

# TRIAL PRACTICE

FALL 2018

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## Required Materials

Fundamentals of Trial Techniques by Thomas Mauet, (10th Ed.), Published by Aspen Publishing, Inc.

Problems in Trial Advocacy, NITA, (2017 Ed.)

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

State v. Stone, NITA, (4<sup>th</sup> Ed., Revised 1992) or

Potter v. Shrackle, NITA, (5<sup>th</sup> 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, chapters 1, 2 and 11

### 2. Direct Examination

Read: Mauet, chapter 5, 10

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

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

### 3. Cross Examination

Read: Mauet, chapter 6

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, chapter 7  
Prepare: Specific exhibit problems will be assigned prior to class.

6. Impeachment and Rehabilitation

Read/Review: Mauet, chapters 5.16 and 6.7  
Prepare: Group A: NITA Problems 5 and 30, (Cross of Mark Warden)  
NITA Problems 5 and 30, (Direct/Redirect of Alan Benjamin)  
Group B: NITA Problems 5 and 30, (Direct/Redirect of Mark Warden)  
NITA Problems 6 and 30, (Cross of Alan Benjamin)

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, chapter 8  
NITA Case file: State v. Diamond  
Prepare: Group A: Direct/Redirect 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, chapter 4  
Prepare: Group A & B: Opening Statement for State v. Diamond  
(Prosecution and Defense Roles to be assigned)

12. Closing Arguments

Read: Mauet, chapter 9

Prepare: Group A & B: Closing Argument for State v. Diamond  
(Prosecution and Defense Roles to be assigned)

13. Jury Selection

Read: Mauet, chapter 3

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. Shrackle – Civil Case [trial on liability only; not damages]

Students who find a Saturday final trial problematic must give notice as soon as possible in the semester so alternative arrangements can be made.

14. Final Class

(No assignment)

Discussion of Final Trials and Miscellaneous Matters