

TRIAL PRACTICE
WESTERN STATE COLLEGE OF LAW
FALL 2022
JUDGE NANCY E. ZELTZER (RET.) ADJUNCT PROFESSOR



COURSE MEETING TIMES AND LOCATION:

Session: Fall 2022
Days: Tuesday
Time: 6:40 to 9:50 p.m.
Location: TBD

CONTACT INFORMATION:

Email: nzeltzer@wsulaw.edu

OFFICE HOURS:

By appointment in the hour before class.

COURSE DESCRIPTION:

Analyze the components of a jury trial and prepare the student for conducting a trial.

LEARNING GOALS:

Upon successful completion of the course, students should be able to:

- Identify the components of a jury trial;
- Know how to perform an opening statement, direct and cross-examination, and a closing argument; and
- Feel confident in a courtroom with the ability to conduct a trial.

Western State College of Law – Programmatic Learning Outcomes

1. *Doctrinal Knowledge*

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Associations, Evidence, Civil Procedure, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

2. *Practice Skills*

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework, and work experiences. They may include, but are not limited to the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four (4) units earned in introductory first-year research and writing class); applied legal writing such as drafting contracts, pleadings, or other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as account, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation or fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

3. *Legal Analysis*

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

4. *Legal Research*

Students will demonstrate the ability to locate relevant authority using a variety of book and electronic resources, and to properly cite to such legal authority.

5. *Communication*

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge, and expertise of the audience); and basic proficiency in written communication (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

6. *Advocacy of Legal Argument*

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

7. *Client Sensitivity and Cultural Competency*

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

8. *Legal Ethics*

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

REQUIRED RESOURCES:

Required reading materials:

- *Trial Techniques and Trials*, 10th Edition by Thomas A. Mauet
- *Materials in Trial Advocacy*, 8th Edition by Thomas A. Mauet, Warren D. Wolfson, and Stephen D. Easton

LEARNING ACTIVITIES:

1. *Attendance and Class Participation*

All students are expected to attend class each night prepared to discuss the assigned readings and participate in class exercises. In each class, any student can expect to be called upon to lead the discussion or one or more of the readings and to answer questions posed by the professor and other students. Class participation will count toward the final grade in the class. For this reason, attendance is mandatory. Only one (1) unexcused absence will be tolerated. Two or more unexcused absences may result in a student receiving a failing grade in the course. Three absences of any kind will result in a failing grade per school policy. Students are warned that the quantity of class participation is not determinative of a student's ability to earn credit for class participation; rather, the *quality* of participation is also taken into account.

2. *Reading Assignments*

Unless otherwise specifically assigned, reading assignments are taken from the required resources specified above. The reading assignments listed for each class are those readings, which a student must complete *before* the class in order to be prepared for class that week. Students should expect to spend six (6) hours per week on assigned reading and preparation for class exercises.

3. *Exam*

There will be no formal final exam. Your course grade will be made up of class participation, demonstrating you have read the material and participation in class performances as well as the final mock trial.

FINAL COURSE GRADES:

Students will be evaluated based upon the following criteria: work demonstrates a mastery of the subject matter for the college level; meets all course expectations promptly; shows reasonable grasp of concepts and demonstrates ability to synthesize materials from both inside and outside the classroom; participates regularly and enthusiastically in classroom.

ATTENDANCE:

The College of Law requires regular and punctual class attendance of students. Satisfactory attendance in a course means attending at least 85% of scheduled classes during the semester. The percentage of absences is intended to account for the occurrence of unplanned events. If the student has an extended illness or absence due to religious observance, special arrangements may be made with the instructor to enable student to satisfy the attendance requirement. Individual professors have discretion to require a higher percentage of attendance upon written notice to the students.

A student must attend the class for which he or she is registered. If a student fails to satisfy the attendance requirement in a required course, a limited enrollment course or an externship, the student shall be excluded from the remainder of classes or course sessions and shall receive a failing grade designated as "AF" on his or her transcript. If the course exclusion results in fewer than twelve (12) units for a full-time student or eight (8) units for a part-time student, financial aid may be affected.

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 Student Services Suite 119. Dean Espinoza's phone number and email address are (714) 459-1117 and despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of his or her specific limitations and if known, his or her 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 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."

ADDITIONAL INFORMATION:

1. Please turn off all cellphones before class begins. While the professor understands that sometimes students forget to do so, it is unacceptable to actually use a cellphone

during class. Students who talk on their phones during class or who text message while in class may be banished from the class and for repeated violations, may be failed.

2. No individualized "extra-credit" work will be permitted.
3. This course does involve lecture as well as in-class live presentations by the students. Students will be expected to stand in front of class and perform opening statements, direct and cross-examination of witnesses, and closing arguments. A failure to perform can result in a failing grade.

COURSE SCHEDULE AND ASSIGNMENTS:

Class Date	Topic(s)	Reading Assignments
August 30	Introduction, The Trial Process, Being a Trial Lawyer	Chapter 1, pp. 1 – 11 TTT*
September 6	The Psychology of Persuasion; Jury Selection	Chapter 2, pp. 13 – 27 TTT Chapter 3, pp. 31 – 73 TTT
September 13	Opening Statement	Chapter 4, pp. 75 – 109 TTT
September 20	Opening Statement	Exercises
September 27	Direct Examination	Chapter 5, pp. 111 – 200 TTT 3.2 MTA 3.3 MTA 3.9 MTA 3.10 MTA 3.12 MTA
October 4	Cross Examination; Evidentiary Objections	Chapter 6, pp.199-269 TTT MTA 5.3 MTA 5.5 MTA 5.6 MTA 5.13 MTA 5.19 MTA 5.20 MTA 5.21
October 11	Exhibits and Visual Aids; Experts	Chapter 7, pp. 271-378 TTT Chapter 8, p.p. 379-433 TTT MTA 4.1 MTA 4.3 MTA 4.7 MTA 4.10 MTA 4.11 MTA 4.12 MTA 6.3 MTA 6.11
October 18	Direct and Cross-Examination	7.5 MTA 7.9 MTA

October 25	Closing Argument	Chapter 9, pp. 447-510 TTT 8.1 MTA 8.3 MTA 8.6 MTA
November 1	Closing Argument Exercises	Exercises
November 8	TBD	Exercises
November 15	Final Mock Trial	TBD
November 22	Final Mock Trial	TBD
November 29	Final Mock Trial	TBD

*(TTT Trial Techniques and Trials; MTA Materials in Trial Advocacy)

"A jury consists of twelve persons chosen to decide who has the better lawyer."
Robert Frost