

# TRIAL PRACTICE

SPRING 2020

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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.)

**\*\* DO NOT PURCHASE CASE FILES UNTIL FURTHER CLASS DISCUSSION \*\***

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.

### **ASSIGNMENT FOR FIRST CLASS – READ MAUET CHAPTERS: 1, 2, 5, 10, 11**

1. Introductory Class – 1/14

Read: Mauet, chapters 1, 2 and 11

2. Direct Examination – 1/21

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 – 1/28

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 – 2/4

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

5. Exhibits and Demonstrative Evidence – 2/11

Read: Mauet, chapter 7

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 – 2/18

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 5 and 30, (Cross of Alan Benjamin)

7. Experts – 2/25

Read: Mauet, chapter 8

NITA Case file: State v. Diamond

Prepare: No problem assigned, just the reading; we will use this case for discussion/lecture on experts, and to address any issues in preparation of your mini-trials the following week

8. Mini-Trial: State v. Diamond – 3/17

The Prosecution's Case

See hand-out e-mailed 2-21-19

9. Mini-Trial: State v. Diamond – 3/24

The Defense Case

See hand-out e-mailed 2-21-19

10. Opening Statements – 3/31

Read: Mauet, chapter 4

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

11. Closing Arguments – 4/7

Read: Mauet, chapter 9

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

12. Jury Selection – 4/14

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 April 18, 2019 \*\*\*\*

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 give notice as soon as possible in the semester so alternative arrangements can be made.

13. Final Class – 4/21

(No assignment)

Discussion of Final Trials and Miscellaneous Matters