



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

ADVANCED TRIAL PRACTICE

LAW 927

SECTION 2

FALL 2019

TUESDAYS

5:30 P.M. – 8:00 P.M.

ROOM 106

PROFESSOR TIM ADAMS
&
PRESTON STRICKLAND

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CONCEALED HANDGUN POLICY

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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THE PROFESSOR

NAME: Tim Adams

TELEPHONE: Cell: 601-454-9533

EMAIL: tadams072@gmail.com

LOCATION OF OFFICE: Adjunct Office, Room 235

OFFICE HOURS: Tuesday 7:10 p.m. – 8:10 p.m. & Saturday 9 a.m. – 12 p.m.

Biography:

Hailing from Jackson, Mississippi, Attorney Tim Adams earned an Associate of Arts degree from Mississippi Gulf Coast Community College, a Bachelor of Arts degree from University of Southern Mississippi, and a Juris Doctorate degree from Texas Southern University – Thurgood Marshall School of Law.

Prior to his career in the legal profession, Attorney Adams served as a police officer for seven years. During this time, Attorney Adams gained experience as a patrol officer, investigator in the Street Crimes Unit, member of the S.W.A. T. (Special Weapons and Tactics) team, and detective in the Narcotics Division and Criminal Investigation Division.

After successfully passing the Texas Bar Examination, Attorney Adams began working as an Assistant District Attorney at the Harris County District Attorney's Office, and he is currently a felony prosecutor, assigned as Chief Prosecutor of Criminal County Court at Law #16.

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. Problems and Case Files
(*to be provided*)

COURSE DESCRIPTION & OBJECTIVE

Description

The American Bar Association Standards and Rules of Procedure for Approval of Law Schools, 2017-2018, 301 (a) states that a law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for:

- 1) admission to the bar; and
- 2) for effective, ethical, and responsible participation as members of the legal profession.

To that end, the Advance Trial Practice course is an in-depth trial advocacy course, open to 3L students as an elective, and strongly suggested for participants in the Mock Trial program.

This advanced course is designed to ensure the students' mastery of core competencies of effective communication as identified by the TMSL faculty; and the mastery of skills identified by the American Bar Association Standards and Rules of Procedure for Approval of Law Schools, 2017-2018, 302.

Objective

The objective of this course is to build upon the basic knowledge of trial advocacy (obtained during the 2L Trial Simulation course), by exploring areas such as pre-trial motions, witness woodshedding, advanced voir dire techniques, and punishment hearings (criminal cases).

The Advanced Trial Practice course is where the effective knowledge of substantive law, plus effective application of that law through practical techniques, equal a "whole lawyer"; a lawyer who is competent, professional, of high integrity, "client-ready", and "practice-prepared".

To best facilitate this simulation course, each student will perform as trial counsel in a variety of simulated courtroom exercises. Every student will practice and hone, at minimum, the following skills: voir dire; opening statements; direct examination; cross-examination, objections; introduction of exhibits, and closing arguments.



Teaching Method

A. Simulated Courtroom:

This course is taught in the simulated courtroom method. Students are expected to perform as trial counsel in one or more advocacy problems. The witnesses will be played by other students.

Each student will be assigned a designated role for purposes of the assignments. Unless you are instructed otherwise, please prepare each assignment according to your role designation.

B. Critique

At various times during each student performance the course instructor may offer a critique. The purpose of critique is to help the student evaluate the strengths and weaknesses of their performance with an eye toward future improvement. The goal in the critique is not to criticize the student either as an advocate or a person, but rather to alert the student to any shortcomings and to offer a prescription for making adjustments that will translate in and beyond the courtroom.

C. Lectures and Demonstrations

Although it is necessary to practice trial skills and effective communication skills in order to learn and assimilate them, 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. It is the student's responsibility to read the assigned lessons, **IN ADVANCE** of class.



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STUDENT LEARNING OUTCOMES AND PROPOSED SCHEDULE

<i>1. The Importance of Storytelling and Case Analysis</i>	
Case Analysis	<p>Students will learn:</p> <ol style="list-style-type: none">1. Students will learn the importance of planning a trial, with the first step being case analysis. Students will learn to identify the legal theory, the factual theory, and the persuasive theory for both sides of a case.2. Students will learn to examine case file materials, and use the charging instrument and jury charge as guides.
<i>2. Rules of Evidence</i>	
Cases are won and lost according to what evidence is allowed to be introduced before the trier of fact. It's not enough to have favorable evidence. You must be able to admit it.	<p>Students will learn:</p> <ol style="list-style-type: none">1. Common Rules of Evidence.2. Argument and rebuttal.
<i>3. Witnesses, Motions, and Hearings (coverage over two weeks)</i>	
<p>Witnesses are the vessel through which evidence is introduced.</p> <p>Pre-trial, trial, and post-trial motions will be discussed.</p> <p>Pre-trial hearings (suppression hearing, Franks hearing, & Daubert hearing) and probation-related hearings (PSI, revocation, & adjudication) will be discussed.</p>	<p>Students will learn:</p> <ol style="list-style-type: none">1. How to woodshed witnesses.2. How to use expert witnesses.3. How to craft and defend a Motion in Limine.4. How to craft and defend a Motion for Directed Verdict.5. How to conduct various suppression hearings.6. How to conduct probation-related hearings.

4. Voir Dire (coverage over two weeks)

Some argue that the single most important part of trial is jury selection.

Students will learn:

1. How to identify which topics to discuss during voir dire.
2. How to use of PowerPoint to aid your presentation.
3. The basics of strikes and challenges.

5. Opening Statements (coverage over two weeks)

The advocate's first opportunity to speak directly to the trier of fact about the merits of the case.

Students will learn:

1. The role of the Opening Statement.
2. The law of Opening Statements.
3. The structure and elements of the Opening Statement.
4. The most effective techniques for delivering the Opening Statement.

6. Direct Examination (coverage over two weeks)

Direct Examination is your opportunity to present the substance of your case, from your client's perspective.

Students will learn:

1. The purpose of Direct Examination.
2. How to plan the Direct Examination.
3. Questioning techniques/form.
4. The ethics of Direct Examinations.
5. The techniques for Refreshing Recollection.

7. Cross Examination (coverage over two weeks)

Cross Examination is the ultimate challenge for the trial lawyer. This is your opportunity to discredit the opposition's witnesses, and promote your case theory.

Students will learn:

1. The purpose of Cross Examination;
2. How to plan and organize the Cross Examination
3. The ethics of Cross Examination.



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8. *Closing Arguments and Punishment in Criminal Cases (coverage over two weeks)*

Closing arguments is the advocate's final opportunity persuade the trier-of-fact of their case theory.

Students will learn:

1. The role of the Closing Argument.
2. The structure and elements of Closing Argument.
3. The most effective techniques for delivering the Closing Argument.
4. The purpose and structure of the punishment phase of a criminal trial.



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GRADING

The grade for each advocacy exercise will be assigned on the basis of preparation, analysis and execution: How well prepared were you?

TMSL Grading Policy:

TMSL 2019-2020 Student Regulations:

“ Section 3. Grading System

A. Grade Definition and Structure Letter Grade = Honor Point: Definition

A 4.00 Excellent

A- 3.67 Intermediate

B + 3.33 Intermediate

B 3.00 Good

B- 2.67 Intermediate

C + 2.33 Intermediate

C 2.00 Satisfactory

*C- 1.67 Intermediate *(Does Not Apply to 1L Substantive Courses)

D + 1.33 Intermediate

D 1.00 Marginal

C- 0.67 Intermediate

F 0.00 Failure



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I Incomplete - A failure to demonstrate the required competence because:
15 1) Student has an excused failure to take exam, or 2) Student has been granted an extension of time by the professor in a seminar or other courses where the grade on the paper will constitute a significant percentage of the final grade.

NOTE: (See Article III. Sec. 4 A 7 - Postponed Examination). See also Article III Section 7 for removal of Incomplete.

S =(Satisfactory) This grade can be given only upon the approval of the Academic Standing Committee and the Dean, and shall not be included for the purpose of measuring the cumulative average, but shall be included for the purpose of credit hour requirements.

W =(Withdrawal) An administrative decision by the professor of the course in conjunction with the Office of the Dean that the student has failed to satisfy either minimum or maximum course loads or minimum attendance requirements as specified herein at Article III Section 1 A, and B and Article III Section 4 A 1 attendance required. This grade must also be given where a student withdraws from a course in which withdrawal is permitted. Such withdrawal from a course, or courses, must comply with deadlines and procedures prescribed by law school and University Regulations.



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The final grade for the course will be determined as follows:

- 1. Preparation for each class period (including quizzes) 50%**
- 2. Demonstration of each assigned skills 50%**



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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	The final exam will consist of the courtroom trial presentation at the end of the semester.
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-	“Attendance 1. Required A student is required to be present for all scheduled examinations at the time and place prescribed. Any student who has not withdrawn from a course (See Article III, Section 1A 3, for requisite procedures), or has not received an excused absence (See Article III, section 4, A 7, below for requisite procedures, and Article III, Section 3, A, for definition of Incomplete (I) evaluation), and who fails either to attend an examination or fails to submit an answer shall receive the grade of F” (2018-2019 TMSL Student Rules and Regulations).
b. Tardiness-	5 minutes late, according to the time piece of the Professor, will result in an “Absence” for that day. If you are late to court, you are subject to default.
c. Allowable Number	Maximum five (5) absences for a 3-hour course.



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5. Classroom Etiquette	
a. Cell Phones	<p>Cell phones are not permitted to be used or seen, unless specifically asked to do so by the Professor.</p> <p>Please do not use cell phones in class. This includes but is not limited to listening to music; texting; talking; videotaping; social media; internet searching, etc.</p>
b. Tablets/Smart Phones/MP3	<p>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.</p>
c. Professional Decorum	<p>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.</p>
d. Yielding the Floor	<p>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.</p>
e. Dismissal	<p>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.</p>
5. Class Preparation	
a. Student Responsibility	<p>To be prepared to participate in each class session.</p>



TEXAS SOUTHERN UNIVERSITY THURGOOD MARSHALL SCHOOL OF LAW
ACADEMIC CALENDAR 2019–2020

FALL SEMESTER ACCELERATED (TURBO) COURSE

First Day of Accelerated Summer	Monday	August 5, 2019
Last Day to Add/Drop Classes	Monday	August 5, 2019
Last Day of Classes	Friday	August 16, 2019

FALL SEMESTER 2019 (SEVENTY-ONE DAYS OF CLASSES)

Orientation	Monday–Friday	August 12–16, 2019
First Day of Class	Monday	August 19, 2019
Last Day to ADD/DROP	Wednesday	August 21, 2019
Labor Day (NO CLASSES)	Monday	September 2, 2019
<i>Purge of all unpaid course selections</i>	Wednesday	September 18, 2019
Mid Term Examinations	Monday–Friday	October 14–18, 2019
Last Day to Drop a Class	Friday	November 8, 2019
Last Day of Classes	Tuesday	November 26, 2019
First Year Professors' Grades due	Tuesday	November 26, 2019
Reading Period (NO CLASS)	Wednesday	November 27, 2019
Thanksgiving Holiday	Thursday–Friday	November 28–29, 2019
Reading Period (NO CLASS)	Saturday–Sunday	November 30–December 1, 2019
Final Examinations	Monday–Friday	December 2–December 13, 2019
Commencement Exercises	Saturday	December 14, 2019

SPRING SEMESTER 2020 (SEVENTY DAYS OF CLASSES)

School Opens	Thursday	January 2, 2020
First Day of Class	Monday	January 13, 2020
Last Day to ADD/DROP	Wednesday	January 15, 2020
M L K Holiday (NO CLASSES)	Monday	January 20, 2020
<i>Purge of all unpaid course selections</i>	Friday	February 7, 2020
Mid Term Examinations	Monday–Friday	March 9–13, 2020
Spring Break	Monday–Friday	March 16–20, 2020
Spring Break (University Closed)	Wednesday–Friday	March 18–20, 2020
Last Day to Drop a Class	Thursday	April 9, 2020
Good Friday (NO CLASSES)	Friday	April 10, 2020
Last Day of Classes	Tuesday	April 28, 2020
First Year Professors' Grades due	Tuesday	April 28, 2020
Reading Period (NO CLASSES)	Wednesday–Thursday	April 29–April 30, 2020
Simulated Bar Exam*	Friday	May 1, 2020 (<i>tentative</i>)
Reading Period (NO CLASSES)	Saturday–Sunday	May 2–May 3, 2020
Final Examinations	Monday–Friday	May 4–May 15, 2020
Hooding Ceremony	Friday	May 15, 2020
Commencement Exercises	Saturday	May 16, 2020

Please note that the calendar events and /or dates are subject to change.

Updated August 6, 2019

ASSUMPTIONS

Necessary Assumptions:

1. Students will act as licensed attorneys.
2. The hypothetical situations (case files) are being treated as real.
3. The cases have been reviewed and accepted by the firm/government agency.
4. All necessary conflict checks have been run including but not limited to: potential parties against current and old clients; and case conflicts against firm policies.
5. Retainer agreements have been negotiated and executed.
6. Any necessary waivers have been executed and delivered.
7. Initial client interviews have been conducted.
8. Witness interviews have been conducted.
9. Client and witness preparation has been conducted.
10. The statutes as provided in the files will be followed to the extent they are articulated.
If no such rule or statute is articulated, evidence rules will be based on the FRE.