

JUDGE DENISE REILLY- INSTRUCTOR
TRIAL PRACTICE
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Fall Semester U of M Law School, 2009
Tuesdays, 6:00 p.m. to 9:00 p.m.

Week 1: Tuesday, 9/8/09

Reading- Mauet, Chapters 1 and 2

Class- Course Description and Expectations, Assignments for future class and use of courtroom technology and Example of Opening Statement.

Week 2: Tuesday, 9/15/09

Reading- Mauet, Chapter 4, State v. Diamond (case file, pp. 5-41) or Potter v. Shrackle (case file, pp. 5-37). See assignment below.

Class- Opening Statement Exercise 101

Exercise-

Students 1, 5, 9 give Prosecution Opening in State v. Diamond.

Students 2, 6, 10 give Defense Opening in State v. Diamond.

Students 3, 7, 11 give plaintiff's opening in Potter v. Schrackle.

Students 4, 8, 12 give defendant's opening in Potter v. Schrackle.

As students are learning these two cases, start thinking about the exhibits an attorney might want to use when presenting the case to the fact finder.

Week 3: Tuesday, 9/22/09

Reading- Mauet, Chapters 5 & 7; *Problems in Trial Advocacy*, pp. 37-59

Class- Direct and Cross Examination 101

Exercise- Problem 3, Part A, *Problems in Trial Advocacy*, p 38. Students 1-6 prepare a direct and cross examination of Gale Fitzgerald. Students 7-12 prepare a direct and cross examination of James Lawrence. Turn in written outline of direct and cross. Everyone should be prepared to perform direct, cross or be the witness for either Gale Fitzgerald or James Lawrence. Use Exhibits 8 or 9 during your direct examination. You will need to be able to lay a foundation for the use of the diagram as an illustrative aid to testimony.

Week 4: Tuesday, 9/29/09

Reading- Mauet, Chapters 6.

Class- Exhibits 101

Exercise- Exercise- Prepare problems 12, 13, 17, 19, 22, 23 and 24 from *Problems in Trial Advocacy*. Be prepared to be either the introducing/opposing attorney or witness for the following assignments:

Students 1-6 = Problems 12, 17, 19 (A), 22 (A&B)

Students 7-12 = Problems 13, 19 (B&C), 23 (A), 24 (A)

If an exhibit is in the book, it should be removed so it can be used in class. If it is not in the book, the instructor will supply it. Some students acting as witnesses may have to

assume the roles of more than one person, depending on the problem. The proponent will have a chance to confer with the witness at the start of the exercise. **All students should be familiar with all exercises as other students will be asked to discuss the sufficiency of the various foundations.**

Week 5: Tuesday, 10/6/09

Reading- *Mauet*, Chapter 3, 10, 11 and 12

Class- Observe trial in state or federal court for 3 hours

Exercise- Write a two page summary of the trial you observe, including the name of the case, the attorneys, the judge, the nature of the case, the various parts of the trial observed and what worked and what didn't work.

Week 6: Tuesday, 10/13/09

Reading- *Mauet*, Chapter 11; State v. Diamond case file

Class- Direct and Cross Examination 201

Exercise- Review and prepare problems 1, 2, 3 and 4 (pp. 1-10). Even numbered students will be prosecutors and should prepare direct examinations for problems 1 and 2; cross-examinations for problems 3 and 4; and be prepared to serve as witnesses for problems 1 and 2. Odd numbered students will serve as defense counsel and should prepare cross-examinations for problems 1 and 2; direct examinations for problems 3 and 4; and be prepared to serve as witnesses for problems 3 and 4.

Week 7: Tuesday, 10/20/09

Reading- Potter v. Shrackle case file

Class- Direct and Cross Examination 301

Exercises- Prepare Potter v. Shrackle problems 1 and 2, pp. 219. We will use the deposition for impeachment purposes. Odd-numbered students will be plaintiff's counsel and prepare redirect in problem 1 and cross in problem 2, acting as witnesses in problem 1. Even numbered students will be defense counsel and prepare redirect in problem 2 and cross in problem 1, acting as witnesses in problem 2.

Week 8: Tuesday, 10/27/09

Reading- *Mauet*, Chapter 7; State v. Diamond, Problem 9 (pp. 19-21); Potter v. Schrackle, Problems 3, 4 and 5 (pp. 11, 17, 25 and 220).

Class- Impeachment and Redirect Exercise

Exercise- Even numbered students prepare cross-examination with impeachment, State v. Diamond, Problem 9 and Potter v. Schrackle, Problem 3. Prepare re-direct on Potter v. Schrackle, Problems 4 and 5.

Odd numbered students prepare cross-examination with impeachment, Potter v. Schrackle, Problems 4 and 5. Prepare re-direct on State v. Diamond, Problem 9 and Potter v. Schrackle, Problem 3.

Week 9: Tuesday, 11/3/09

Reading- *Mauet*, Chapter 8; Problems in Trial Advocacy, Problem 37 (and 4)
Drs. Meyer and Lovell

Class- Expert Witnesses

Exercise- Odd-numbered students prepare a direct of Dr. Meyer and a cross of Dr. Lovell. Even-numbered students prepare a direct of Dr. Lovell and a cross of Dr. Meyer. All students should be prepared to be either witness.

Choose trial partner and begin preparing for final trial.

Weeks 10 and 11: Tuesday, 11/10 and 11/17

Reading: *Mauet*, Chapter 9, State v. Diamond or Potter v. Schrackle as necessary.

Class- Closing arguments. *All students to attend.*

Exercise- Students prepare a 20-minute closing argument, either side, Potter or Diamond.

Weeks 12-13: Final Trials

Final trials begin on November 17

Good luck and have fun!

Week 14: Week after all Final Trials

Class- Trial recap at Town Hall

Exercise- Eating and talking!