

Trial Advocacy
POS XXXX
Spring 2012
(insert class period here)

Prerequisites:

Instructor permission, based primarily on membership on the University of Florida Trial Team (through competitive tryout process). Members of the University of Florida Trial Team are expected to attend two-hour twice-weekly practices over the fall semester as a prerequisite for instructor permission to register for the course in the Spring, and expected to attend those practices during the Spring Semester as well.

Catalog Description:

One-semester hour credit. This is a trial advocacy class, which allows students to act as attorneys and/or as witnesses in a simulated trial, either civil or criminal. Requires participation starting in Fall when the team begins preparing the case through the end of the Mock Trial season (the end of March).

Course may be repeated up to three times for a total of three hours credit.

Attendance Policy:

You are expected to attend all class meetings. Please note that a portion of your final grade relies on your participation and attendance. Additionally, student members of the competitive UF Mock Trial Team will be expected to attend regular practices in preparation for competition. Attendance will be checked, and preparedness will be expected. Judges, attorneys, and subject-experts will also be guests in our class periodically – attendance and decorum are especially important during those times.

Computer & Cell Phone Policy:

Cell phones may only be accessed in case of emergency (Ex. UF Emergency Alert System). Cellular telephones will be on silent during the class period. Not vibrate, silent. Should your telephone ring during class, I will answer it. If you text during class, your phone will get to spend some quality time with me. Laptop computers are permitted in class for note-taking purposes only. If you are caught doing something other than class-related work on your laptop during class, you will not be allowed to have it open in class anymore. Professional and courteous demeanor is expected, both towards me as the professor and towards your fellow students.

Learning Objectives:

By the end of this course, you should be able to:

1. Develop opening and closing arguments that are both effective and persuasive, keeping in mind movement with a purpose and vocal inflection
2. Use case materials (affidavits, case law, and evidence) to develop case theories and arguments for both the plaintiff/prosecution and the defendant
3. Employ the rules of evidence in arguing a hypothetical case
4. Prepare a witness for direct and cross-examination
5. Explain basic elements of American law regarding the subject matter of the hypothetical case at hand
6. Enter relevant pieces of information into evidence when the time arises
7. Successfully impeach a witness who has falsified information on the stand
8. Describe the process of utilizing a demonstrative in court
9. Understand the pretrial process and be able to perform it

Required Materials:

Book: Thomas Mauet, *Trial Techniques* Aspen Publishers, 8th ed. ISBN: 978-0735594418

This course also requires a print-out of the American Mock Trial Case for the current year which may be downloaded from the AMTA website, collegemocktrial.org. Password and ID will be provided by the professor. Students will need some access (online or otherwise) to the Federal Rules of Evidence (see <http://www.law.cornell.edu/rules/fre/>)

Students will need the following for class: legal pads and other organizational aids, especially for preparing a case notebook. For scrimmages and tournament participation, students will dress in professional business attire.

Formal Evaluation & Point Break Down:

Written Direct Examination:	15 Points
Performance of Direct with a witness:	35 Points
Written Cross Examination:	15 Points
Performance of Cross on a witness:	35 Points
Acting as a witness during Direct:	20 Points
Acting as a witness during Cross:	20 Points
Impeachment Procedure Quiz:	15 Points
Identifying Proper Objections Quiz:	40 Points
Basic Rules of Evidence Test:	75 Points
Write Bio for a Witness:	15 Points
Opening Statement Presentation:	40 Points
Closing Statement Presentation:	40 Points
Final Exam as Attorney Role:	75 Points

Final Exam as Witness Role: 50 Points
Participation (lose one point per unexcused absence): 10 Points

COURSE ASSESSMENT: During this course, the student will demonstrate his/her ability to accurately display the weekly trial techniques as indicated. This will then account for a possible maximum score of 500.

The Grade Scale is: 470-500: A; 450-469: A-; 435-449: B+; 415-434: B; 400-414: B-; 385-399: C+; 365-384: C; 350-364: C-; 335-349: D+; 315-334: D; 300-314: D-; 275-300; E; below 275

The University of Florida assigns the following grade points:

A: 4.0, A-: 3.67, B+: 3.33, B: 3, B-: 2.67, C+: 2.33, C: 2.0; C-: 1.67, D+: 1.33, D: 1, D-: .67, E: 0, WF: 0, I: 0; NG: 0.

Please note that C minus is not considered a passing grade for major, minor, Gen Ed, Gordon Rule, or basic distribution requirements.

COURSE POLICIES:

HONOR SYSTEM

All students are expected to follow the Honor Code at the University of Florida. “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honesty and integrity.” 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.” Any student found violating the Honor Code will be reported. Honor code violations include but are not limited to academic dishonesty, making a false or misleading statement for the purpose of procuring an academic advantage, prohibited collaboration, prohibited use of materials or resources, plagiarism, the use of false information, sabotage, bribery, unauthorized recording, and purchase of a paper. If you’re not sure whether its cheating, it probably is, but feel free to come to my office hours and ask.

MAKE-UP POLICY

There will be no make-ups without notice prior to missing class, and even then only for legitimate excuses (health, university-approved absence, documented family emergency).

DISABILITIES

Any student requiring adaptations or accommodations because of any kind of disability (learning disability, attention deficit disorder, psychological, and physical, etc.) should contact

the Disability Resource Center for information about their rights and responsibilities. I would also appreciate it if students requiring accommodation came to talk to me at my office hours as soon as possible, so that we can take appropriate steps to implement those accommodations and maximize the student's learning. No accommodations will be applied retroactively, so let me know *before* an assignment or test that we will need to plan to deal with your disability.

COUNSELING

The Counseling Center is located in P301 Peabody Hall. It is open Monday-Friday, 8:00AM-5:00PM. To schedule an appointment, stop by the Counseling Center, or call 352.392.1575. On evenings and weekends, services are available through the Alachua County Crisis Center by calling 352.264.6789. Students may also call the clinician on-call at Student Mental Health at 352.392.1171.

COURSE OUTLINE

Week 1: Overview of Class and Assignments

Reading: *Mauet*, Chapter 1: The Trial Process
Federal Rules of Evidence, Article 1

What happens during a trial? How does trial practice influence legal theorizing? What does it mean to engage in professional representation? How do lawyers interact with other lawyers? With witnesses? With judges? With juries? With evidence? What is a stipulation, and what is its role? What are burdens of proof?

Week 2: Persuasion and Trial Advocacy

Reading: *Mauet*, Chapter 2: The Psychology of Persuasion; Chapter 11, Trial Preparation and Strategy

Lecture and practicum on public speaking skills, application of general principles of public speaking skills to legal situation, discussion of what it means to be a persuasive witness, watch video of American Mock Trial Association National Championship Round from previous year.

Week 3: Evidence (Part 1)

Reading: *Mauet*, Chapter 10: Objections
Federal Rules of Evidence, Articles 4, 5, and 6

What counts as evidence? What tools do attorneys have to exclude things that shouldn't be evidence? How are objections phrased? How and where are they argued? What is the importance of objecting? What are the rules guiding the competency of witnesses? The relevance of evidence? To what privileges are witnesses entitled and why?

Week 4: Evidence (Part 2)

Reading: Federal Rules of Evidence, Articles 7, 8, 9, and 10

Mauet, Chapter 6: Exhibits

What is the function of expert witnesses and to what can they testify? What is the proper foundation to lay for expert testimony? What is hearsay and what isn't? Which hearsay is admissible and which isn't? How do we authenticate documents and exhibits?

Week 5: Trial Practice

Impeachment procedure quiz: perform a proper impeachment on a witness in the American Mock Trial Association Case

Identifying the proper objection quiz: given a direct examination with ten objectionable question/answer combinations, identify the proper objection for each case

Basic rules of evidence test: fill in the key words associated with each of the key rules of evidence

Week 6: Direct Examinations

Reading: *Mauet*, Chapter 5: Direct Examination; Chapter 8: Experts

What is the purpose of direct examination? What sort of witnesses is it in one's interest to call? What evidence should witnesses present? How are direct examinations constructed? How should witnesses perform on direct examinations? How does one get the evidence one wants to get into a direct within the rules of evidence?

Written direct examination due at the end of the week

Week 7: Cross Examinations

Reading: *Mauet*, Chapter 7: Cross Examination

How do we write a cross examination? What is the purpose of a cross examination? What form should cross examination questions be in? How does one get the evidence one wants to get into a cross given uncooperative witnesses?

Written cross examination due at the end of the week

Week 8: Performing Examinations

Perform direct and cross examinations

Week 9: Opening Statements

Reading: *Mauet*, Chapter 4: Opening Statements

What should be accomplished in an opening statement? What is the proper form? What sort of themes can be used, generally and in this year's Mock Trial course? How can one present a compelling opening statement?

Week 10: Closing Arguments

Reading: *Mauet*, Chapter 9: Closing Arguments

What should be accomplished in a closing argument? What is the proper form? What sort of themes can be used, generally and in this year's Mock Trial course? How can one present a compelling closing argument? How does side of the case impact the content and presentation?

Week 11: Presentation of Opening Statements and Closing Arguments

Deliver opening statements and closing arguments

Week 12: Witnesses, Character-Acting, and Demonstratives

Reading: Excerpts from *The Complete Idiot's Guide to Acting* (to be provided on Sakai)
Mauet, Chapter 6: Exhibits

How do you make a believable witness character for the purposes of Mock Trial? What is enough character without going overboard? What is your acting style? How should witnesses deal with cross-examination? When and how should witnesses use demonstratives?

Week 13: Mock Trial

Put all of the elements together running a Mock Trial Scrimmage on this year's American Mock Trial Association case. The Mock Trial will be scored by judges who score competitive rounds.

Week 14: Discussion of Scoring and Comments

Reading: Read all ballots from scrimmage in detail

What performances scored most successfully and why? What could be done to improve the legal content of the cause? What could be done to improve the performative aspect of our work? How will it look when we go to competitive tournaments?