

University of Miami School of Law
Litigation Skills I
Syllabus
FALL 2018

Faculty and Staff

The Director of the Litigation Skills Program is Professor Laurence M. Rose, the Associate Director is Celeste Higgins, and the Program Manager is Lydia Sanchez. The coordinating assistants are Michelle Rodriguez and Hazel Nicholson.

The office is located in the Kozyak, Tropin & Throckmorton Suite of the Litigation Skills Program, Suite A310; telephone number 305 284-2303. You may contact the staff via e-mail litskill@law.miami.edu.

The regular adjunct faculty consists of 29 practicing trial lawyers and judges in the Trial Skills section, and 7 in the Pretrial Skills section.

Class Schedule

NOTE THESE SPECIAL CLASS.

A special lecture will be held on **FRIDAY, August 17th Room 352 (1:00-5:00pm)**.

Monday night students will make-up the Trial class of Monday, September 3rd, (Labor Day Holiday), on **FRIDAY, September 7th 2017, (rooms TBA) 1:30-4:30pm**.

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 The Office of Disability Services for information about available opportunities, resources, and services. You may also visit the Office of Disability Services website at www.law.miami.edu/disability-services.”

Course Material

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

1. PRETRIAL, Mauet, Ninth Ed. Aspen
ISBN 9781 4548 5 633 7
2. MODERN TRIAL ADVOCACY LAW SCHOOL EDITION, Lubet, Fourth Ed, NITA
ISBN 978 1 60156 573 0
3. PROBLEMS IN TRIAL ADVOCACY, 2017 Edition, NITA
ISBN 978 1 60156 7314
4. BENCH TRIAL - In Re Cooperman Case File, Bocchino, Second Ed, NITA
ISBN 9781 5568 1 957 5
5. FINAL TRIAL case files.... (TBA later in the semester)
6. SD CARD You are required to purchase from the Law School, Copy Center for trial class.
7. 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 DATES

WEEK #1

August 13th, Monday
Room 352 (1:30-3:20pm)

Lecture

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

August 17th, Friday
Room 352 (1:00-5:00pm)

Special Lecture

Interviewing, Objections, Motions in Limine, Impeachment, & Presentation Skills

WEEK #2

August 20st, Monday

TRIAL AND PRETRIAL WORKSHOPS BEGIN

WEEK #4

September 3rd, Monday

LABOR DAY – NO CLASSES

September 7th, Friday
(1:30-4:30 pm)

Make-up class for Monday night TRIAL students ONLY to make-up the class of Labor Day Holiday of Monday, September 4th

WEEK #7

September 24th – 28th

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 #8

October 1st – 5th

FALL BREAK – NO CLASS

WEEK #14

November 17th 2017

FINAL TRIALS

Pretrial and Trial Assignments

Specific Pretrial and Trial assignments will be made by August 18th. 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 weeks' 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 **SPECIAL LECTURE/DEMONSTRATION CLASS:**

Friday, August 17th , 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 Wednesday and Thursday.

TRIAL CLASSES

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

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

Each student will participate as co-counsel in a bench trial during the week of **September 24th**. The bench trial is usually scheduled on students' regular morning/evening class.

A jury trial will be held on **SATURDAY, November 17th 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 no later than **MONDAY, August 20th, 2017.**

Video recording

Trial classes and bench trials will be recorded. Students are **required** to review their weekly video one-on-one with a presentation instructor or faculty member. The presentation instructors will not grade your performances, but will help enhance your presentation 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.

<u>TRIAL SKILLS (3 CR.)</u>		<u>PRETRIAL SKILLS (3 CR.)</u>	
Weekly sessions (10)	50%	Weekly sessions (10)	100%
Bench Trial	20%		
Jury Trial	30%		

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

Fall 2018 - Litigation Skills I

Schedule of Classes

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

Week One: 8/13 (Monday) REGULAR LECTURE: Introduction, Theory of the Case, Direct & Cross Examination (1:30-3:20pm) Room 352

8/17 (Friday) SPECIAL LECTURE: Interviewing, Objections, Motions in Limine, Impeachment, & Theatre Presentation, (1:00-5:00pm) RM 352

Week of	Lecture/Demo Monday 1:30-3:20 (Room 352)	Trial Skills	Civil Pretrial	Criminal Pretrial
8/20	Pleadings, Investigation & Bond Hearings	Case Analysis and Demonstration	Client Interviewing	Client Interviewing
8/27	Exhibits & Discovery	Direct & Cross Examination I	Complaints/Witness Interviewing	Witness Interviews
9/3	LABOR DAY- NO CLASSES	Direct & Cross Examination II	Answers/Responses	The Charging Process;
9/10	Depositions	Impeachment	Discovery Requests	Arraignments/Bond Hearings
9/17	Pretrial Motions & Advanced Witness Examination	Exhibits	Discovery Responses	Rules Review
9/24	BENCH TRIALS – NO LECTURE, TRIAL OR PRETRIAL CLASSES THIS WEEK			
10/1	(Your bench trial will be scheduled during your regular Lit Skills class time.)			
FALL BREAK - NO CLASSES				
10/8	Expert Witnesses	Advanced Direct & Cross Exam.	Motions to Compel and Deposition Preparation	Depositions II
10/15	Opening Statements & Closing Arguments	Expert Witnesses	Depositions I	Motions : Non-Evidentiary
10/22	Jury Selection	Opening Statements	Depositions II	Motions: Evidentiary
10/29	Professionalism & Ethics	Pretrial Conferences	Motion Hearings	Plea Negotiations/Sentencing
11/5	Courtroom Technology	Closing Arguments	Ethics	Ethics
11/12	Final Trial Instructions	No Trial Classes	No Pretrial Classes	No Pretrial Classes
FINAL TRIALS SATURDAY, 11/17/2018				
8:30AM RICHARD GERSTEIN JUSTICE BUILDING				
11/19	Class Critique/Summary	CLASSES END	CLASSES END	CLASSES END

READING ASSIGNMENTS FALL 2018

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

Date	Text	Pages	Subject
August 13 rd	Lubet	1-11 13-36 37-71 73-112	Trial Basics Case Analysis and Storytelling Direct Examination Cross Examination
	Mauet	3-18	Planning
August 17 th	Lubet	113-149 189-221	Impeachment Objections
	Mauet	85-116 28-37 43-56	Case Evaluation and Strategy Client Interviewing Witness Interviewing
August 20 th	Mauet	19-43 57-83 119-186	Fact Investigation Legal Investigation Pleadings
August 27 th	Lubet	223-284	Foundations and Exhibits
	Mauet	37-43 187-271 & 311-334 383-427	Exhibit Acquisition Discovery Settlements
September 10 th	Mauet	271-311	Depositions

READING ASSIGNMENTS

FALL 2018

September 17 th	Lubet	151-156	Redirect Examination and Rehabilitation
	Mauet	335-382	Motions

October 8 th	Lubet	157-187	Expert Testimony
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October 15 th	Lubet	323-362 365-418	Opening Statements Final Argument
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October 22 nd	Lubet	419-438	Jury Selection
	Mauet	383-427	Pretrial Conferences and Settlements

Trial Skills Assignments

FALL 2018

Trial skills workshops begin Week 2, August 20th 2018. 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 August 13th. 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. Everyone will perform as trial counsel each week.

Week 2 –August 20th
(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 - August 27th
(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 – September 3rd
(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 - September 10th
(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 - September 17th
(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

FALL 2018

Week 7 – September 24th
(Bench Trials)

BENCH TRIALS

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

Week 8 – October 1st – 5th

FALL BREAK – NO CLASSES

Week 9 – October 8th
(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 10 – October 15th
(Expert Witness)

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

Week 11 – October 22nd
(Opening Statements)

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

Week 12 – October 29th
(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 – November 5th
(Closing Arguments)

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

Week 14 – November 12th
(Final Trials)

No Classes
FINAL TRIALS (Saturday, November 18th 2017)

Civil Pretrial Skills Assignments FALL 2018

Pretrial workshops begin Week 2, August 20st.

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

Counsel assignments will be posted on TWEN by August 13rd.

Assignment:

Week 2 – August 20 th	Client Interviewing
Week 3 – August 27 th	Complaints/Witness Interviewing
Week 4 – September 3 rd	Answers/Responses
Week 5 – September 10 th	Discovery Requests
Week 6 – September 17 th	Discovery Responses
Week 7 – September 24 th	BENCH TRIALS Lecture, Trial and Pretrial classes are cancelled during the week of Bench Trials
Week 8 – October 1 st -5 th	FALL BREAK – NO CLASSES
Week 9 – October 8 th	Motions to Compel and Deposition Preparation
Week 10 – October 15 th	Depositions I
Week 11 – October 22 nd	Depositions II
Week 12 – October 29 th	Motion Hearings
Week 13–November 5 th	Ethics
	FINAL TRIALS, SATURDAY, November 17th 2018

Criminal Pretrial Skills Assignments FALL 2018

Pretrial workshops begin Week 2, August 20th.

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

Counsel assignments will be posted on TWEN by August 13th.

Assignment:

Week 2 – August 20 th	Client Interviewing
Week 3 – August 27 th	Witness Interviews
Week 4 – September 3 rd	The Charging Process: Arraignments/Bond Hearings
Week 5 – September 10 th	Rules Review
Week 6 – September 17 th	Depositions I
Week 7 – September 24 th	BENCH TRIALS Lecture, Trial and Pretrial classes are cancelled during the week of Bench Trials
Week 8 - October 1 st -5 th	FALL BREAK – NO CLASSES
Week 9 – October 8 th	Depositions II
Week 10 – October 15 th	Motions: Non-Evidentiary
Week 11 – October 22 nd	Motions: Evidentiary
Week 12 – October 29 th	Plea Negotiations/Sentencing
Week 13 –November 5 th	Ethics

FINAL TRIALS SATURDAY, November 17th 2018