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**TRIAL LAWYER: ADVOCACY TADR 402**

**FALL 2023**

**Wednesdays 6:00 pm – 9:00 pm**

**Faculty**

**Prof. Hugh Mundy**  **Evidence Section**

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**Prof. Kelly Navarro**  **Course Administrator**

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**Prof. Purav Bhatt** The Law Office Of Purav Bhatt

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**Hon. Jenny Coleman** Circuit Court of Cook County – Traffic Division

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Courtroom: 201 Plymouth

**Hon. Sabra Ebersole**  Circuit Court of Cook County – Domestic Violence Division

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Courtroom: 504

**Prof. Andy Manno**  Cray Huber

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**Hon. Nichole Patton** Circuit Court of Cook County – Law Division

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**Prof. Rachelle Hatcher Swan** Law Office of the Cook County Public Defender

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Courtroom: 11th Floor Courtroom 1110

**Prof. Lawrence Thrower** Counsel at Accenture, LLP

Courtroom: Baim Courtroom S310

**COURSE OVERVIEW AND GOALS**

Trial Lawyer is a seven-credit-hour course that combines Evidence and Trial Advocacy. The Evidence section is taught by Professor Hugh Mundy and meets on Tuesday evenings and one Saturday. The Trial Advocacy sections are taught by a team of experienced practitioners and meet on Wednesday evenings. Through this combination of Evidence and Trial Advocacy, students learn to develop the theme and theory of a case while also identifying and considering evidentiary challenges and implications. The goal is for students to transfer the rules and theory learned in Evidence to the experiential and practice-oriented Trial Advocacy sessions.

Through this course, students develop trial advocacy skills relevant to every law-related career track, including those thought of as “transactional” specialties. At its core, trial advocacy involves the art of demonstrating to another that your client’s position has merit. In the courtroom, that demonstration occurs within a highly structured and adversarial setting. Trial advocacy requires students to work with facts and witnesses in a simulated setting. Unlike a doctrinal course that focuses on case study and legal theory, the goal in this course is to create a space for students to learn by doing. Trial advocacy skills cannot be learned by reading or by listening to lectures. You must “just do it” to learn it.

**This Syllabus Applies Only To The Trial Advocacy Portion Of The Course.** The syllabus lists a daily series of exercises. With the exception of lectures and demonstrations, students will perform one or more of the assigned exercises each session. Any student in class may be called upon to perform any of the skills for the evening, or to play the role of a witness in one or more of the exercises. **Students MUST read all of the assigned chapters in Mauet and the assigned problems prior to each class.** We suggest you practice the skill for the day aloud prior to class.

The faculty is impressive and the course has a record of proven success. So throw yourself into it and get the most out of an extraordinary educational opportunity. Enjoy the learning process!

**PREREQUISITES FOR THE TRIAL LAWYER COURSE**

Students must have completed all first year courses to be eligible to take this course.

Students must register for BOTH the Trial Advocacy and Evidence sections of this course during the same semester. Students may not take one course without the other. If you have not satisfied the prerequisites you must drop this course.

**LEARNING OBJECTIVES**

Students are expected to read all chapters of Mauet, Trial Techniques and Trials, to be familiar with all learning objectives and to refer to associated chapters and learning objectives while preparing exercises. Students will find that chapters in the book are referred to several times. Read the chapter through the first time the day assigned, then re-read and refer to that material for subsequent classes. The book provides both instruction and reference.

**INSTRUCTIONAL MATERIALS**

**Required Text**: Mauet, Trial Techniques and Trials (11th edition) ISBN 9781543825312Any recent edition is FINE!

**Selected Problems**: See “Selected Problems” provided and posted on Blackboard

**Learning Objectives**: See “Learning Objectives” as stated below and posted on Blackboard

**Case Files**: See People v. Casey Lee provided and posted on Blackboard

**Rules:** Digital PDF versions of the US Constitution, Federal Rules of Evidence, and Federal Rules of Civil Procedure booklets are here:

U.S. Constitution: [Download Free PDF](https://nam04.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.lexisnexis.com%2Fsupp%2Flawschool%2Fresources%2Fthe-us-constitution.pdf&data=04%7C01%7Cnavarrok%40uic.edu%7C16f3ace0fbbb4bd2372108d9bb3e8e19%7Ce202cd477a564baa99e3e3b71a7c77dd%7C0%7C0%7C637746699606746409%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=IbaJSXIYSIqxwwrJqFB7ZKSQODl84m3LBhDecFI%2FpLA%3D&reserved=0)

Federal Rules of Evidence: [Download Free PDF](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.lexisnexis.com%2Fsupp%2Flawschool%2Fresources%2Ffederal-rules-of-evidence.pdf&data=04%7C01%7Cnavarrok%40uic.edu%7C16f3ace0fbbb4bd2372108d9bb3e8e19%7Ce202cd477a564baa99e3e3b71a7c77dd%7C0%7C0%7C637746699606746409%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=DBNr9ukvhm%2BIM8QaZIpTy8bZUMfXPBPXXNo8dvuOwrU%3D&reserved=0)

Federal Rules of Civil Procedure: [Download Free PDF](https://nam04.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.lexisnexis.com%2Fsupp%2Flawschool%2Fresources%2Ffederal-rules-of-civil-procedure.pdf&data=04%7C01%7Cnavarrok%40uic.edu%7C16f3ace0fbbb4bd2372108d9bb3e8e19%7Ce202cd477a564baa99e3e3b71a7c77dd%7C0%7C0%7C637746699606746409%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=wZpmZ2c6Rqf%2FykpMPUTR2AiBRax8JQdmrlbufqfUFYM%3D&reserved=0)

**GRADING**

The final grade is based upon student’s performance during daily exercises (80%), and the final trial (20%). Each class period, the instructor will assign a grade for each skill presented, and will use these grades to formulate a final “daily exercise” grade. Absence from classes or lectures is a factor in determining this grade, and students missing a class or exercise will receive a failing grade for that class/exercise. Students may ask individual instructors for a grading conference to review their daily exercise grade prior to the final trial. The final jury trials will be held the last two nights of class. The Director will make the final trial assignments. Each student must participate in two trials: one evening students act as trial attorneys and the other evening students act as witnesses. Students are also graded on their performance as a witness.

**DRESS CODE**

For the days students are conducting exercises, students are encouraged to wear casual business attire. For the final trials, students must wear a business suit. Students are encouraged to dress in attire they feel comfortable in. There is no requirement that students dress consistently with gender stereotypes or in a way that it is normative of a particular gender. We want every student to feel professional and comfortable. The school has a free professional clothes closet that we encourage students to use.

**MEETING TIMES**

The course begins with a single group lecture. Thereafter, classes consist of small class simulated trial exercises and lectures, and the course culminates with two days of final jury trials. Breaks occur at the discretion of the teaching faculty.

**ATTENDANCE/PARTICIPATION/ATTENTIVENESS**:

The learning experience is effective only when students are present and engaged for the entire class. Regular attendance is required of all students. Students are expected to perform all exercises and participate in class discussions.

During each class session, the instructor will teach students how to perform the skill for the following week. Students are the expected to incorporate the lecture, and further instruction from the **Mauet** text, to prepare and preform the skill the following week. If a student misses a class, he or she is at a disadvantage in that he or she (1) missed performing the skills for that day, (2) missed watching and learning from other students, and (3) did not receive instruction as to how to perform the skill for the following week. For these reasons, **attendance at each scheduled class is required** and there are no excused absences in this course. In truly exceptional circumstances, including religious observances, a student may petition in writing and state good cause why this policy should be waived. The granting of waivers is discretionary, and must be approved by your instructor.

A student who is absent for more than 25% of the total number of class meetings, or 3.25 classes, will receive a grade of WF for the course. The number of absences permitted may be reduced by the professor by written notice on the syllabus. In addition to the 25% allowed, students are excused for religious observances from two class sessions; students should notify the professor in writing in advance of class that they will be absent due to their practice of religion. The attendance requirements extend to online courses and the online portions of hybrid and blended courses. A student attends an asynchronous module or session by participating in class or otherwise engaging in an academically related activity. For classes scheduled as “ONCAM” (On Campus), in-person attendance at on-campus class meetings is required unless alternative arrangements have been approved in writing by the Dean. Exceeding the maximum permitted number of absences for this class will result in a grade of WF. Students who do not either attend the first class of the semester or contact the professor before or on the first class day regarding the student’s absence from that class will be notified that they will be dropped from the class roll. For online, hybrid, and blended courses that do not include a scheduled on-campus or synchronous class meeting during the first week of classes in a semester or term, Friday of that first week is considered the first class day. Consult the Law School’s Attendance Policies for additional information.

## **ACADEMIC INTEGRITY**

As an academic community, UIC is committed to providing an environment in which research, learning, and scholarship can flourish and in which all endeavors are guided by academic and professional integrity. All members of the campus community—students, staff, faculty, and administrators—share the responsibility of insuring that these standards are upheld so that such an environment exists. Instances of academic misconduct by students are governed by the Law School’s Honor and Professionalism Code and the UIC Student Disciplinary Policy. See Institutional Policies for additional information.

**HERZOG COMPETITION CONFLICTS**

If you are taking LS3 and participating in the **Herzog** competition this semester, this applies to you.

The Herzog elimination round (Round of 32) will be held on Wednesday, November 16, 2022. Our final trials begin at 6:00 p.m. that same night. If (and when) you make it to the Round of 32, contact Linda McHugh at lmchugh@uic.edu immediately and she will try to schedule your oral argument for 5:00 p.m. If you have done this, and your oral argument still runs late, upon prior approval by Kelly Navarro, it **may** possible to push your trial back to 6:15 p.m. You may NOT reschedule the date of your final trial.

**DISABILITY ACCOMMODATIONS**

The University of Illinois at Chicago is committed to maintaining a barrier-free environment so that individuals with disabilities can fully access programs, courses, services, and activities at UIC. Students with disabilities who require accommodations for full access and participation in UIC programs must be registered with the Disability Resource Center (DRC), <https://drc.uic.edu/>. Please contact DRC at (312) 413-2183 (voice) or (312) 413-0123 (TDD).

**OTHER SCHOOL POLICIES**

The law school’s policies on attendance, class recordings, grading, academic grievances, and other matters may be found at <https://law.uic.edu/policy/>.

**VIDEO RECORDING**

You may record classes with prior **written** authorization **only**. Review video recorded lectures will not be considered equal to in-class attendance. Students may not share or distribute lectures given by faculty or post any content from this course on social media or elsewhere. While students may record themselves performing, they may not record other students performing.

**EXPECTED WORKLOAD**

Under ABA Standard 310, you are expected to spend at least two hours outside class preparing for each hour spent in class. Out-of-class work may include such activities as reading, Review, outlining, studying, or otherwise working on materials and assignments for the course.

**ASSIGNMENTS - ADVANCED PREPARATION IS ESSENTIAL**

The assignment list is a guide and may change based on the performance and goals of the class. Students are responsible for reading, developing questions and acting as a witness for all problems, not just the problem they are to present.

**SYLLABUS**

**CLASS ONE – 8/23**

This class only will be a combined lecture in the Goldberg Courtroom. For the rest of the semester, go directly to your assigned courtroom. Read Chapters 1, 2, 5 and 10.

**Lecture:** Course expectations and structure. How to process feedback, course grading and rules. Prof. Kelly Navarro

**Lecture:** What a trial is and isn’t. Basic Evidentiary Issues: FRE 403 Relevance and FRE 801 Hearsay. The fundamentals, goals and techniques of direct examination. How to tell a story with your witness. Prof. Bhatt

**In Class Demonstration**: Direct Examination: including issues of relevance and hearsay. Prof. Manno

**CLASS TWO – 8/30**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapter 5, 7, 10 | Direct examinations of:McDonald in U.S. v. EricksonSlipper and Valdez in Celina Slipper v. Corner MarketCallas, Pantel, and Murphy in Callas v. Murphy | Conduct a direct examination of an occurrence witness. Tell a story through a witness. Use clear and open-ended questions to establish a logical chronology, establish witness competency and elicit relevant testimony.  | Foundations for exhibits and conversations. How to make basic objections and specifically how to object to lack of foundation.  |

**CLASS THREE – 9/6**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapter 5, 6 | Direct examinations of:Larson in Larson v. Best Ever Homes (Conversations)Bill Taylor in Taylor v. Active Tool (Conversations)Joe Porter in State v. Jones (Photograph and object)Officer in Photos of Guns (Photograph and relevance) | Conduct a more complex direct examination adding these skills:Lay a foundation for a conversation. Lay a foundation for an exhibit. Lay a foundation for a photograph and for an object. | Refreshing Recollection and Past Recollection Recorded FRE 803 (5)Fundamentals of cross-examination |

**CLASS FOUR – 9/13**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapters 5, 6, 7, 10 | Direct and cross examinations of:Arthur Holt in Holt’s Coins (Refreshing Recollection and Past Recollection Recorded)Smalley in State v. Themis (Ability to Observe)Camp in State v. Malzone (Bias and mistake) | Dealing with a forgetful witness: students will conduct direct including refreshing recollection and using past recollection recorded.Conduct clear direct examinations to anticipate issues that might arise on cross examination.Continue to develop techniques to raise and respond to common trial objections. On cross examination, explore ways to challenge witnesses ability to observe, possible bias, and mistake. | Impeachment: Attacking the witness's credibility |

**CLASS FIVE – 9/20**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapters 2, 5, 6We begin to work with the Casey Lee casefile.  | Direct and cross examinations of:Debbie Martin in Martin v. Wayne Smith in Smith v Illinois Department of Corrections (Prior Convictions)Nephew in State v. Solo (Prior Inconsistent Statements)A draft of a closing argument is due before noon the day of the next class.  | Use an exhibit to explain a complicated scene.Impeach witnesses using various techniques, including: evidence of a prior conviction per FRE 609, and evidence of a prior inconsistent statement. For the draft of the closing due before the next class: Choose a side and provide a paragraph of what this case is about (theme/legal theory) list good facts you will need to get out through your case. This is a pass/fail exercise. | Where to start?How to begin working with a casefile. How to develop a logical, consistent, and persuasive theory of the case – focusing on: People v. Casey Lee.Kelly Navarro will visit class to tell students which side of the case they are assigned to and who their trial partner will be. |

**CLASS SIX – 9/27**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapters 5, 6, 7, 8 | Direct and cross examinations of prosecution witness Ryan Sills.Submit the written draft of a closing statement. Due before midnight on 9/28. | Conduct direct examination of a prosecution/plaintiff witness with closing arguments in mind. Enter exhibits. Respond to objections.Conduct a cross examination of a witness with closing arguments in mind. Raise and argue objections. | Stipulations: What are they and how to I get them in?Online lecture to view before the next class: “Storytelling.” |

**CLASS SEVEN – 10/4**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapters 3, 5, 6, 7, 9, 10 | Direct and cross examinations of prosecution witness Jesse Markham.Enter stipulated evidence (Select from the pre-trial order in the casefile.) | Conduct a direct and cross of a defense witness. Discuss jury selection in this case and methods to challenge prospective jurors.Discuss jury instructions and the basic methods to prepare and submit jury instructions to the court prior to trial.Enter evidence by way of stipulation. | Jury Instructions – Make sure you understand the elements and burden of proof. Where/when to address jury instructions with the fact finder. |

**CLASS EIGHT – 10/11**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapters 5, 6, 7, 10 | Direct and cross examinations of defense witness Terry Frost. | Conduct direct and cross examination of a defense witness, raise and argue hearsay objections and enter objections.  | How to raise and argue a motion for a directed verdict.Optional Online Lecture: De no not work with experts in this course, interested students should take the “Expert Witnesses” course. |

**CLASS NINE – 10/18**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapter 4 | Direct and cross examinations of defense witness Casey Lee.Raise and argue a motion for a directed verdict. | Conduct direct and cross examination of a defense witness, raise and argue hearsay objections and enter objections. Exhibit knowledge of the purpose for and essential techniques to move for a directed verdict. | Closing Arguments |

**CLASS TEN – 10/25**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapter 4, 9 | Closing arguments in People v. Casey LeeA written motion in limine is due before noon the day of the next class. | Students will give closing arguments in People v. Casey Lee that integrates the theory and theme from the opening statement, highlights important evidence, and uses logic and emotion to appeal to the jury. | Motions in limineOpening Statements |

**CLASS ELEVEN – 11/1**

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| **READ & REFERENCE** | **IN CLASS EXERCISES** | **DEMOMSTRATE THIS SKILL** | **LECTURE TOPIC** |
| Chapters 9, 11, 12Students may schedule an out-of-class Zoom grade conference with their instructor to discuss preliminary grades. | Raise and argue one motion in limine.Deliver an opening statement.Time permitting, directs and crosses. | Prepare, file, and argue pre-trial motions in limine to admit or exclude evidence.Through an opening statement, establish a clear theme and theory, and orient the jury to essential case facts and anticipated evidence. | Final Trials: Names of guests must be entered into the google drive the day before the guest is scheduled to arrive.Discussion of how bench and jury trial differ. |

**CLASSES TWELVE AND THIRTEEN – 11/8 AND 11/15**

FINAL TRIALS. Students must be available for both classes to act as a witness during one class and as an attorney during the other class. Instructions are contained within the casefile.