

USC Gould School of Law
Trial Advocacy Fall 2023 – LAW 821
Units: 3
T: 5:30-8:15, Room LAW 107

Instructors: Judge Debra Brazil, Judge Karla Kerlin
Office Hours: By appointment
Contact Info: dbrazil@lacourt.org; kkerlin@lacourt.org;
Course Modality: This will be an in-person class.

Course Description

This course develops advocacy skills to be used in trial.

Learning Outcomes

The course develops trial advocacy skills, including how to make opening statements, conduct direct and cross-examination, make evidentiary objections, introduce exhibits, prepare and examine experts, and make closing arguments. The ethical implications of litigation strategies and tactics will be examined. Each student will be encouraged to develop an effective style consistent with their persona.

Prerequisite(s): Evidence

Co-Requisite (s): None

Concurrent Enrollment: Evidence, with instructors' permission

Grading Option

The class grading option is Credit/No Credit. [CR/D/F]

Course Notes

Every class there will be a lecture and exercises. The reading assignments prepare you for the trial skills exercises. All classes, including the exercises are recorded. The recordings are available for viewing only by Trial Advocacy students and instructors. The final weeks of the semester are devoted to preparing for a mock trial, which takes the place of a final examination.

Required Readings and Supplementary Materials

Trial Techniques and Trials (11th Edition), Thomas Mauet (ISBN 978-1-5438-2531-2) and *Materials in Trial Advocacy* (Ninth Edition), Thomas Mauet, Warren Wolfson and S. Easton (ISBN 978-1-5438-0518-5)

Description and Assessment of Assignments

Most weeks, each student will perform trial skills exercises and each student will also present a final trial. You will receive immediate feedback after each exercise.

Attendance

Attendance at all classes is mandatory. If you have a valid excuse for any absence, you must speak to us in advance. Throughout the course, you will work with other students to prepare and perform your weekly trials skills exercises.

Typically, one student will conduct direct or cross-examination, and another student will be the witness. You will each perform one to two exercises per week, and you will have a different role for each exercise. Your absence will affect not only your own assignment, but also the student with whom you were paired that week for the exercises.

Rules Regarding Trial Skills Exercises

It is not appropriate to elaborate on the materials that are given to the witnesses to surprise counsel and gain an advantage. The creation of additional testimony could be considered a breach of professional ethics. Although surprise may seem exciting in movies about trials, actual courtroom surprise is rare. If you want to add any information to the materials (which should be unnecessary in most assignments), you must first notify opposing counsel. If opposing counsel does not agree to the change, check with an instructor. The general rule is that you can only add background information which would have no impact on the issues in the case. For example, if the materials do not state where the witness lives, you may ask that question on direct examination. This may make the witness seem more human. However, you cannot change the facts. For example, if the materials state your witness heard two shots, your witness should not testify to only hearing one shot. Nor can the witness suddenly have a lack of memory about something the materials suggest the witness knows.

Preparation

You are expected to be prepared for all exercises assigned to you, whether as an attorney or witness. In your attorney role, this means problem analysis, planning strategy, following the rules of evidence, and anticipating issues. In your witness role, this means having a thorough knowledge of the facts and not using the problem, a script or notes to testify. Reading the assigned materials in *Mauet* is also key; our lectures will not cover all the issues which may be involved in the assigned skills exercises.

Civility and Ethical Behavior

The purpose of this class is to train you to become effective courtroom advocates, not actors and actresses. While drama may be fun, it rarely belongs in the courtroom. Keep in mind that cross-examination, while perhaps the most dramatic part of trials on television shows or movies, is not an all-out assault. Rules of common civility *do* govern your behavior. It is not proper or effective to argue with a witness and is never permissible to intentionally ask an improper question, and then simply withdraw the question when an objection is made. In and out of the courtroom, you should act with courtesy and respect to fellow counsel, witnesses, and the judge. You must obey the ground rules of the course and you must honor your agreements with opposing counsel.

Dress

You are encouraged to dress in appropriate courtroom attire for the end of the semester mock trial. We encourage, but do not require you to dress in courtroom attire for the weekly trial skills exercises.

Course Schedule: A Weekly Breakdown

| | Topics/Daily Activities | Readings and Homework | Assignments |
|------------------|--|---|--|
| Week 1 8/22 | Introduction to Class and Case Analysis Lecture, Direct Examination | <i>Mauet, Chapter 1 and 2, Chapter 5 pgs. 109-141</i> | Review Problem 7.6 for 8/23 class Note: There are online materials for Problem 7.6 available in the Case Connect online section of the Materials in Trial Advocacy book. |
| Week 2 8/29 | Lecture: Direct Examination; Direct Examination Problems | <i>Mauet, Chapter 5: pgs. 141-197</i> | Prepare Direct Examination Problems as Attorney and Witness |
| Week 3 9/5 | Lecture: Introduction of Exhibits; Direct Examination Problems | <i>Mauet, pp. 271-340</i> | Prepare Direct Examination Problems as Attorney and Witness |
| Week 4 9/12 | Lecture: Preparation and Use of Exhibits; Direct Examination Problems | <i>Mauet, pp. 340-378</i> | Prepare Direct Examination Problems as Attorney and Witness |
| Week 5 9/19 | Lecture: Trial Objections; Direct Examination Problems | <i>Mauet, Chapter 10</i> | Prepare Direct Examination Problems as Attorney and Witness |
| Week 6 9/26 | Lecture: Cross Examination, Part 1; Cross Examination Problems | <i>Mauet, pp. 199-253</i> | Prepare Cross Examination Problems as Attorney and Witness |
| Week 7 10/3 | Lecture: Cross Examination, Part 2; Cross Examination Problems | <i>Mauet, pp. 253-269</i> | Prepare Cross Examination Problems as Attorney and Witness |
| Week 8 10/10 | Lecture: Experts; Cross Examination Problems | <i>Mauet, Chapter 8</i> | Prepare Cross Examination Problems as Attorney and Witness |
| Week 9 10/17 | Lecture: Opening Statements; Cross Examination Problems | <i>Mauet, Chapter 4</i> | Prepare Cross Examination Problems as Attorney and Witness |
| Week 10 10/24 | Lecture: Jury Selection; Opening Statement Presentations | <i>Mauet, Chapter 3</i> | Minitrial Opening Statements |
| Week 11 10/31 | Lecture: Closing Arguments; Presentation of Evidence | <i>Mauet, Chapter 9</i> | Minitrial Presentation of Evidence |
| Week 12 11/7 | Lecture: Motions in Limine; Closing Argument Presentations | <i>Mauet, Chapter 10</i> | Minitrial Closing Arguments |
| Week 13 11/14 | Lecture: Refresher | | Trial Team Meetings: Brainstorming |
| Week 14 11/21 | Thanksgiving Holiday NO CLASS | Friday classes meet on Tuesday 11/21 | |
| Week 15 11/28 | Finals: Mock Trials | | |

Statement on Academic Conduct and Support Systems

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards,” <https://policy.usc.edu/files/2020/07/SCampus-Part-B-2.pdf>. Other forms of academic dishonesty are equally unacceptable.

Support Systems:

Student Counseling Services (SCS) – (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://studenthealth.usc.edu/counseling/>.

See also this guide for Gould students to facilitate access to mental health resources on campus: <https://gould.usc.edu/assets/docs/directory/Mental-Health-Services-at-USC.pdf>

National Suicide Prevention Lifeline – 1 (800) 273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

www.suicidepreventionlifeline.org

Relationship and Sexual Violence Prevention Services (RSVP) – (213) 740-4900 – 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://studenthealth.usc.edu/sexual-assault/>

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <https://eeotix.usc.edu/>

Office of Equity and Diversity (OED)/Title IX Compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://eeotix.usc.edu/>

Bias Assessment Response and Support

Incidents of bias, hate crimes, and microaggressions need to be reported allowing for appropriate investigation and response. <https://eeotix.usc.edu/>

The Office of Disability Services and Programs

Provides certification for students with disabilities and helps arrange relevant accommodations. <https://dsp.usc.edu/>

Student Support and Advocacy

Campus Support and Information is where members of the Trojan Family go to seek support for themselves, for others, and for the community. It is a one-stop-shop for care and support, troubleshooting and advocacy.

<https://cwci.usc.edu/campus-support-and-intervention/>

If you are concerned about a fellow Trojan challenged with personal difficulties, you can file a report through Trojans Care for Trojans. The form can be found at: <https://campussupport.usc.edu/trojans-care-4-trojans/>.

Diversity at USC

Information on events, programs and training, the Diversity Task Force (including representatives for each school), chronology, participation, and various resources for students. <https://diversity.usc.edu/>

Gould-specific information can be found at <https://gould.usc.edu/about/race-equity/> (Law, Race and Equity page) and <https://gould.usc.edu/students/diversity/> Students can submit anonymous EDI-related comments/complaints through the law portal:

<https://mylaw2.usc.edu/about/contact/anonymous-comments>

USC Emergency Information

Provides safety and other updates, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

<https://emergency.usc.edu/>

USC Department of Public Safety – UPC: (213) 740-4321 – HSC: (323) 442-1000 – 24-hour emergency or to report a crime.

Provides overall safety to USC community. <https://dps.usc.edu/>