pm</td>
<td>Trial and Critique, Round VI.</td>
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**Tuesday, April 11 (1pm class)**  
**FINAL CLASS**

Discussion: We will look at verdicts and discuss our final round of trials.
IMPORTANT INFORMATION FOR ALL TRIAL PRACTICE STUDENTS

** Courtroom attire is required for Tuesday evening workshops and for all lawyer assignments during practice trials and final trials. During witness or critiquing roles at trial, students may wear business casual clothing. Each student will be assigned a witness role for the final trials. All witnesses are expected to be well prepared. All students participate in each trial round, either as a lawyer, a witness, or a critiquer.

Workshops on direct exam, cross exam, expert witnesses, and opening/closing will be videotaped, and students are required to review their own performances. Additionally, each student is required to review their recorded performances with an assigned advanced student. Details will be explained in class.

**Attendance:**

Attendance is important in this course because we are developing advocacy skills. All absences must be excused in advance. All students are expected to prepare for the workshops and to complete their assigned advocacy exercises. The final trials are considered our equivalent of final exams, and participation is mandatory. Participation includes assigned witness and critiquing roles as well as assigned trial roles. Laptop use will not be permitted during the lectures or trials due to the nature of the course (trial work).

Professor Zedalis may be reached at 273-0814 or by e-mail at zedalis@law.ufl.edu.

“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.”