

TRIAL PRACTICE "SECTION B"

FALL SEMESTER, 2018

LAW 6353/SECTION 5794

4 credits

Professor Carl B. Schwait schwait@law.ufl.edu

Professor Craig DeThomasis craig@reasonable doubt.org

Classroom: 360

Class times: Monday evenings 5:20-7:20pm

Thursday evenings 5:20-6:20pm

Workshops: Wednesday evenings 5:20-8-30pm

Final Trials: Friday/Saturday, October 19/20 and Friday/Sunday, November 16/18

COURSE MATERIALS AND TEXT:

1. Trial Practice Problems is available on TWEN for this course or if you choose to purchase a hard copy of Trial Practice Problems it is available at Book-iT.
2. Florida Evidence Code Summary Trial Guide is available at the Levin College of Law Bookstore.
3. Thomas A. Mauet, Trial Techniques and Trials, 10th Edition (Aspen)

COURSE GOALS AND OBJECTIVES: This 4-credit course is designed to introduce the student to the legal requirements, procedures, substantive law, and advocacy skills necessary to represent a client at the trial court level before a jury. All aspects of a trial and the preparation necessary to present a client's case at jury trial will be explored and performed. The lectures will provide students with the requisite substance and procedure of each phase of a jury trial while each corresponding workshop will provide each student with the opportunity to perform each phase of a trial utilizing materials and documents similar to those which a trial attorney would use to present a case in court (photos, diagrams, deposition transcripts, police reports, etc.). The course will conclude with each student participating as counsel for Plaintiff/Prosecution and for Defendant/Defense before two separate juries.

STUDENT LEARNING OUTCOMES/OBJECTIVES: Throughout this course students will participate in and attend lectures, performances, demonstrations, critiques, and discussions. Students will build skills necessary to prosecute and defend either a civil or criminal case. At the conclusion of the semester, students will participate as advocates in a jury trial in a controlled courtroom setting, utilizing materials in both the civil and criminal law contexts. By the end of the course, students should be able to effectively present a case at jury trial.

INSTRUCTIONAL METHOD: This is an interactive course. The discussions are structured to allow class contributions by students. ABA Standard 310 calls for 120 minutes of preparation for each hour of classroom instruction. This course is a 4-credit course. Trial Practice has both classroom and simulation components. It is expected that over the course of the semester students will spend at least 112 hours engaged in the following activities: study, planning, research, and preparation of workshop and trial materials, video review, observation and critical reflection in courtroom proceedings, and preparation for assigned witness roles.

ATTENDANCE POLICY: Attendance is required for ALL sessions (lectures, workshops, practice rounds, and trials). Attendance will be taken. Any absence must be pre-approved by the professor and/or workshop leader. In most instances, a make-up assignment or alternative to attending the class will be required. EXCUSED ABSENCES must be based on a written request submitted and approved by the professor before the class to be missed. All students must submit a written request for absence no later than the day before the class to be missed. If a class is missed due to the inability to foresee the need to make such a request (i.e. medical emergency and or other unforeseen circumstance), documentation in support of the basis for the absence may be requested.

DRESS POLICY: For ALL workshops and ALL trial sessions, appropriate court room attire is required. Dress at any other class/lecture sessions may be casual.

GRADING: This class is graded on a PASS/FAIL grading system. However, in certain instances, a grade of S+ will be awarded to those students whose performance at the final trials, as well as their work ethic throughout each workshop session, is deemed exemplary based on the results of trial, verdict entered, scoring, professionalism, and mastery of the subject matter. In the event a student does not fulfill the attendance requirements, a grade indicating "Incomplete" will be entered.

COURSE TECHNOLOGY: Due to the interactive nature of this course, there will be **NO** use of student computers, tablets, iPads and cell phones during class times. The professor will advise when a student may use such devices and for what purpose. Cell phones are to be turned off when class begins.

CLASS DEMEANOR:

Lecture Sessions: Students are expected to arrive on-time (as an attorney scheduled to appear in court) and prepared to address the topic(s) scheduled for that date. Students are encouraged to ask questions and engage with the professors on topics being discussed. As a result of the desire and need to foster an atmosphere of interaction between students and professor, laptops and other cellular devices will not be allowed for use during lectures.

Workshop Sessions: Each workshop leader will inform their students of any desired protocol for preparation and presentation of material. However, all workshops are designed to allow student performance, critique, and discussion.

There will be a video recording of the presentation for most workshops. All students will serve in the capacity of attorney, witness, and/or critiquer depending on the problem assigned.

STUDENTS WITH DISABILITIES: 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 the accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

ON-LINE COURSE EVALUATION PROCESS: Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available at <https://evaluations.ufl.edu/results/>.

UNIVERSITY OF FLORIDA HONESTY POLICY: All UF students are bound by the Honor Pledge which states: "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: On my honor, I have neither given nor received unauthorized aid in doing this assignment. The Honor Code (<http://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obliged to report any condition that facilitates academic misconduct to appropriate personnel". If you have any questions or concerns, please consult with the instructor and/or TAs in this class.

CONTACT INFORMATION/ OFFICE HOURS:

Office hours will be held by Professor Schwait on Monday, 1:00-1:50pm; 4:30-5:00pm and on Thursday 4:00pm-5:00pm. Also, both professors will be available after each lecture as needed.

Carl Schwait: 352-538-3221 schwait@law.ufl.edu

Craig DeThomasis 352-378-1107 craig@reasonabledoubt.org

CLASS SCHEDULE

DATE	SUBJECT	ASSIGNMENT
Monday August 13	Introduction to class	Reading assignments will be out of Mauet, <u>Trial Techniques and Trials</u>
Wednesday August 15	Basic direct examination of lay witness	Chapter 5
Thursday August 16	Basic direct examination of lay witness, continued from class of August 15	Chapter 5
Monday August 20	Basic cross examination	Chapter 6
Wednesday August 22	WORKSHOP: direct examination	<p>Be prepared to conduct direct examinations found in problems 1 and 2 in Trial Practice Problems.</p> <p>Notes on Assignment: Be prepared to perform your assigned direct examination and to also 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 (diagrams, blackboard, etc.) are to be used during this initial direct examination.</p>
Thursday August 23	Basic cross examination, continued from class of August 20	Chapter 6
Monday August 27	Real and demonstrative evidence	Chapter 7

Wednesday August 29	WORKSHOP: Basic cross examination and continuation of direct examination	Be prepared to conduct cross examinations, problems 3 and 4 in Trial Practice Problems. Notes on Assignment: NO DEMONSTRATIVE AIDS are to be used this week
Thursday August 30	Criminal litigation	
Monday September 3	No class - Holiday	
Wednesday September 5	WORKSHOP: Introduction and use of real and demonstrative evidence	Be prepared to lay foundation for introduction of real and demonstrative evidence and then use the exhibit to its greatest effect before the jury. You should also be prepared to oppose the use of the evidence and be prepared to cross examine the appropriate witnesses.
Thursday September 6	Expert witness	Chapter 8
Monday September 10	Hour 1: Expert witness, continued from class of September 6. Hour 2: Civil litigation	Chapter 8
Wednesday September 12	WORKSHOP: Expert witnesses	Be prepared to perform direct and cross examination of an expert witness, problems 7 and 8 in Trial Practice Problems. Note: Your case for your final trials will be assigned before class adjourns in order to give you a chance to begin preparing for the upcoming week of lectures and the

		workshop on jury selection.
Thursday September 13	Trial organization and planning	Chapter 2
Monday September 17	Hour 1: Voir Dire Hour 2: Trial psychology and persuasion	Chapter 3 Chapter 1
Wednesday September 19	WORKSHOP: Jury selection; case analysis	Be prepared to discuss at least 3 topics that should be covered in jury selection in your assigned trial case. Consider both sides.
Thursday September 20	Media and the Law	
Monday September 24	Hour 1: Opening statement Hour 2: Closing argument	Chapter 4 Chapter 9
Wednesday September 26	WORKSHOP: Opening statements and closing arguments	Be prepared to conduct an opening statement and closing argument in your assigned trial case.
Thursday September 27	Technology and Litigation	
Monday October 1	Hour 1: Motion practice (civil) Hour 2: Motion practice (criminal)	
Wednesday October 3	Practice trial #1: Team 1 (P) vs Team 2 (D) Trial, critique, and discussion	Those students not acting as an attorney, will either serve as a witness or as a juror.
Thursday October 4	Practice trial #2: Team 3 (P) vs Team 4 (D) Trial, critique, and discussion	Those students not acting as an attorney, will either serve as a witness or as a juror.
Monday October 8	Practice trial #3: Team 5 (P) vs Team 6 (D)	Those students not acting as an attorney, will either serve

	Trial, critique, and discussion	as a witness or as a juror.
Wednesday October 10	Review for specific upcoming trials	
Thursday October 11	The Judiciary and Professionalism	Chapter 11
Monday October 15	Discussion of details of upcoming trials	
Wednesday October 17	Interactive review	
Friday October 19 Saturday October 20	Final Trials	
Monday October 22	Review of first round of trials	
Wednesday November 7	Review for specific upcoming trials	
Friday November 16 Sunday November 18	Final Trials	
Monday November 19	Final class: Discussion of course and all trials	This class is MANDATORY.

PRACTICE TRIAL SCHEDULE

WEDNESDAY

OCTOBER 3

5:20 P.M.

Class: Trial #1; Critique and Discussion

Team 1 (P) vs. Team 2 (D)

Witnesses: As assigned

Jurors: Those class members who are not otherwise serving as attorneys or as witnesses.

THURSDAY

OCTOBER 4

5:20 P.M.

Class: Trial #2; Critique and Discussion

Team 3 (P) vs. Team 4 (D)

Witnesses: As assigned

Jurors: Those class members who are not otherwise serving as attorneys or as witnesses.

MONDAY

OCTOBER 8

5:20 P.M.

Class: Trial #3; Critique and Discussion

Team 5 (P) and Team 6 (D)

Witnesses: As assigned

Jurors: Those class members who are not otherwise serving as attorneys or as witnesses.

TRIAL COMPETITION SCHEDULE

All students are required to be present at all sessions, whether trying the case, acting as a witness, or preparing a critique.

FRIDAY Trial Competition and Critique, Round I.

OCTOBER 19 **Darcy v. Beauchamp**

5:00 P.M.

SATURDAY Trial Competition and Critique, Round II.

OCTOBER 20 **State v. Wynn**

8:30 A.M.

SATURDAY Trial Competition and Critique, Round III.

OCTOBER 20 **Temple v. Prime Global**

1:30 P.M.

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FRIDAY Trial Competition and Critique, Round IV.

NOVEMBER 16 **Darcy v. Beauchamp**

5:00 P.M.

SUNDAY Trial Competition and Critique, Round V.

NOVEMBER 18 **State v. Wynn**

8:30 A.M.

SUNDAY Trial Competition and Critique, Round VI.

NOVEMBER 18 **Temple v. Prime Global**

1:30 P.M.

IMPORTANT DATES AT A GLANCE

(Section B)

Workshop Dates

August 22, 2018

August 29, 2018

September 5, 2018

September 12, 2018

September 19, 2018

September 24, 2018

Practice Trial Dates

October 3, 2018

October 4, 2018

October 8, 2018

Final Trial Dates

October 19, 2018 -- 5:00 p.m.

October 20, 2018 -- 8:30 a.m.

October 20, 2018 -- 1:30 p.m.

November 16, 2018 -- 5:00 p.m.

November 18, 2018 -- 8:30 a.m.

November 18, 2018 -- 1:30 p.m.

