

TRIAL PRACTICE

Fall 2017

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Required Materials

Fundamentals of Trial Techniques by Thomas Mauet, (9th Ed.), Published by Aspen Publishing, Inc.

Problems in Trial Advocacy, NITA, (2015 Ed.)

Case Files: State v. Diamond, NITA, (6th Ed.)

State v. Stone, NITA, (4th Ed., 1992) or

Potter v. Shrackle, NITA, (5th Ed., 2004)

Note: We will use the Diamond case in class. The Stone case (criminal) and the Shrackle case (civil) will be used for your Final Trials; you will only need to purchase one.

Suggested Outside Reading

Evidentiary Foundations, by E. Imwinkelreid

Cross Examination: Science and Techniques, by Larry Pozner and Roger Dodd

SYLLABUS AND CLASS ASSIGNMENTS

CLASS ATTENDANCE AND PARTICIPATION: Students are expected to attend each class and be prepared to participate. Three (3) unexcused absences will result in a grade of Incomplete reported to the Registrar.

1. Introductory Class

Read: Mauet, ch. I and II

2. Direct Examination

Read: Mauet, ch. V

Prepare: Group A: NITA Problem 1 (Direct of James Bier)

Group B: NITA Problem 2 (Direct of Robert Byrd)

3. Cross Examination

Read: Mauet, ch. VII

Prepare: Group A: NITA Problem 1 (Cross of James Bier)

Group B: NITA Problem 2 (Cross of Robert Byrd)

4. Direct and Cross

Prepare: Group A: NITA Problem 3 (Direct of Gale Fitzgerald)

Group B: NITA Problem 3 (Cross of Gale Fitzgerald)

5. Exhibits and Demonstrative Evidence

Read: Mauet, ch. VI and X

Prepare: Group A: NITA Problem 12 (introduce the photos)

NITA Problem 15, parts 1 & 2 (oppose the photos)

NITA Problem 19, part A (introduce the bat)

parts B & C (oppose the offer on the bottle)

Group B: NITA Problem 12 (oppose the photos)

NITA Problem 15, parts 1 & 2 (introduce the photos)

NITA Problem 19, part A (oppose the bat)

parts B & C (introduce the bottle)

6. Impeachment and Rehabilitation

Prepare: Group A: NITA Problem 30, part A (cross of Mark Warden)

NITA Problem 31, part A (redirect of Agent O'Rourke)

Group B: NITA Problem 30, part A (redirect of Mark Warden)

NITA Problem 31, part A (cross of Agent O'Rourke)

7. More Direct and Cross

Prepare: William Taylor v. Nancy Taylor (handout)

Group B: Direct of Nancy Taylor

Group A: Cross of Nancy Taylor

8. Experts

Read: Mauet ch. VIII

NITA Case file: State v. Diamond

Prepare: Group A: Direct of Dr. Pierce

Group B: Cross of Dr. Pierce

9. Mini-Trial: State v. Diamond

The Prosecution's Case

State's witnesses: Beth Kelly and Sgt. Benbrook

Prepare: Group A & B: Roles to be assigned

NOTE: For purposes of this class, Sgt. Benbrook's statement shall also include the material contained in Sgt. Madden's statement. Also, parties may rely on the stipulations contained in the case file, as well as a stipulation to the admission of the statement of Dr. Pierce and his report.

10. Mini-Trial: State v. Diamond

The Defense Case

Defense witnesses: Estelle Mason and John Diamond

Prepare: Group A & B: Roles to be assigned

11. Opening Statements

Read: Mauet, ch. IV

Prepare: Group A & B: Opening Statement for State v. Diamond

(Prosecution and Defense Roles to be assigned)

12. Closing Arguments

Read: Mauet, ch. IX

Prepare: Group A & B: Closing Argument for State v. Diamond

(Prosecution and Defense Roles to be assigned)

13. Jury Selection

Read: Mauet, ch. III

Prepare: Group A & B: Voir Dire on issues from State v. Diamond

(Prosecution and Defense Roles to be assigned)

NOTE: We will also discuss preliminary issues related to Final Trials

****STUDENT FINAL TRIALS ARE ALL DAY SATURDAY (Date TBA)****

Final Trial Cases Are Either:

State v. Stone – Criminal Case

Or:

Potter v. Shackle – Civil Case [trial on liability only; not damages]

Students who find a Saturday final trial problematic must notify Wendy Smith as early as possible in the semester so alternative arrangements can be made.

14. Final Class

(No assignment)

Discussion of Final Trials and other matters