

# TRIAL ADVOCACY

LAW 6360 / Class # 17708

3 Credits

**SYLLABUS – FALL 2018**

**Professor**

**Nick Zissimopoulos**

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## **COURSE DESCRIPTION:**

This course will provide an overview of trial situations and skills and a chance for students to get practical experience using those skills. The course will begin by looking at trial analysis and how to develop trial themes and theories. As the semester proceeds students will learn about and perform the various skills needed to be a successful trial attorney. The course moves, for the most part, sequentially through the events that would likely occur during a trial. Those include jury selection, opening statement, direct examination, cross examination, use of evidence at trial, working with demonstrative evidence, handling experts, and closing arguments.

The basic course structure will proceed as follows: There will be a lecture on a given topic. In the last 30 minutes of the lecture class, the students will be responsible for performing a very short (typically 3 minute) version of the skill that is being discussed. The students will use the materials referenced below in the Additional Reading materials to perform this short trial skill performance. Then during the next class meeting, the students will be required to prepare a full version of the trial skill to perform. This full trial skill performance will be based materials in the *Potter v. Shrackle* case file, which is detailed below in the Required Reading materials. After this class, students will then be responsible for watching video recordings of their performances and submitting critique forms.

## **LEARNING OUTCOMES AND COURSE OBJECTIVES:**

Students will become familiar with a wide range of trial skills. Students will benefit from reading about these skills, participating in related lectures and discussions, and then performing these skills in a classroom setting. The classroom is a safe environment where students will be encouraged to feel comfortable with experimenting with and practicing these skills. The case packets are fun and creative but still fictional. No one is going to jail if convicted and no one will pay millions of dollars if found civilly responsible. Students are encouraged to take this seriously and focus on the

development of this skill. For many people, thoughts of public speaking are full of fear. That fear will be confronted in this class and students will begin to learn ways to deal with these pressures and stress in a courtroom setting. Through the practice and repetition that this course offers, it is hoped that students will become more knowledgeable about trials and more confident in their own skills.

By the end of the semester, students are expected to accomplish the following:

1. Learn basic and moderate trial skills.
2. Have two opportunities to practice the following skills: jury selection, opening statement, direct examination, cross examination, and closing argument.
3. Learn ways to manage the stress and uncertainty of trial work.
4. Gain confidence for future work opportunities by gaining knowledge about the trial process and skills needed to succeed in a courtroom.

### **REQUIRED READING:**

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

1. Trial Techniques and Trials, Thomas A. Mauet (Aspen).
2. NITA Casefile: *Potter v. Shrackle*, (NITA Latest), Kenneth S. Broun and Frank D. Rothschild.
3. *State v. Steve Rogers*: A packet consisting of common materials found in a driving under the influence (DUI) case. (TWEN)
4. *State of Florida v. Frankie Tone* approximately six (6) pages (TWEN).
5. *Sally v. Bach*, Expert Report, depo excerpt and CV for expert witness Dr. Spinez. (TWEN)

### **OUT OF CLASS v. IN CLASS TIME COMMITMENT**

ABA Standard 310 calls for 120 minutes of preparation for each hour of classroom instruction. This course is a 3-credit course. Trial Advocacy has both classroom and simulation components. It is expected that over the course of the semester, students will spend at least approximately 9 hours per week outside of class 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.

### **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 5:00 PM TO 6:50 PM AVAILABLE DURING THE SEMESTER TO ACCOMMODATE POTENTIAL RESCHEDULING OF CLASS TO AN OPEN DATE IN THE SYLLABUS**

All classes will meet in the **Martin 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.

## **ABSENCES, ATTIRE, AND GROUP ASSIGNMENT:**

**Excused absences:** Documented illness or serious sickness in the family.

**Unexcused absences:** Vacations, road trips, etc.

NOTE: If you must miss a class, please contact Linda Curry, Trial Skills Programs, Holland Hall, Room 323A, at (352) 273-0859 or via email [lc Curry@law.ufl.edu](mailto:lc Curry@law.ufl.edu) **before 12:00 PM on the scheduled class day.** If a class is missed, students should arrange with the instructor for makeup materials and the student will receive one week to prepare for any makeup assignment, if the circumstances allow it.

### ***Courtroom attire for all workshops only.***

After the class roll is finalized, all students will be assigned either to Group A or B. This will be done randomly and students will be given their assignments. Assignments will then correspond as detailed below in this syllabus.

## **STUDENTS REQUIRING ACCOMMODATIONS:**

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Request for accommodations should be presented to Dean Rachel Inman. 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.

## **GRADING**

The grade in this course will be awarded as either a “S” (satisfactory) or “U” (unsatisfactory) and will be in compliance with the policy set forth in the UF Law Student Handbook. <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook>.

## **COURSE EVALUATION**

Students will be given an opportunity to provide a course evaluation toward the end of the semester. Students are encouraged to participate in these evaluations as summaries of these evaluations are available to students in future semesters.

## **CLASS DEMEANOR AND UNIVERSITY HONESTY POLICY**

Students are expected to conduct themselves in accordance with all University policies regarding honesty. Additionally, students will be expected to conduct themselves in a professional and appropriate manner. Understanding that students often want to take notes, there will not be a prohibition on using computers. However, students should not use these electronic devices for non-

class related purposes. We are together for an hour and fifty minutes a couple of times per week. Let's use the time to become better trial lawyers. Twitter, Facebook, Instagram, text messages, etc. will all be around when the class ends.

## CLASS SCHEDULE – FALL 2018

DATE	CLASS
Monday, August 13 Adv. Center 209	<p>Class roll finalized</p> <p>Course organization, syllabus discussion, and overview of assignments. Group Assignments: Group A (State/Plaintiff), Group B (Defense).</p> <p><i>Assignment:</i> Read case packets of <i>Potter v. Shrackle</i> and <i>State v. Steve Rogers</i>.</p>
Thursday, August 16 Adv. Center 209	<p>Lecture: The Trial Process: Developing Themes, Theories, and Labels. <i>Assignment:</i> Read Mauet, Chapters 1 and 2</p> <p>Be prepared to discuss themes, theories, and labels for <i>Potter v. Shrackle</i> and <i>State v. Rogers</i>.</p>
Monday, August 20 Adv. Center 209	<p>Lecture: Jury Selection <i>Assignment:</i> Read Mauet, Chapter 3.</p> <p>All students be prepared to discuss five jury selection topic areas for Plaintiff/State and five topic areas for the Defense in the case of <i>Potter v. Shrackle</i> and <i>State v. Rogers</i>.</p>
Thursday, August 23 Adv. Center 209	<p>Pre-workshop Practice: <i>Assignment:</i> All students be prepared to conduct a short (5 minutes or less) jury selection in <i>State v. Rogers</i> case. See TWEN for a copy of <i>State v. Steve Rogers</i>.</p> <p>Group A (State), Group B (Defense)</p>
Monday, August 27 Adv. Center 209	<p><b>Workshop #1: Jury Selection</b> <i>Assignment:</i> Submit written questions for Jury Selection and perform Jury Selection in class as follows:</p> <p><b>Group A:</b> Be prepared to choose a jury for the Plaintiff in the case of <i>Potter v. Shrackle</i>.</p> <p><b>Group B:</b> Be prepared to choose a jury for the Defendant in the case of <i>Potter v. Shrackle</i></p>
Thursday, August 30 Adv. Center 209	<p>Lecture: Opening Statements <i>Assignment:</i> Read Mauet, Chapter 4.</p>
Monday, September 3	LABOR DAY HOLIDAY

<p>Thursday, September 6 Adv. Center 209</p>	<p>Pre-workshop Practice: Be prepared to do a short (5 minutes or less) Opening Statement in the case of <i>State v. Rogers</i>.</p> <p>Group A (State), Group B (Defense)</p>
<p>Monday, September 10 Adv. Center 209</p>	<p><b>Workshop #2: Opening Statements</b> <i>Assignment:</i> Submit a written Opening Statement and perform Opening Statement in class as follows:</p> <p><b>Group A:</b> Be prepared to deliver the opening statement for the Plaintiff in the case of <i>Potter v. Shrackle</i>.</p> <p><b>Group B:</b> Be prepared to deliver the opening statement for the Defendant in the case of <i>Potter v. Shrackle</i>.</p>
<p>Thursday, September 13 Adv. Center 209</p>	<p>Lecture: Demonstration on Direct Examination of the Lay Witness. <i>Assignment:</i> Read Mauet, Chapter 5.</p>
<p>Monday, September 17 Adv. Center 209</p>	<p>Lecture and Demonstration: Evidence and Evidentiary Predicates <i>Assignments:</i> Read Mauet, Chapter 6.</p>
<p>Thursday, September 20 Adv. Center 209</p>	<p>Pre-workshop Practice:</p> <p><b>Group A:</b> Do a short (5 minutes or less) direct examination of Trooper Walker. See TWEN <i>State v. Steve Rogers</i>.</p> <p><b>Group B:</b> Do a short (5 minutes or less) direct examination of Mr. Rogers. See TWEN <i>State v. Steve Rogers</i>.</p> <p><b>Groups A &amp; B:</b> Be prepared to make and respond to the following objections: 1) hearsay; 2) relevance; 3) unfair prejudice; 4) lack of predicate; and 5) improper opinion.</p>
<p>Monday, September 24 Adv. Center 209</p>	<p><b>Workshop #3: Direct Examination of the Lay Witness</b> <i>Assignment:</i></p> <ol style="list-style-type: none"> <li>1. Submit a written direct examination assignment</li> <li>2. Be prepared to perform the following:</li> </ol> <p><b>Group A:</b> Perform the Direct Examination of Jeffrey Potter and oppose the Direct Examination of Charles Shrackle from the case of <i>Potter v. Shrackle</i>.</p> <p><b>Group B:</b> Perform the Direct Examination of Charles Shrackle and oppose the Direct Examination of Jeffrey Potter from the case of <i>Potter v. Shrackle</i>.</p>

<p>Thursday, September 27 Adv. Center 209</p>	<p>Lecture: Cross Examination of the Lay Witness.</p> <p><i>Assignment:</i> Read Mauet, Chapter 7</p>
<p>Monday, October 1 Adv. Center 209</p>	<p>Pre-workshop Practice: <i>Assignment:</i> Be prepared to do a short (5 minutes or less) Cross Examination as follows:</p> <p><b>Group A:</b> Cross examine Officer Walker. <b>Group B:</b> Cross examine Mr. Rogers.</p> <p><i>State v. Rodgers</i> (TWEN).</p>
<p>Thursday, October 4 Adv. Center 209</p>	<p><b>Workshop #4: Cross Examination</b> <i>Assignment:</i></p> <ol style="list-style-type: none"> <li>1. Submit written cross examinations</li> <li>2. Be prepared to perform the following:</li> </ol> <p><b>Group A:</b> Perform the Cross Examination of Charles Shackle from the case of <i>Potter v. Shackle</i>.</p> <p><b>Group B:</b> Perform the Cross Examination of Jeffrey Potter from the case of <i>Potter v. Shackle</i>.</p>

<p>Monday, October 8 Adv. Center 209</p>	<p><b>Workshop #5: Introduction and Use of Real and Demonstrative Evidence</b>  <i>Assignment:</i>  1. Review the case of <i>State of Florida v. Frankie Tone</i> (TWEN).  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:</p> <ul style="list-style-type: none"> <li>• Graffiti Photos</li> <li>• Wal-Mart diagram</li> <li>• Paint Cans</li> <li>• Cell phone Records</li> </ul> <p>All students should be prepared to introduce all items of evidence and should review evidentiary predicates prior to class.</p>
<p>Thursday, October 11 Adv. Center 209</p>	<p>Lecture: Demonstration and Discussion – The Expert Witness  <i>Assignment:</i> Read Mauet, Chapter 8.</p>
<p>Monday, October 15 Adv. Center 209</p>	<p>Guest Lecture: Examining an Expert</p>
<p>Thursday, October 18 Adv. Center 209</p>	<p><b>Workshop #6: The Expert Witness</b>  <i>Assignments:</i>  1. Read <i>Sally v. Bach</i> materials on TWEN.  2. Submit written preparation for direct or cross examination. Note Dr. Spinez is the defense expert. The defendant will do the direct examination and the plaintiff will do the cross-examination.  3. Be prepared to perform the following:</p> <p><b>Group A:</b> Perform cross examination of Dr. Spinez in <i>Sally v. Bach</i>.</p> <p><b>Group B:</b> Perform direct examination of Dr. Spinez in <i>Sally v. Bach</i>.</p>
<p>Monday, October 22 Adv. Center 209</p>	<p>Lecture: Closing Argument  <i>Assignment:</i> Read Mauet, Chapter 9.</p>



<p>Thursday, October 25 Adv. Center 209</p>	<p>Pre-workshop Practice: Assignment: Be prepared to do a short (5 minutes or less) closing argument in <i>State v. Steve Rogers</i> (TWEN).</p> <p style="text-align: center;"><b>Group A:</b> Be prepared to perform closing for the State.</p> <p style="text-align: center;"><b>Group B:</b> Be prepared to perform closing for the Defense.</p>
<p>Monday, October 29 Adv. Center 209</p>	<p><b>Workshop #7: Closing Argument</b> <i>Assignment:</i></p> <ol style="list-style-type: none"> <li>1. Submit written closing argument</li> <li>2. Be prepared to deliver the closing argument (see below)</li> </ol> <p style="text-align: center;"><b>Group A:</b> Plaintiff closing in <i>Potter v. Shrackle</i>.</p> <p style="text-align: center;"><b>Group B:</b> Defense closing in <i>Potter v. Shrackle</i>.</p>
<p>Thursday, November 1 Adv. Center 209</p>	<p>Discussion: Professionalism <i>Assignment:</i> Read the revised Oath of Attorney (2011) and be prepared to discuss it as well as your experience in the class.</p>

## **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). The video review form should be typewritten.

To access them, simply login via TWEN and click on

the video link located on the left.

Students will be able to view the videos there.

You will complete the video review form (see p. 7 of syllabus) and submit to Linda Curry. All video review forms must be typewritten. 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.**

# 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**