TRIAL ADVOCACY

LAW 6360 / SECTION 4820

SYLLABUS – FALL 2016

Professor Nick Zissimopulos

Contact: c/o Linda Curry, lcurry@law.ufl.edu  (352) 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

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 - 4:00 to 5:50 PM in Advocacy Center Room 209

❖ ATTENDANCE IS MANDATORY ❖
IT IS THE RESPONSIBILITY OF STUDENTS TO KEEP MONDAYS AND THURSDAYS FROM 4:00PM TO 5:50PM 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 or serious sickness in the family.

Unexcused absences: Ski trips, weddings, vacations, etc.

Note: If you must miss a class, please contact Linda Curry, Trial Skills Programs, Holland Hall, Room 323, at (352) 273-0859 or via email lcurry@law.ufl.edu before 12:00 PM on the scheduled class day.
<table>
<thead>
<tr>
<th>DATE</th>
<th>CLASS</th>
</tr>
</thead>
</table>
| Monday, August 15  
Adv. Center 209 | Class roll finalized  
Course organization and assignments |
| Thursday, August 18  
Adv. Center 209 | Lecture: The Trial Process  
*Assignment:* Study (not just read) Mauet, Chapters 1 and 2 |
| Monday, August 22  
Adv. Center 209 | Guest Lecture on Jury Selection |
| Thursday, August 25  
Adv. Center 209 | Lecture and demonstration: Jury Selection  
*Assignment:* Study Mauet, Chapter 3 and be prepared to do three minutes of a Jury Selection in DUI case. Group A (State), Group B (Defense) – See TWEN for DUI packet *State v. Steve Rogers.* |
| Monday, August 29  
Adv. Center 209 | **Workshop #1: Jury Selection**  
*Assignment:* Submit written questions for Jury Selection  
**Group A:** Be prepared to choose a jury for the plaintiff in the case of *Potter v. Shrackle.*  
**Group B:** Be prepared to choose a jury for the defendant in the case of *Potter v. Shrackle* |
| Thursday, September 1  
Adv. Center 209 | Lecture and Demonstration: Opening Statements  
*Assignment:* Study Mauet, Chapter 4 and be prepared to do three minutes of Opening from DUI case. Group A (State), Group B (Defense) – See TWEN *State v. Steve Rogers.* |
| Monday, September 5 | LABOR DAY HOLIDAY |
| Thursday, September 15  
Adv. Center 209 | **Workshop #2: Opening Statements**  
*Assignment:* Submit a written Opening Statement  
**Group A:** Be prepared to deliver the opening statement for the plaintiff in the case of *Potter v. Shrackle.*  
**Group B:** Be prepared to deliver the opening statement for the defendant in the case of *Potter v. Shrackle.* |
<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Lecture/Workshop Description</th>
</tr>
</thead>
</table>
| Monday, September 19 | Adv. Center 209     | Lecture: Demonstration on Direct Examination of the Lay Witness  
*Assignment:* Study Mauet, Chapter 5. |
| Thursday, September 22 | Adv. Center 209    | Lecture and Mini Workshop: Demonstration on Direct Examination of the Lay Witness (continued)  
**Group A:** Be prepared to do the direct examination of Trooper Walker.  
**Group B:** Be prepared to do the direct examination of Mr. Rogers. DUI case. (TWEN) |
| Thursday, September 29 | Adv. Center 209    | **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*.  
   - **Group B:** 1. 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. |
| Monday, October 10  | Adv. Center 209     | Lecture: Demonstration and Mini Workshop – Basic Cross Examination of the Lay Witness. See DUI case (TWEN)  
*Assignments:*  
1. Study Mauet, Chapter 7  
   - **Group A:** Be prepared to perform a cross examination of Officer Walker.  
   - **Group B:** Be prepared to perform a cross examination of Mr. Rogers. |
<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location</th>
<th>Event</th>
<th>Assignments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday, October 17</td>
<td></td>
<td>Adv. Center 209</td>
<td>Workshop #4: Cross Examination</td>
<td>Assignments: 1. Submit written cross examinations</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2. Be prepared to perform the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Group A:</strong> 3. Perform the Cross Examination of Juanita Williams from the case of <em>Potter v. Shrackle</em>.*</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Group B:</strong> 3. Perform the Cross Examination of Marilyn Kelly from the case of <em>Potter v. Shrackle</em>.</td>
</tr>
<tr>
<td>Thursday, October 20</td>
<td></td>
<td>Adv. Center 209</td>
<td>Lecture and Demonstration: Evidence</td>
<td>Assignments: Study Mauet, Chapter 6</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Be prepared to make non-speaking objections for hearsay, relevance and facts not in evidence. All students will be required to make these objections in class.</td>
</tr>
<tr>
<td>Monday, October 24</td>
<td></td>
<td>Adv. Center 209</td>
<td>Guest Lecture: Evidence</td>
<td></td>
</tr>
<tr>
<td>Thursday, October 27</td>
<td></td>
<td>Adv. Center 209</td>
<td>Workshop #5: Introduction and Use of Real and Demonstrative Evidence</td>
<td>Assignments: 1. Review the case of <em>State of Florida v. Frankie Tone</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2. All students submit written preparation for introducing into evidence the following items:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Consider the case against Frankie Tone at trial. Officer Gray is on the stand and you represent the State:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Graffiti Photos</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Wal-Mart diagram</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Paint Cans</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Cell phone Records</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>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).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Medical Records – Rose Hughes (see TWEN as part of Tone case file)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4. All students should be prepared to introduce all items of evidence.</td>
</tr>
<tr>
<td>Thursday, November 3</td>
<td></td>
<td>Adv. Center 209</td>
<td>Lecture: Demonstration and Discussion – The Expert Witness</td>
<td>Assignment: Study Mauet, Chapter 8</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday, November 7</td>
<td>Adv. Center 209</td>
<td>Guest Lecture: Examining the Expert Witness</td>
</tr>
<tr>
<td>Thursday, November</td>
<td>Workshop #6: The</td>
<td><strong>Expert Witness</strong>&lt;br&gt;Assignments:&lt;br&gt;1. Submit written preparation for direct or cross examination&lt;br&gt;2. Be prepared to perform the following:&lt;br&gt;&lt;br&gt;<strong>Group A:</strong> Perform cross examination of Dr. Spinez in <em>Sally v. Bach</em>.&lt;br&gt;&lt;br&gt;<strong>Group B:</strong> Perform direct examination of Dr. Spinez in <em>Sally v. Bach</em>.&lt;br&gt;&lt;br&gt;<em>Note: Sally v. Bach, assigned for this workshop, is not in your textbook. Materials will be posted on TWEN by Linda Curry.</em></td>
</tr>
<tr>
<td>Monday, November 14</td>
<td>Adv. Center 209</td>
<td>Workshop #7: Closing Argument&lt;br&gt;&lt;br&gt;Assignments:&lt;br&gt;1. Submit written closing argument&lt;br&gt;2. Be prepared to deliver the closing argument (see below)&lt;br&gt;&lt;br&gt;<strong>Group A:</strong> Be prepared to deliver the closing argument for the plaintiff in the case of <em>Potter v. Shrackle</em>.&lt;br&gt;&lt;br&gt;<strong>Group B:</strong> Be prepared to deliver the closing argument for the defendant in the case of <em>Potter v. Shrackle</em>.</td>
</tr>
<tr>
<td>Monday, November 21</td>
<td>Adv. Center 209</td>
<td>Discussion: Professionalism&lt;br&gt;&lt;br&gt;Assignment: Read the revised Oath of Attorney (2011) and be prepared to discuss it as well as your experience in the class.</td>
</tr>
</tbody>
</table>
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/08fd2c7ff718488c84db3cd25dc5cc621

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