

CIVIL TRIAL PRACTICE Fall, 2020

INSTRUCTOR:

William D. Shapiro - Adjunct Professor Western State College of Law

bill@wshapiro.com - Office: (909) 519-3370 Cell: (909) 519-3370

COURSE MEETING TIMES AND LOCATION:

Days: Tuesdays 6:40 p.m. to 9:40 p.m. Location: Zoom

OFFICE HOURS:

By appointment, contact Donna Kent at the Law Offices of William D. Shapiro (909) 890-1000 or email at donna@wshapiro.com

COURSE DESCRIPTION:

This course is designed to introduce all aspects of civil trial to the students with an introduction of each phase of civil trial from Opening Statements to Closing Arguments, with the focus on the students performing each phase. This is a class cloaked in people skills, speaking to groups and persuasion. An opportunity for the students to be introduced to each phase of Opening statements, Direct and Cross Examination of both lay and expert witnesses as well as performing each phase culminating in the team teaching of a civil case.

LEARNING GOALS:

The goal and expectation of this course is to have each student be poised with the trial skills sufficient to try a relatively simple civil trial.

WESTERN STATE COLLEGE OF LAW – PROGRAMMATIC LEARNING OUTCOMES:

Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

In Civil Trial Practice, the students will demonstrate knowledge of substantive and procedural law as it relates to the trial of civil actions which includes but is not limited to core curriculum subjects, including Torts, Product Liability, Contracts, Civil Procedures, Constitutional Law, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate their ability in trial skills from Opening Statements to Closing Arguments. They will have to demonstrate not only the knowledge of what to do, but how to do it effectively and persuasively as they will have to do in real civil trials. They will be expected to demonstrate practice skills, and equally critical, persuasion skills which relate to personality,

presence, ability to speak before people, nonverbal communication and the other aspects of trials that truly make a difference.

(3) Legal Analysis

Students will demonstrate the ability to select legal theories and how to present and communicate the evidence in a persuasive manner. They will have to present a global understanding of a trial, not only what the facts and or law is, but rather the presentation of a case in a systematic and persuasive manner. This is not a substantive law class, to the contrary, this is a class of participation and presentation. The importance of how to present, what to bring out, what not, the importance of timing, handling adversity and things that can and will go wrong, and many other things that trials present.

(4) Legal Research

While legal research is certainly critical in every course, the legal research they will be doing in Civil Trial Practice is research on techniques of trial performance.

(5) Communication

Students will demonstrate the ability to communicate orally and, on their feet, just as in trial. They will learn to communicate under certain time constraints, using the clock in guiding them. They will learn about nonverbal communication, what they are doing with their body, hands, pen clicking, pacing, eye contact and more. They will be expected to speak slowly and fluently without um's and awe's, concentrating on varied tonality to their voice. All the factor that go into being an interesting and compelling speaker. Other factors of communication such as dress, word selection and more.

(6) Advocacy of Legal Argument

Students will demonstrate the ability to advance an legal argument using the facts with the law of the case, the essence of trial practice. They will be arguing without legalese, 5-dollar words and other distractions of a good legal argument. They will demonstrate their ability to stay focused on issues that are in dispute dispensing with those that are not. Students will be arguing telling a story, in short time, efficiently, stressing with the use of the right words, much can be said in a legal argument in short time just as a songwriter can cover a lifetime in 3 ½ minutes of a song. The advocacy of legal arguments is the essence of civil trial practice.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate how a client's needs must transfer to a jury. The difference between the poor presenting client and the good one, how it is critical to convey to the client the importance of how they look, talk and appear to be successful. It will be discussed that there are no excuses in civil trials, and how we must make our clients identifiable, relatable, reasonable and likeable, no matter what their background is. Among other things, how there is not time in a civil trial to make a jury like or enjoy a particular client, how working with the clients will assist this as well as how jury voir dire will help with all differences.

(8) Legal Ethics

Throughout the semester, students will be exposed to the ethical aspects of a civil trial, how while trial lawyers are champions of their client's cause, civility and honor is the absolute mandate.

WESTERN STATE COLLEGE OF LAW – INSTITUTIONAL LEARNING OUTCOMES:

(1) Analytical Reasoning

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems in order to advocate and communicate issues, principals and principals to judges and juries.

(2) Effective Communication

Use effective, understandable and audible oral communication skills while mastering listening skills, word interpretation of others, in a civil trial setting. We will discuss the use of technology as an effective tool however as all trial lawyers know, it is the trial lawyer's ability and manner of communicating that makes the case.

(3) Information Competency

Staying on focus with the information that is in issue. Using the facts and staying on those facts.

(4) Interpersonal Effectiveness

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals.

(5) Personal and Professional Integrity and Ethical Behavior

Demonstrate a global awareness of the trial lawyer's presentation and the juries acceptance of it. Realizing the importance of credibility, integrity in the jury and bench trial of a civil matter, as well as in the practice of law itself.

(6) Professional Competence

Apply skills appropriate to program objectives realize, in civil jury trials, not everyone receives a trophy. There is a winner and a loser. Understanding the critical impact, the trial lawyer has to the outcome is essential, a student's competence is just as critical in civil trial practice as a trial lawyer in a civil trial. It is also critical each student understand these are learned skills that improve with practice just like playing a guitar. No one should expect to be great at the outset, this is the lab work for trial work.

COURSE LEARNING GOALS:

Upon successful completion of the course, students should expect to achieve a level of competency in each of the following areas:

- (1) Knowledge and practical understanding on how to try a simple civil trial.

- (2) Oral presentation with a focus on trial advocacy, presentation, and persuasive techniques.
- (3) The ability to home in on the truly important facts that will persuade a jury or judge in a civil case.
- (4) The ability to present a position in the face of adversity, objections and judicial interruptions.
- (5) The ability to effectively communicate to a judge and or jury.
- (6) The ability to understand clients', judges' and jurors' backgrounds and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious backgrounds), and the ability to tailor communications to clients, judges and jurors that reflect an appropriate focus on those backgrounds and circumstances.
- (7) The ability to identify ethical issues in civil trials and make appropriate decisions to resolve those issues.

REQUIRED RESOURCES:

Materials in Trial Advocacy (7th) and Trial Practice (2nd)

COURSE REQUIREMENTS:

- 1. Attendance and Class Participation** – You are expected to attend class each night prepared to discuss what has been assigned. This includes being ready to present what you were advised would be presented. Two or more unexcused absences may result in a student receiving a failing grade in the course.
- 2. Preparation for Class** – Each student is expected to be prepared for each class. We will be working on one aspect of a civil trial in each session and you will be expected to be ready to perform whether it be on behalf of the plaintiff or defendant. The specific assignments will be provided each week.
- 3. Final Exam** – There will not be a written final exam. Your course grade will be earned from your class participation as well as the final civil trial you will be part of. While you will team try the final trials, each student will be evaluated on their particular performances.

COURSE GRADE:

Your final grade will be made up of the following:

1. Your participation in class.
2. Your daily and.
3. Your final performances.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable

and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite, room #111. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

COURSE SCHEDULE & ASSIGNMENTS:

Forthcoming, for the first session there is no reading assignment.

REQUIREMENTS FOR STUDENTS IN ZOOM SESSIONS:

This fall 2020 semester, due to the COVID 19 Pandemic, we will be challenged with teaching and learning Civil Trial Practice using Zoom or another similar medium. As such, each student will be making their own physical arrangements to be comfortable. If any student is presented with any circumstance that this is unavailable, Western State College of Law will do all it can to make appropriate arrangements if possible. Each student is responsible for using their own computer, internet and the physical necessities of gaining access to the Zoom sessions.

- Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.
- Arrive to class early and dressed as you would to attend an in-person class.
- Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.
- Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.

- Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.
- If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.
- If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.
- Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.