

DRAFT SYLLABUS
Civil Trial Advocacy sec. 2 (Course No. 245.2)

This three-unit, fast-paced course is designed to turn you from law student to trial advocate in one semester. It is taught by U.S. District Judge Jeffrey S. White, an award-winning teacher who has taught trial advocacy classes at Boalt for many years, and Assistant U.S. Attorney Tracie L. Brown, a Boalt graduate who has tried several civil and criminal cases to verdict in federal court. In addition, students will have at least two meetings with Virginia Abascal, a courtroom presentation skills expert who has worked with numerous students in Judge White's classes in prior years. We hope this course will be an exciting and unique experience in your law school education.

During the semester, students will prepare and present all aspects of a trial, from opening statement to closing argument. Students will be required to provide and prepare their own witnesses, and to critique their own and each others' performances. The final exam will consist of a four-hour mock trial (conducted in front of federal judges) and related written submissions. The final exam will constitute 50% of each student's grade, with the remaining 50% comprised of in-class participation and performances, as well as written pre-trial submissions and critiques, with an emphasis on improvement throughout the semester. Students will do a live presentation each week that will be videotaped and uploaded to the Law School's website for each student to review and self-critique.

The course will have its first session at Boalt, but will then transition to the federal courthouse in San Francisco (3 blocks from the Civic Center BART/Muni station) so students can experience trial advocacy in the courtroom, including use of electronic evidence presentation technology. Due to the use of simulation exercises throughout the semester and the fact that each class in the course builds on the skills mastered in the prior classes, the usual provisions of "Add/Drop" do not apply. All interested students, whether enrolled or on the wait list, should attend the first session at which time enrollment will be confirmed; once the roster is finalized, students who thereafter drop or withdraw from the course will be given a failing grade.

This course is limited to students who have previously taken Evidence. Priority will be given to students who have not previously taken another trial advocacy class.

Students should expect to spend approximately 6 hours per week on preparation outside of class, the majority of which should be devoted to preparing in-class exercises for the following week's performance.

Before the first class, all interested students should read pages 69-85 of Herbert J. Stern's Trying Cases To Win, which will be posted on bspace.

Instructors:

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Office Hours

By appointment with either instructor

Texts:

- Steven Lubet, Modern Trial Advocacy (Law School Third Edition)
- National Institute of Trial Advocacy (NITA), Flinders Aluminum Fabrication Corp. v. Mismo Fire, Case File
- NITA, Rowe v. Pacific Quad, Inc., Case File
- Federal Rules of Evidence with Objections (handbook)
- Other readings will be assigned and made available during the semester

Course Schedule/Assignments¹

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| • January 8, 2013 (Week 1): | Course Introduction <ul style="list-style-type: none">▶ Read Pages 69-85 of Herbert J. Stern's <u>Trying Cases To Win</u>, which will be posted on bspace. |
| • January 15, 2013 (Week 2): | Direct Examination <ul style="list-style-type: none">▶ Read Chapters 1-3 and 8 in Lubet's <u>Modern Trial Advocacy</u>;▶ Prepare direct examinations of Gloria Warner and Susan Robinson from <u>Rowe v. Pacific Quad</u> OR prepare direct examinations of John Anderson and Sonia Peterson from <u>Flinders v. Mismo Fire</u>;▶ Prepare to play the two witnesses in the case for which you prepared a direct. |
| • January 22, 2013 (Week 3): | Introduction of Evidence <ul style="list-style-type: none">▶ Read Chapter 9 in Lubet's <u>Modern Trial Advocacy</u>;▶ Review the Federal Rules of Evidence with Objections handbook;▶ Prepare approximately 6 problems regarding |

¹ Reading assignments for the first few weeks are set forth herein. The remaining weeks' required reading will be assigned during the course of the class, at least one week in advance. Students will also be required to watch short demonstration videos throughout the semester, which will be posted on bspace or otherwise readily available (such as via youtube).

admissibility of evidence and objections
(problems will be handed out and/or posted
on bspace).

- January 29, 2013 (Week 4): Cross Examination (Positive)
 - ▶ Read Chapter 4 in Lubet's Modern Trial Advocacy;
 - ▶ Prepare a positive (non-impeachment) cross-examination of Gloria Warner and Susan Robinson from Rowe v. Pacific Quad *AND* John Anderson and Sonia Peterson from Flinders v. Mismo Fire;
 - ▶ Prepare short re-directs for the above-named witnesses;
 - ▶ Prepare a short closing argument based upon the examinations.
- February 5, 2013 (Week 5): Cross Examination (Impeachment)
 - ▶ Read Chapters 5 and 6 in Lubet's Modern Trial Advocacy;
 - ▶ Find one article or video discussing or demonstrating impeachment techniques, and provide a written critique;
 - ▶ Prepare approximately 10 problems regarding impeachment, including use of necessary exhibits (problems will be handed out and/or posted on bspace).
- February 12, 2013 (Week 6): Advanced Direct/Cross, Part I
- February 19, 2013 (Week 7): Advanced Direct/Cross, Part II
- February 26, 2013 (Week 8): Opening Statement
- March 5, 2013 (Week 9): Direct/Cross of Experts, Part I
- March 12, 2013 (Week 10): Direct/Cross of Experts, Part II
- March 19, 2013 (Week 11): Closing Argument
- March 26, 2013: Spring Break
- April 2, 2013 (Week 12): Closing Argument with Visual Aids
- April 9, 2013 (Week 13): Pretrial Conference

- April 16, 2013 (Week 14): Preparation for Trial²
- April 24, 2013: Final Exam/Trial

² Students will use this week to prepare for the Final Exam/Trial, but instructors will be available by appointment for any students who wish to seek guidance regarding their preparations.