



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

TRIAL SIMULATION: LECTURE

LAW COURSE NUMBER: 514

SECTION NUMBERS: 13

SPRING, 2018

WEDNESDAYS -ROOM 206

TIME 5:00-6:50 P.M.

PROFESSOR BRIAN M. MIDDLETON

CONCEALED HANDGUN POLICY

As you know, the State of Texas has recently passed legislation permitting you to carry a *concealed* firearm on campus if you have a concealed license permit recognized by the State of Texas, subject to the rules and regulations of Texas Southern University's ("TSU's) Campus Carry Policy. Under TSU's Campus Carry Policy, I have the right to designate my office as a gun-free zone. I have elected to make my office a firearm-free space. Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun. For a complete list of the gun-free zones on this campus and the rules governing campus carry at our institution, please visit Texas Southern University's website at <http://www.tsu.edu/>. Please note that entering a gun-free zone on campus with a firearm, including inside my office, could not only lead to criminal prosecution but suspension or expulsion from school.



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THURGOOD MARSHALL SCHOOL *of* LAW

TABLE OF CONTENTS

Conceal Handgun Policy.....	2
The Professor	4
Course Books & Materials.....	5
Course Description & Objective.....	6
Student Learning Outcomes	14
Proposed Schedule for Spring 2018-Lecture/Demonstrations.....	14
Grading.....	18
Participation, Attendance & Professionalism.....	19

THE PROFESSOR

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LOCATION OF CLASSROOM: Room 206

OFFICE HOURS: Wednesdays: 6:50-7:50 p.m.
Or by Appointment

COURSE BOOKS & MATERIALS

1. Modern Trial Advocacy
Analysis & Practice
Fifth Edition
Authors: Steven Lubet and J.C. Lore
National Institute for Trial Advocacy publication (NITA)
ISBN: 9781601564740
2. Fact Investigation
Second Edition
Authors: Paul Zwier and Anthony Bocchino
ISBN: 9781601564351
3. Case File: State v. Jordan.

COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION/OBJECTIVE:

This is a 2L, introductory trial simulation course. **THIS IS THE BEGINNING, NOT THE END!**

The intent of this course is to continue the transformation of the law student to “whole lawyer”, by introducing and allowing for multiple opportunities to practice skills and competencies expected of new lawyers.

Knowledge of substantive law without the ability to effectively apply the law leaves the practitioner ineffective. Knowledge of how to effectively apply the law without a thorough understanding of substantive law makes a practitioner dangerous.

Trial simulation is where the knowledge of substantive law + effective application of that law through practical techniques immersed in social and professional responsibility = a “whole lawyer”; a lawyer who is competent, professional, of high integrity, “client ready”, and “practice prepared”.

Beginning the spring of 2018, Trial Simulation will be a 4-hour course, (previously it has only been 2 hours). The 4 hours are divided into two separate components: 1) the lecture component, worth 2 credit hours; and 2) the skills component, also worth 2 hours. The lecture components are taught by Dean Ledesma in one of two sections: 1) Tuesday from 9:00 a.m.-10:50 a.m. and 2) Thursday from 9:00 a.m.-10:50 a.m. The lecture component taught on Tuesday and Thursday is designed to provide the theoretical foundation for the skills that will be focused on in the skills section. The skills component will be taught by 1 of 13 different professors, please see chart below:

Section	Name of Instructor	Day	Time	Class Room	Case File Chosen
1	Judge Mark Vinson	Wednesday	5-6:50	211	State V. O'Neill
2	TBA	Monday and Wednesday	2-2:50	105	TBA
3	Justice Stephen Smith	Thursdays	5-6:50	103	State v. Delaney
4	Attorney Clive Markland	Thursdays	5-6:50	208	State v. Cole
5	Attorney Chauntell Wood	Thursdays	5-6:50	206	State v. Lawrence
6	Professor Martina Cartwright	Tuesdays and Thursdays	2-2:50	212	Brown v. Byrd
7	Attorney Letitia Quinones	Mondays and Wednesdays	1-1:50	105	TBA
8	Judge Fredericka Phillips	Tuesdays	5-6:50	203	Powel v. SuperPulper
9	Judge John S. Chases	Tuesdays	5-6:50	105	Problems in Trial Advocacy
10	Attorney Lydia Johnson	Mondays	3-4:50	105	State v. Lawrence
11	TBA	Mondays	5-6:50	212	TBA
12	Attorney Sean Villery-Samuel	Mondays	3-4:50		State v. Stone
13	Attorney Brian Middleton	Wednesdays	5-6:50		State v. Jordan

SKILLS TO BE COVERED:

ABA Standards and Rules of Procedure for Approval of Law Schools 2017-2018, section 302 identifies the skills that all law schools are minimally expected to train their students in:

Standard 302. LEARNING OUTCOMES A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

ABA Standards and Rules of Procedure for Approval of Law Schools 2017-2018 interprets 302 (d) by adding other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.

The TMSL faculty has identified these 302 (d) skills and competencies as set out in Exhibit "A". With this as our background, the skills that the Trial Simulation course will focus on in the Spring of 2018 are as follows:

1. Case Analysis/ Theory and Theme Building
2. Voir Dire
3. Evidence and Exhibit Foundations
4. Opening Statement

5. Direct Examination
6. Cross Examination
7. Refreshing Recollection/ Impeachment by Prior Inconsistent Statement
8. Closing Arguments

WEEKEND SESSIONS:

Even with 2 hours dedicated to the actual practicing of the skill, (the skills component), 2 hours is still not enough time to expect mastery of any of the 8 aforementioned skills. As such, mastery is NOT the expectation. The expectation is familiarity and competence. To aide in this familiarity and competence, the course will be supplemented by weekend sessions. Some skills professors will make these weekend sessions mandatory, please make sure to check with your individual professor. Even if they are not mandatory, the more time you put-in, the more you learn. You, are your only limitation.

The tentative weekend schedule is as follows:

1. Professionalism in the Legal Profession: What it Means and What It Requires. Do You Have What It Takes?
 - a. Speaker to be determined
 - b. Date: Tentatively, Saturday, January 20, 2018
 - c. Time: Tentatively, 9:00 a.m.- 12:30 p.m.
 - d. Session will be open to Trial Simulation students; 3L's; TMSL Alumni
 - i. CLE will be offered to any 3L and licensed attorney who attends.
2. The Importance of Story Telling
 - a. Address in detail, case analysis, theory and theme building
 - b. The connection between the story and opening statements and closing arguments
 - i. Speaker: I requested Acting Dean Gary Bledsoe to address this topic

- ii. Date: Tentatively, Saturday, February 10, 2018
- iii. Time: Tentatively, 9:00 a.m.- 12:30 p.m.
- c. Session will be open to Trial Simulation students; 3L's; TMSL Alumni
 - i. CLE will be offered to any 3L and licensed attorney who attends.

3. Client Interviewing and Fact Investigation: What is the Difference Between an Inhibitor and a Facilitator?

- i. Students should read the Fact Investigation book.
- ii. Speaker to be determined
- iii. Date: Tentatively, Saturday, February 10, 2018
- iv. Time: Tentatively, 1:00 p.m.- 4:30 p.m.
- v. Session will be open to Trial Simulation students; 3L's; TMSL Alumni
- vi. CLE will be offered to any 3L and licensed attorney who attends.

4. Discovery: Can you afford not to do it?

a. Civil Discovery

- i. Speaker to be determined
- ii. Date: Tentatively, Saturday, March 3, 2018
- iii. Time: Tentatively, 9:00 a.m.- 12:30 p.m.
- iv. Room 1
- v. Session will be open to Trial Simulation students; 3L's; TMSL Alumni
- vi. CLE will be offered to any 3L and licensed attorney who attends.

b. Criminal Discovery

- i. Speaker to be determined
- ii. Date: Tentatively, Saturday, March 3, 2018
- iii. Time: Tentatively, 9:00 a.m.- 12:30 p.m.

- iv. Room 2
- v. Session will be open to Trial Simulation students; 3L's; TMSL Alumni
- vi. CLE will be offered to any 3L and licensed attorney who attends.

5. Winning and Losing by Voir Dire

- a. Students should reach Chapter 14 of Modern Trial Advocacy
- b. This will be a more in-depth coverage of the nuances and importance of Voir dire.
 - i. How to read jury information sheets
 - ii. How and when to request a "shuffle" of the panel
 - iii. When to ask for a larger than standard panel
 - iv. The strategy of "busting" a jury panel.
- c. Speaker to be determined
- d. Date: Tentatively, Saturday March 3, 2018
- e. Time: Tentatively, 1:00 p.m.- 4:30 p.m.
- f. Session will be open to Trial Simulation students; 3L's; TMSL Alumni
 - i. CLE will be offered to any 3L and licensed attorney who attends.

6. The Art and Science of Questions: from Open-ended Questions of the Direct Examination to the "Wicked" Question of Cross Examination

- a. Students should read Chapters 4 and 7 of Modern Trial Advocacy
- b. Speaker to be determined
- c. Date: Tentatively, April 7, 2018
- d. Time: Tentatively, 9:00 a.m.- 12:30 p.m.
- e. Session will be open to Trial Simulation students; 3L's; TMSL Alumni

- i. CLE will be offered to any 3L and licensed attorney who attends.

- 7. Never Fear: The Building Up and Tearing Down of Expert Witnesses
 - a. Students should read Chapter 8 of Modern Trial Advocacy
 - b. Speaker to be determined
 - c. Date: Tentatively, Saturday April 7, 2018
 - d. Time: Tentatively, 1:00 p.m.- 4:30 p.m.
 - e. Session will be open to Trial Simulation students; 3L's; TMSL Alumni
 - i. CLE will be offered to any 3L and licensed attorney who attends.

ADDITIONAL COURSE REQUIREMENTS:

Students in the “skills” sections, will also be required to create and maintain a trial notebook, for which part of their final grade in the “skills” section should be based.

TEACHING METHOD

A. LECTURES AND DEMONSTRATIONS:

Although it is necessary to actually practice trial skills in order to become familiar and competent in the skill, the theory and analysis of trial advocacy are often best conveyed through lecture and demonstration. This is one of the many reasons that the choice of text book was made. *Modern Trial Advocacy*, the text book offers video vignettes that demonstrate each of the assigned skill. It is the student's responsibility to read the assigned lessons, **IN ADVANCE** of class and to watch the video vignettes, **IN ADVANCE** for the assigned lessons. If it is determined that a student is not prepared, that student will be asked to leave class, and will be counted absent for that day. Students will also be expected to have viewed all related videos prior to class. Students may be called upon to perform or answer questions in class without any further notice.

B. Full Trials

Either Bench or Jury trials, (determined by your skills professor) will be held at the end of the semester.

**STUDENT LEARNING OUTCOMES
PROPOSED SCHEDULE FOR SPRING 2018-LECTURE/DEMONSTRATIONS**

Lecture/Demonstration Classes on Tuesday and Thursday with Dean Ledesma	Week of School	Date	Assignment	Reading Assignment to Prepare
	Pre- Course	January 1	Race and Gender IAT- Papers due on Jan 8 <hr/> Case Analysis	Students should take the Harvard Race IAT and Gender IAT and write a 1500- typewritten word, double spaced journal on what you learned about yourself. These journal articles will be due on Jan. 9 and Jan.11, at the beginning of class via hard copy. For more information please see Harvard IAT.
	Week 1	January 8	Review Case Analysis And Theory and Theme Development	Review Videos Chapter 2 and

				Chapters 1,2 and 3 of Modern Trial Advocacy
	Week 2	January 15	Voir Dire	Chapter 14 of Modern Trial Advocacy
	Week 3	January 22	Exhibits/Admitting Evidence	Chapter 10 and 11 Video Review AND Chapter 10 and 11 of Modern Trial Advocacy
	Week 4	January 29	Opening Statement	Chapter 12 Videos AND Chapter 12 of Modern Trial Advocacy
	Week 5	February 5	Direct Examination	Chapter 4 Video Review AND Chapter 4 and 7 of Modern Trial Advocacy
	Week 6	February 12	Direct Examination and Re-Direct	Chapter 4 Video Review And Chapter 4 and 7 of Modern Trial Advocacy

	Week 7	February 19	Cross Examination	Video Review Chapter 5 AND Chapter 5 of Modern Trial Advocacy
	Week 8	February 26	Cross Examination	Video Review Chapter 5 AND Chapter 5 of Modern Trial Advocacy
	Week 9	March 5	Spring Break	
	Week 10	March 12	Refreshing Recollection/Impeachment by Prior Inconsistent Statement	Video Review Chapter 6 AND Chapter 6 of Modern Trial Advocacy
	Week 11	March 19	Closing Argument	Chapter 13 of Modern Trial Advocacy
	Week 12	March 26	Closing Argument	Chapter 13 of Modern Trial Advocacy
	Week 13	April 2	Preparation for Final Trial including completion of Trial Notebook	Review and Prepare

	Week 14	April 9	Preparation for Final Trial including completion of Trial Notebook	Review and Prepare
	Week 15	April 16	Reflection	
	Week 16	April 23	Last Week of School	

GRADING

Students will receive a letter grade for the lecture component from Dean Ledesma, AND, students will receive a letter grade for the skills component taught by their individual skills professor.

The final grade will be determined as follows:

- | | |
|--|-------------------|
| 1. Attendance in class..... | ___10__ points |
| 2. Attendance at weekend sessions | ___10__ points |
| 3. Preparation for each class period: | ___20__ points |
| 4. Journal entries or written assignments..... | ___10__ points |
| 5. Observation of at least one Final Trial..... | ___20__ points |
| 6. Observation of at least one Voir Dire.... .. | ___20__ points |
| 7. Observation of at least one trial either jury or bench. | ___20__ points |
| 8. Final Examination..... | ___25__ points |
| TOTAL | |
| | 130 POINTS |

PARTICIPATION, ATTENDANCE & PROFESSIONALISM

1. Generally	
a. Special Accommodations	All requests for any special accommodations must be first submitted to the Dean of Student Affairs.
b. Final Examination	There will be a written Final Exam that will be in essay format. This will count for 25% of your final grade.
2. Dress	<i>IF YOU WOULD NOT WEAR IT TO COURT OR TO WORK IN A LEGAL OFFICE AS AN ATTORNEY, DO NOT WEAR IT TO CLASS.</i>
3. Class Attendance	
a. Attendance Taken-	Daily.
b. Tardiness-	If you are more than 5 mins. late for class without having informed the Professor of your intended tardiness, you will be marked absent.
c. Allowable Number	Refer to The Student Rules of Matriculation.
4. Class Etiquette	
a. Cell Phones	<p>On November 16, 2017, Acting Dean Bledsoe implemented a new cell phone policy, effective immediately. The policy reads as follows, "The use of cell phones in classrooms will be prohibited unless one obtains the expressed consent of the professor.</p> <p>Professors should only permit cell phone usage in the classroom if there is a stated and agreed academic purpose. Otherwise, cell phones should be packed away inside one's</p>

	back pack or inside a pocket, purse or some other item capable of holding the cell phone.”
b. Eating and Drinking in the Classroom	<p>Eating and drinking have always been prohibited inside the classrooms. As in any courtroom, attorneys are not allowed to bring in their lunch and openly eat it while leisurely drinking their favorite drink all while sitting at counsel table; hence students should be held to the same professional expectation.</p> <p>Water, in water bottles with caps should be the only drinks allowed.</p> <p>Please help us take care of our equipment and our classrooms.</p>
c. Tablets/Smart Phones/MP3	If these tools are not being used to serve as direct class support; then please be respectful and set a professional example by not using them.
d. Professional Decorum	The classroom and the courtrooms are sacred in that they are the places where positive change is defined; discussed; effectuated; and shared with the others. Please act in a manner that brings dignity to you; your family and the legal profession.
e. Yielding the Floor	As in the courtroom, if a colleague, professor or speaker is engaged in presentation or inquiry, please yield the “floor” until you can

	intervene without disruption. As in a courtroom, only one person can be heard at a time.
f. Dismissal	Please do not prepare to leave class until class is dismissed; unless you have told me in advance that you need prior to the dismissal of class.
5. Class Preparation	
a. Student Responsibility	To be prepared to participate in each class session.