

University of Miami School of Law  
Litigation Skills I  
Syllabus  
Spring 2017

**Faculty and Staff**

The Director of the Litigation Skills Program is Professor Laurence M. Rose. His office is located in the Kozyak, Tropin & Throckmorton Suite of the Litigation Skills Program, Suite A310, telephone number 305 284-2303.

The regular adjunct faculty consists of 35 practicing trial lawyers and judges in the Trial Skills section, and 13 in the Pretrial Skills section.

The Program Manager is Lydia Sanchez. The coordinating assistants are Michelle Rodriguez and Hazel Nicholson. They are in the Litigation Skills office, Suite A310, telephone number 305 284-2303. You may contact the staff via e-mail [litskill@law.miami.edu](mailto:litskill@law.miami.edu)

**Class Schedule**

NOTE THIS SPECIAL CLASS.

A special lecture will be held on **FRIDAY, January 20<sup>th</sup> Room 352 (1:00-5:00pm)**.

The class schedule for Lecture/Demonstration, Trial, and Pretrial classes is on Page 6.

If you have a disability, or suspect that you may have a disability, the Law School encourages you to contact Iris Morera, Coordinator, Disability Services at the Office of Disability Services for information about available opportunities, resources, and services. Her phone number is 305-284-9907, and her email address is [imorera@law.miami.edu](mailto:imorera@law.miami.edu). You may also visit the Disability Services website at [www.law.miami.edu/disabilityservices](http://www.law.miami.edu/disabilityservices)

**Course Material**

The following books are required for this course. They are available at UM Book Store or Book Horizons:

PRETRIAL, Mauet, Ninth Ed. Aspen

ISBN 9781 4548 5 633 7

MODERN TRIAL ADVOCACY LAW SCHOOL EDITION, Lubet, Fourth Ed, NITA

ISBN 978 1 60156 573 0

PROBLEMS IN TRIAL ADVOCACY, 2015 Edition, NITA

ISBN 978 1 60156 505 1

BENCH TRIAL - In Re Cooperman Case File, Bocchino, Second Ed, NITA

ISBN 9781 5568 1 957 5

FINAL TRIAL case files.... (TBA later in the semester)

SD CARD You are required to purchase from the Law School, Copy Center for trial class.

We will also concentrate on the Florida Rules of Civil and Criminal Procedure and the Florida Evidence Code, which are available online.

Please note the following

## ***SPECIAL CLASSES***

---

### **WEEK #1**

January 20<sup>th</sup>, Friday  
Room 352 (1:00-4:00pm)

#### **Lecture**

Introduction, Theory of the Case, Direct &  
Cross Examination, Interviewing & Theatre Presentation

### **WEEK #2**

January 23<sup>rd</sup>, Monday

#### **TRIAL AND PRETRIAL WORKSHOPS BEGIN**

### **WEEK #8**

March 6<sup>th</sup> – 10<sup>th</sup>

#### **BENCH TRIALS**

Each student will participate as co-counsel in a Bench Trial. The Bench Trial will be scheduled on your regular morning or evening classes. You will be assigned a bench trial partner. *Your bench trial partner should not be the same person that you would choose for final trial partner.* If you are paired with the person that you would like to choose as a final trial partner, please let the Program Coordinator know a.s.a.p. Your bench trial assignment will be changed accordingly.

### **WEEK #9**

March 13<sup>th</sup> – 17<sup>th</sup>

#### **SPRING BREAK – NO CLASS**

### **WEEK #14**

April 22<sup>nd</sup> 2017

#### **FINAL TRIALS**

## **Pretrial and Trial Assignments**

Specific Pretrial and Trial assignments will be made by January 20<sup>th</sup>. Please check TWEN for your class assignments.

## **Format**

The purpose of the Monday Lecture/Demonstrations is to examine theoretical questions arising during litigation and to explain proper technique in a variety of litigation settings. The proper preparation of the exercises assigned for each week will be specifically addressed.

The Monday lecture will address the following week's skills in detail. Each student should be familiar with the facts of the hypotheticals for their weekly workshops before the Monday Lecture/Demonstration, in addition to having completed the required reading assignment.

All students are required to attend the following **LECTURE/DEMONSTRATION CLASS**:

**Friday, January 20<sup>th</sup>, Room 352 (1:00-5:00pm)**

The course will be conducted by the simulation and critique method. Students will be required to prepare simulated exercises for each workshop. During the class time, the instructor will call upon the students, individually or in teams, to assume the role of counsel for one of the parties and then to perform the assigned exercise. Performance in class is always followed by critique. The purpose is to develop skills by learning from experience, which includes watching other student's performances and listening to their critiques.

Students must be prepared, each week, to make a presentation. Students are encouraged to work together. On some occasions, hopefully infrequent, not all students will be called upon during the class session. Those students not performing one week should so indicate to the instructor at the beginning of the next class session.

## **PRETRIAL CLASSES**

Pretrial AM. Classes meet from 7:00 to 8:50am Tuesday, Wednesday and Thursday.

Pretrial PM. Classes meet from 6:30 to 9:30pm on Monday, Tuesday, Wednesday and Thursday.

## **TRIAL CLASSES**

Trial AM. Classes meet from 7:00 to 8:50am Tuesday, Wednesday and Thursday.

Trial PM. Classes meet from 6:30 to 9:30pm Monday, Tuesday, Wednesday and Thursday.

Each student will participate as co-counsel in a bench trial during the week of March 6<sup>th</sup>. The bench trial is usually scheduled on students' regular morning/evening class.

A jury trial will be held on SATURDAY, April 22<sup>nd</sup>, 2017. You may choose your final trial partner. Students with a religious or other unavoidable conflict may be scheduled for a jury trial at another time with the permission of the coordinator, Lydia Sanchez. These arrangements must be made, in writing, via e-mail to [litskill@law.miami.edu](mailto:litskill@law.miami.edu) no later than MONDAY, January 23<sup>rd</sup>, 2017.

## **Video recording**

Trial classes and bench trials will be recorded. Students are **required** to review their weekly video one-on-one with a communications instructor or faculty member. The communications instructors will not grade your performances, but will help enhance your communication skills. The video review schedule for morning and evening trial classes are announced in trial class.

## **Method of Evaluation**

While Litigation Skills I is graded according to the Honors/Pass/Fail system, to determine these classifications the students will be graded on their performance in each classroom simulation. Students are also graded on their overall classroom participation including but not limited to, attendance, evidence of preparation for the simulated exercises, quality of involvement in classroom discussion, and degree of professional skills demonstrated.

### TRIAL SKILLS (3 CR.)

Weekly sessions (10)	50%
Bench Trial	20%
Jury Trial	30%

### PRETRIAL SKILLS (3 CR.)

Weekly sessions (10)	100%
----------------------	------

Bench Trial evaluations are based on Direct and Cross-Examination, Objections, Strategy and Demeanor. Final Jury Trials will be evaluated based upon the following areas: Opening or Closing, Direct and Cross-Examination, Objections, Legal Arguments, Witness Preparation and Demeanor. No written final examination will be given.

## **Attendance**

Because the course consists primarily of performances and demonstrations, attendance is **MANDATORY** at all Lecture/Demonstrations, Pretrial, and Trial classes. Attendance will be taken regularly and the Director reserves the right to invoke any sanction set forth in the section on attendance in the Student Handbook.

Although occasional absences may be necessary due to illness or emergency, such absences cannot be "made-up." If difficulties arise due to illness or extraordinary circumstances, the Director of the Program or the Program Coordinator should be consulted immediately. In the event you must be absent from class, you are required to contact the Litigation Skills Office and file a notification of absence with the Dean of Students, for each class you miss.

NOTE: It is your responsibility to obtain any information that you may have missed due to an absence.

While this is an intense and rigorous course, which necessitates a great deal of outside preparation, it is not intended that students take time from other classes.

**STUDENTS WHO DO NOT FEEL THEY CAN CARRY THIS HEAVY WORKLOAD ARE DISCOURAGED FROM ENROLLING IN THE COURSE.**

### **Courtroom Attire**

Appropriate courtroom attire is required for all Trial classes and also for formal hearings or conferences in the Pretrial seminars. This is intended to simulate actual courtroom atmosphere and to make the video of your performances as useful as possible.

### **Professional Responsibility Issues**

A thorough understanding of the role of the professional advocate is an essential part of preparation for litigation advocacy. A first step toward developing this understanding is to know the provisions of the Model Rules/Code of Professional Responsibility bearing upon the advocate's responsibility as a representative of the client and as an officer of the court. Students should be able to recognize the meaning of these provisions in those practical contexts for which the Model Rules/Code provides clear answers and to know and understand the different professional opinions regarding issues that are not clearly answered in the Model Rules/Code.

Some of the problem materials in this course are designed to confront student counsel with issues of professional responsibility in circumstances typically found in practice. In addition, issues of professional responsibility, though not planned in advance as part of an exercise, sometimes arise because of the particular way in which the performance develops.

### **Posting of Information and Notices**

To maintain the type of flexibility that allows the Litigation Skills Program to respond to your needs and the needs of the instructors, close communication is necessary with all the students at all times. Throughout the semester, the Litigation Skills Program will be posting information that you will need to prepare for your class assignments, room changes and faculty changes. These postings will occur in two places; via e-mail and on TWEN.

### **Professionalism and Civility**

Students must behave professionally and civil in this class at all times. This includes but is not limited to courtesy to professors, classmates, timeliness, and respect. Cell phones should be turned **off** during lectures and workshops. Computer use should be restricted to note taking and research.

**PLEASE PROVIDE US WITH YOUR CURRENT E-MAIL ADDRESS.**

**It is imperative that you check your e-mail daily for announcements from the Litigation Skills staff or from your individual instructors.**

**Thank you**

## Spring 2017 - Litigation Skills I Schedule of Classes

**LECTURE/DEMO SESSIONS ARE HELD IN ROOM 352, ALL STUDENTS ARE REQUIRED TO ATTEND**

**WEEK ONE:** 1/20 (Friday) SPECIAL Lecture: Introduction, Theory of the Case, & Direct & Cross Examination , Interviewing, , & Theatre Presentation  
(1:00–5:00 pm) RM 352

Week	Week of	Lecture/Demo Monday 1:30-3:20 (Room 352)	Trial Skills	Civil Pretrial	Criminal Pretrial
2	1/23	Objections. Motions in Limine, Impeachment	Case Analysis and Demonstration	Client Interviewing	Client Interviewing
3	1/30	Pleadings, Investigation & Bond Hearings	Direct & Cross Examination I	Complaints/Witness Interviewing	Witness Interviews
4	2/6	Exhibits & Discovery	Direct & Cross Examination II	Answers/Responses	The Charging Process: Arraignments/Bond Hearings
5	2/13	Depositions	Impeachment	Discovery Requests	Rules Review
6	2/20	Expert Witnesses & Advanced Witness Examination	Exhibits	Discovery Responses	Depositions I
7	2/27	Pretrial Motions	Expert Witnesses	Motions to Compel and Deposition Preparation	Depositions II
8	3/6	<b>BENCH TRIALS – NO LECTURE, TRIAL OR PRETRIAL CLASS THIS WEEK</b>			
9	3/13	<b>SPRING BREAK- NO CLASS</b>			
10	3/20	Opening Statements & Closing Arguments	Advanced Direct & Cross Examination	Depositions I	Motions: Non-Evidentiary
11	3/27	Jury Selection	Opening Statements	Depositions II	Motions: Evidentiary
12	4/3	Professionalism & Ethics	Pretrial Conferences	Motion Hearings	Plea Negotiations/Sentencing
13	4/10	Courtroom Technology	Closing Arguments	Ethics	Ethics
14	4/17	Final Trial Instructions	No Trial Skills Class	No Pretrial Skills Class	No Pretrial Skills Class
<b>FINAL TRIALS – SATURDAY – 4/22/2017</b>					
15	4/24	Class Critique/Summary	CLASSES END	CLASSES END	CLASSES END

# READING ASSIGNMENTS SPRING 2017

The following reading assignments are to be read prior to each Lecture/Demonstration.

<b>Date</b>	<b>Text</b>	<b>Pages</b>	<b>Subject</b>
January 20 <sup>th</sup>	Lubet	1-11 13-36 37-71 73-112	Trial Basics Case Analysis and Storytelling Direct Examination Cross Examination
	Mauet	3-18 28-37 43-56	Planning Client Interviewing Witness Interviewing
January 23 <sup>rd</sup>	Lubet	113-149 189-221	Impeachment Objections
	Mauet	85-116	Case Evaluation and Strategy
January 30 <sup>th</sup>	Mauet	19-43 57-83 119-186	Fact Investigation Legal Investigation Pleadings
February 6 <sup>th</sup>	Lubet	223-284	Foundations and Exhibits
	Mauet	37-43 187-271 & 311-334 383-427	Exhibit Acquisition Discovery Settlements
February 13 <sup>th</sup>	Mauet	271-311	Depositions

# READING ASSIGNMENTS SPRING 2017

---

February 20 <sup>th</sup>	Lubet	151-156 157-187	Redirect Examination and Rehabilitation Expert Testimony
---------------------------	-------	--------------------	---

---

February 27 <sup>th</sup>	Mauet	335-382	Motions
---------------------------	-------	---------	---------

---

March 20 <sup>th</sup>	Lubet	323-362 365-418	Opening Statements Final Argument
------------------------	-------	--------------------	--------------------------------------

---

March 27 <sup>th</sup>	Lubet	419-438	Jury Selection
	Mauet	383-427	Pretrial Conferences and Settlements

---



# Trial Skills Assignments

## SPRING 2017

Trial skills workshops begin on Week 2, January 23<sup>rd</sup> 2017. The following assignments are from the book Problems in Trial Advocacy. In trial class, each student will be assigned a Team either **A, B, C or D**. Your Team code will be emailed by January 20<sup>th</sup>. As Team members, you will work together to prepare your assignments, each preparing to play the witness role on direct examination and assisting each other in preparing individual witness examinations. Instructors will call on a Team to perform; it is up to the Team to decide who will perform in each role. Everyone will perform as trial counsel each week.

**Week 2** –January 23<sup>rd</sup>  
(Case Analysis)

The workshop for this week will include a Case Analysis and Demonstration by faculty. All students should be prepared to identify good facts, bad facts, potential evidence issues, case theories, and case themes, in Problem 1, NITA Liquor Commission v. Cut Rate Liquor & Jones.

**Week 3** - January 30<sup>th</sup>  
(Direct /Cross Examination I)

A: Direct in Problem 1A, Cross in Problem 1B (no diagrams)  
B: Direct in Problem 1B, Cross in Problem 1A (no diagrams)  
C: Direct in Problem 3A, Cross in Problem 3B (no diagrams)  
D: Direct in Problem 3B, Cross in Problem 3A (no diagrams)

**Week 4** – February 6<sup>th</sup>  
(Direct/Cross Examination II)

A: Direct in Problem 4B, Cross in Problem 4A  
B: Direct in Problem 4A, Cross in Problem 4B  
C: Direct in Problem 8 (Blanchard), Cross in Problem 8 (Devine)  
D: Direct in Problem 8 (Devine), Cross in Problem 8 (Blanchard)

**Week 5** - February 13<sup>th</sup>  
(Impeachment)

A&C: Cross in Problems 28A & 32B  
B&D: Cross in Problems 28B & 32A  
All students should be prepared to demonstrate a Re-Direct in Problems 28 or 32.

**Week 6** - February 20<sup>th</sup>  
(Exhibits)

The following exercises require more than foundational questions. Prepare to introduce and use exhibits in the following problems:  
A: Problems 1 (diagram) & 14 (photographs)  
B: Problems 19 A, B, C (baseball bat and beer bottle)  
C: Problems 16 (bag & bottle) and Problem 22A (accident report)  
D: Problems 23A (medical record) and Problem 17 (purse)  
Be prepared to demonstrate the opposition of evidence in all problems.

# Trial Skills Assignments SPRING 2017

**Week 7 – February 27<sup>th</sup>**  
(Expert Witness)

- A: Direct in Problem 40A
- B: Cross in Problem 40A
- C: Direct in Problem 40B
- D: Cross in Problem 40B

**Week 8 – March 8<sup>th</sup>**  
(Bench Trials)

## **BENCH TRIALS**

Assignments will be posted on TWEN and sent by email  
No Lecture, Trial or Pretrial class this week.

**Week 9 – March 13<sup>th</sup>-17<sup>th</sup>**

Spring Break – NO CLASSES

**Week 10 – March 20<sup>th</sup>**  
(Advance Direct &  
Cross Examination)

- A: Direct in Problem 11A (Beskind)
  - B: Cross in Problem 11A (Beskind)
  - C: Direct in Problem 11B (Myers)
  - D: Cross in Problem 11B (Myers)
- All students should prepare to Cross in Problem 33

**Week 11 – March 27<sup>th</sup>**  
(Opening Statements)

Prepare a six-minute segment of Opening Statement in your final trial.

**Week 12 – April 3<sup>rd</sup>**  
(Pretrial  
Conferences)

## **PRETRIAL CONFERENCES**

Trial classes are cancelled during the week of Pretrial conferences.  
Pretrial classes are NOT cancelled during the week of pretrial conferences.

**Week 13 – April 10<sup>th</sup>**  
(Closing Arguments)

Prepare a six-minute segment of Closing Argument in your final trial.

**Week 14-November 14**  
(Final Trials)

No Classes  
**FINAL TRIALS (Saturday, April 22<sup>nd</sup> 2017)**

# Civil Pretrial Skills Assignments SPRING 2017

Pretrial workshops begin Week 2, January 23<sup>rd</sup>.

Each student will be assigned to be a counsel for Plaintiff (X), or Defense (Y).

Counsel assignments will be posted on TWEN by January 20<sup>th</sup>.

## Assignment:

<b>Week 2</b> – January 23 <sup>rd</sup>	Client Interviewing
<b>Week 3</b> – January 30 <sup>th</sup>	Complaints/Witness Interviewing
<b>Week 4</b> – February 6 <sup>th</sup>	Answers/Responses
<b>Week 5</b> – February 13 <sup>th</sup>	Discovery Requests
<b>Week 6</b> – February 20 <sup>th</sup>	Discovery Responses
<b>Week 7</b> – February 27 <sup>th</sup>	Motions to Compel and Deposition Preparation
<b>Week 8</b> – March 6 <sup>th</sup>	<b>BENCH TRIALS</b> <b>Lecture, Trial and Pretrial classes are cancelled during the week of Bench Trials</b>
<b>Week 9</b> – March 13 <sup>th</sup> -17 <sup>th</sup>	<b>SPRING BREAK – NO CLASSES</b>
<b>Week 10</b> – March 20 <sup>th</sup>	Depositions I
<b>Week 11</b> – March 27 <sup>th</sup>	Depositions II
<b>Week 12</b> – April 3 <sup>rd</sup>	Motion Hearings
<b>Week 13</b> –April 10 <sup>th</sup>	Ethics
	<b>FINAL TRIALS, SATURDAY, April 22<sup>nd</sup> 2017</b>

# Criminal Pretrial Skills Assignments SPRING 2017

Pretrial workshops begin Week 2, January 23<sup>rd</sup>.

Each student will be assigned to be a counsel for Prosecution (X), or Defense (Y).

Counsel assignments will be posted on TWEN by January 20<sup>th</sup>.

## Assignment:

<b>Week 2</b> – January 23 <sup>rd</sup>	Client Interviewing
<b>Week 3</b> – January 30 <sup>th</sup>	Witness Interviews
<b>Week 4</b> – February 6 <sup>th</sup>	The Charging Process: Arraignments/Bond Hearings
<b>Week 5</b> – February 13 <sup>th</sup>	Rules Review
<b>Week 6</b> – February 20 <sup>th</sup>	Depositions I
<b>Week 7</b> – February 27 <sup>th</sup>	Depositions II
<b>Week 8</b> – March 6 <sup>th</sup>	<b>BENCH TRIALS</b> Lecture, Trial and Pretrial classes are cancelled during the week of Bench Trials
<b>Week 9</b> – March 13 <sup>th</sup> -17 <sup>th</sup>	<b>SPRING BREAK – NO CLASSES</b>
<b>Week 10</b> – March 20 <sup>th</sup>	Motions: Non-Evidentiary
<b>Week 11</b> – March 27 <sup>th</sup>	Motions: Evidentiary
<b>Week 12</b> – April 3 <sup>rd</sup>	Plea Negotiations/Sentencing
<b>Week 13</b> – April 10 <sup>th</sup>	Ethics

**FINAL TRIALS SATURDAY, April 22<sup>nd</sup> 2017**