

University of Miami School of Law
Litigation Skills I
Syllabus
Spring 2021

Faculty and Staff

The Director of the Litigation Skills Program is Professor Tamara Lave. The Program Administrator is Lydia Sanchez, and the coordinating assistants are Yailin Nunez and Adys Pena. The staff will be working remotely. You may contact the staff via e-mail litskill@law.miami.edu or calling Lydia Sanchez at 305 498-6986.

The regular adjunct faculty consists of 34 practicing trial lawyers and judges in the Trial Skills section, and 14 in the Pretrial Skills section.

Course Material

The following books are required for this course. They are available at UM Book Store or Book Horizons:

1. PRETRIAL, Mauet, Tenth Ed. Aspen
ISBN 978 1543 8050 24
2. MODERN TRIAL ADVOCACY LAW SCHOOL EDITION, Lubet, Fourth Ed, NITA
ISBN 978 1 60156 573 0
3. PROBLEMS IN TRIAL ADVOCACY, 2019 Edition, NITA
ISBN 9781 60156 8397
4. BENCH TRIAL - In Re Cooperman Case File, Bocchino, Third Ed, NITA
ISBN 9781 6015 6 8052
5. FINAL TRIAL case files.... (TBA later in the semester)
6. We will also concentrate on the Florida Rules of Civil and Criminal Procedure and the Florida Evidence Code, which are available online.

If a student has a disability, or suspects that he or she may have a disability, please contact Jessie Howell, Director of Accessibility, for information about available opportunities, resources, and services. Her phone number is 305-284-4551, and her email address is access@law.miami.edu.

SPECIAL DATES

WEEK #5

February 22nd, 2021

NO CLASSES SCHEDULED

The Monday afternoon, 2/22, lecture will be made up on Wednesday, 2/24, from 1:00pm-2:30pm.

The Monday evening Trial & Pretrial Classes will be made up on Friday, 2/26, from 1:30pm-3:30pm.

(*This is for the Monday evening students ONLY.)

WEEK #8

Week of March 15th

BENCH TRIALS

Each student will participate as co-counsel in a Bench Trial. The Bench Trial will be scheduled on your regular morning or evening classes. You will be assigned a bench trial partner. **Your bench trial partner should not be the same person that you would choose for final trial partner.** If you are paired with the person that you would like to choose as a final trial partner, please let the Program Administrator know ASAP. Your bench trial assignment will be changed accordingly.

WEEK #14

April 24th, 2021

FINAL TRIALS

Pretrial and Trial Assignments

Specific Pretrial and Trial assignments will be made by January 22nd. Please check Blackboard for your class assignments.

Format of Lecture

The purpose of the Monday Lecture/Demonstrations is to examine theoretical questions arising during litigation and to explain proper technique in a variety of litigation settings. The proper preparation of the exercises assigned for each week will be specifically addressed.

The Monday lecture will address the following weeks' skills in detail. Each student should be familiar with the facts of the hypotheticals for their weekly workshops before the Monday Lecture/Demonstration, in addition to having completed the required reading assignment.

Format of Trial and Pre-trial Classes

The course will be conducted its learning by-doing and critique method. Students will be required to prepare exercises for each workshop. These exercises will be scored. During the class time, the instructor will call upon the students, individually or in teams, to assume the role of counsel for one of the parties and then to perform the assigned exercise. Performance in class is always followed by critique. The purpose is to develop skills by learning from experience, which includes watching other student's performances and listening to their critiques.

Students must be prepared, each week, to make a presentation. Students are encouraged to work together. On some occasions, hopefully infrequent, not all students will be called upon during the workshop. Those students not performing one week should so indicate to the instructor at the beginning of the next workshop.

PRETRIAL CLASSES

Pretrial AM. Classes meet from 7:00 to 8:50am Tuesday, Wednesday, and Thursday.

Pretrial PM. Classes meet from 6:30 to 9:00pm on Monday, Tuesday, Wednesday, and Thursday.

TRIAL CLASSES

Trial AM. Classes meet from 7:00 to 8:50am Tuesday, Wednesday, and Thursday.

Trial PM. Classes meet from 6:30 to 9:00pm Monday, Tuesday, Wednesday, and Thursday.

VIDEO REVIEW

AM Sessions will take place from 7:00am to 9:00am Friday and Monday.

PM Sessions will take place from 4:30 to 7:00pm Monday, Tuesday, Wednesday, and Thursday.

Each student will participate as co-counsel in a bench trial during the week of **March 15th**. The bench trial is usually scheduled on students' regular morning/evening class.

A jury trial will be held on **SATURDAY, April 24th, 2021**. You may choose your final trial partner. Students with a religious or other unavoidable conflict may be scheduled for a jury trial at another time with the permission of the Program Administrator, Lydia Sanchez. These arrangements must be made, in writing, via e-mail to litskill@law.miami.edu no later than **MONDAY, February 8th, 2021**.

Video recording

Trial workshops and bench trials will be recorded. Students are **required** to review their weekly video one-on-one with a presentation instructor or faculty member. These reviews will not be scored but will help enhance your presentation skills. The video review schedule for morning and evening trial workshops will be posted on Blackboard.

Class recordings

Students are expressly prohibited from recording any part of this course. Meetings of this course might be recorded by the University. Any recordings will be available to students registered for this class as they are intended to supplement the classroom experience. Students are expected to follow appropriate University policies and maintain the security of passwords used to access recorded lectures. Recordings may not be reproduced, shared with those not enrolled in the class, or uploaded to other online environments. If the instructor or a University of Miami office plans any other uses for the recordings beyond this class, students identifiable in the recordings will be notified to request consent prior to such use.

Method of Evaluation

While Litigation Skills I is graded according to the Honors/Pass/Fail system, to determine these classifications the students will be scored on their performance in each workshop. Students are also scored on their overall classroom participation including but not limited to, attendance, evidence of preparation for the simulated exercises, quality of involvement in classroom discussion, and degree of professional skills demonstrated.

TRIAL SKILLS (3 CR.)

Weekly sessions (10)	50%
Bench Trial	20%
Jury Trial	30%

PRETRIAL SKILLS (3 CR.)

Weekly sessions (10)	100%
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Bench Trial evaluations are based on Direct and Cross-Examination, Objections, Strategy and Demeanor.

Final Jury Trials will be evaluated based upon the following areas: Opening or Closing, Direct and Cross-Examination, Objections, Legal Arguments, Witness Preparation and Demeanor.

No written final examination will be given.

Attendance

Because the course consists primarily of performances and demonstrations, attendance is **MANDATORY** at all Lecture/Demonstrations, Pretrial, and Trial workshops. Attendance will be taken regularly, and the Director reserves the right to invoke any sanction set forth in the section on attendance in the Student Handbook.

Although occasional absences may be necessary due to illness or emergency, such absences cannot be "made-up." If difficulties arise due to illness or extraordinary circumstances, the Director of the Program or the Program Manager should be consulted immediately. In the event you must be absent from class, you are required to contact the Litigation Skills Office and file a notification of absence with the Dean of Students, for each class you miss.

NOTE: It is your responsibility to obtain any information that you may have missed due to an absence.

While this is an intense and rigorous course, which necessitates a great deal of outside preparation, it is not intended that students take time from other classes.

STUDENTS WHO DO NOT FEEL THEY CAN CARRY THIS HEAVY WORKLOAD ARE DISCOURAGED FROM ENROLLING IN THE COURSE.

Courtroom Attire

Appropriate courtroom attire is required for all Trial workshops and also for formal hearings or conferences in the Pretrial workshops. This is intended to simulate actual courtroom atmosphere and to make the video of your performances as useful as possible.

Professional Responsibility Issues

A thorough understanding of the role of the professional advocate is an essential part of preparation for litigation advocacy. A first step toward developing this understanding is to know the provisions of the Model Rules/Code of Professional Responsibility bearing upon the advocate's responsibility as a representative of the client and as an officer of the court. Students should be able to recognize the meaning of these provisions in those practical contexts for which the Model Rules/Code provides clear answers and

to know and understand the different professional opinions regarding issues that are not clearly answered in the Model Rules/Code.

Some of the problem materials in this course are designed to confront student counsel with issues of professional responsibility in circumstances typically found in practice. In addition, issues of professional responsibility, though not planned in advance as part of an exercise, sometimes arise because of the particular way in which the performance develops.

Posting of Information and Notices

To maintain the type of flexibility that allows the Litigation Skills Program to respond to your needs and the needs of the instructors, close communication is necessary with all the students at all times. Throughout the semester, the Litigation Skills Program will be posting information that you will need to prepare for your class assignments, room changes and faculty changes. These postings will occur in two places; via e-mail and on Blackboard.

Professionalism and Civility

Students must behave professionally and civil in this class at all times. This includes but is not limited to courtesy to professors, classmates, timeliness, and respect. Cell phones should be turned **off** during lectures and workshops. Computer use should be restricted to note taking and research.

The University of Miami seeks to maintain a safe learning, living, and working environment free from all types of sexual misconduct including but not limited to: Dating Violence, Domestic Violence, Sex- or Gender-Based Discrimination, Sexual Assault (including Sexual Battery), Sexual Exploitation, Sexual Harassment, and Stalking. For additional information about the University's efforts to prevent, stop, and address sexual misconduct, including resources and reporting options, please visit www.miami.edu/titleix or contact the University's Title IX Office at titleixcoordinator@miami.edu .”

Intellectual Property

The course professor is the copyright owner of the courseware. Specifically, pursuant to the University's Policy on Inventions, Intellectual Property, and Technology Transfer, “courseware” includes: course syllabi, assignments, assessments, and/or other materials that are first created and made available to students as part of the educational curriculum at the University

PLEASE PROVIDE US WITH YOUR CURRENT E-MAIL ADDRESS.

It is imperative that you check your e-mail daily for announcements from the Litigation Skills staff or from your individual instructors.

Thank you.

**Spring 2021 - Litigation Skills I
Schedule of Classes**

LECTURE/DEMO SESSIONS ARE HELD ON ZOOM, ALL STUDENTS ARE REQUIRED TO ATTEND

Week of	Lecture/Demo Monday 2:00-3:30	Trial Skills	Civil Pretrial	Criminal Pretrial
Wk 1 1/25	Introduction, Theory of the Case, Direct and Cross, Interviewing/Investigation	Case Analysis and Direct/Cross Faculty Demonstration	NO CLASSES	NO CLASSES
Wk 2 2/1	Direct/Cross Continued, Objections, Theatre Presentation	Direct & Cross Examination I	Client Interviewing	Client Interviewing
Wk 3 2/8	Impeachment, Bond Hearings, Pleadings	Direct & Cross Examination II	Complaints/Witness Interviewing	Witness Interviews
Wk 4 2/15	Discovery and Exhibits	Impeachment	Answers/Responses	The Charging Process: Arraignments/Bond Hearings
Wk 5 2/23	Depositions Lecture/Demo	Exhibits I	Discovery Requests	Rules Review
Wk 6 3/1	Pretrial Motions, Motions in Limine, Advanced Witness Examination	Exhibits II	Discovery Responses	Depositions I
Wk 7 3/8	Expert Witnesses Lecture/Demo	Advanced Direct & Cross Exam	Motions to Compel & Deposition Prep	Depositions II
Wk 8 3/15	BENCH TRIALS – NO LECTURE, TRIAL OR PRETRIAL CLASSES THIS WEEK (Your bench trial will be scheduled during your regular Lit Skills class time.)			
Wk 9 3/22	Opening Statements Lecture/Demo	Expert Witnesses	Depositions I	Motions: Non-Evidentiary
Wk 10 3/29	Closing Arguments Lecture/Demo	Opening Statements	Depositions II	Motions: Evidentiary
Wk 11 4/5	Jury Selection Demonstration Lecture/Demo	Closing Arguments	Motion Hearings	Plea Negotiations/Sentencing
Wk 12 4/12	Courtroom Technology	Pretrial Conferences	Ethics	Ethics
Wk 13 4/19	Professionalism & Ethics Final Trial Instructions	NO Trial Classes	NO Pretrial Classes	NO Pretrial Classes
FINAL TRIALS SATURDAY, 4/24/2021				
Wk 14 4/26	Class Critique/Summary	CLASSES END	CLASSES END	CLASSES END

READING ASSIGNMENTS SPRING 2021

The following reading assignments are to be read prior to each Lecture/Demonstration.

Class	Date	Text	Pages	Subject
1	January 25 th	Lubet	1-11 13-36 37-71 73-112	Trial Basics Case Analysis and Storytelling Direct Examination Cross Examination
		Mauet	3-18 28-37 43-53	Planning Client Interviewing Witness Interviewing
2	February 1 st	Lubet	189-221 113-149	Objections Impeachment
		Mauet	85-118 19-43 57-83	Case Evaluation and Strategy Fact Investigation Legal Investigation
3	February 8 th	Mauet	121-186	Pleadings
4	February 15 th	Lubet	223-284	Foundations and Exhibits
		Mauet	37-43 191-277 318-341 389-432	Exhibit Acquisition & Discovery Settlements
5	February 24 th 12:30-1:50	Mauet	277-318	Depositions
6	March 1st	Lubet	151-156	Redirect Examination and Rehabilitation
		Mauet	330-388	Motions

7	March 8 th	Lubet	157-187	Expert Testimony
8	March 22 nd	Lubet	323-362	Opening Statements
9	March 29 th	Lubet	365-418	Final Argument
10	April 5 th	Lubet	419-438	Jury Selection
		Mauet	389-432	Pretrial Conferences and Settlements

Trial Skills Assignments

Spring 2021

Trial skills workshops begin Week 1, January 25th, 2021. The following assignments are from the book Problems in Trial Advocacy. In trial class, each student will be assigned a Team either **A, B, C or D**. Your Team code will be emailed by January 22nd. As Team members, you will work together to prepare your assignments, each preparing to play the witness role on direct examination and assisting each other in preparing individual witness examinations. Everyone will perform as trial counsel each week.

Week 1 –January 25th
(Case Analysis)

The workshop for this week will include a Case Analysis and Demonstration by faculty. All students should be prepared to identify good facts, bad facts, potential evidence issues, case theories, and case themes, in **Problem 1, NITA Liquor Commission v. Cut Rate Liquor & Jones**. For the Case Analysis, **Team A & C will represent NITA Liquor Commission and Team B & D will represent Cut Rate Liquor & Jones**.

Week 2 - February 1st
(Direct /Cross Examination I)

A: Direct in Problem 1A, Cross in Problem 1B (no diagrams)
B: Direct in Problem 1B, Cross in Problem 1A (no diagrams)
C: Direct in Problem 3A, Cross in Problem 3B (no diagrams)
D: Direct in Problem 3B, Cross in Problem 3A (no diagrams)

Week 3 – February 8th
(Direct/Cross Examination II)

A: Direct in Problem 4B, Cross in Problem 4A
B: Direct in Problem 4A, Cross in Problem 4B
C: Direct in Problem 8 (Blanchard), Cross in Problem 8 (Farsad)
D: Direct in Problem 8 (Farsad), Cross in Problem 8 (Blanchard)

Week 4 - February 15th
(Impeachment)

A&C: Cross in Problems 28A & 34B
B&D: Cross in Problems 28B & 34A
All students should be prepared to demonstrate a Re-Direct in Problems 28 & 34.

Week 5 - February 23rd
(Exhibits I)

The following exercises require more than foundational questions.
Prepare to introduce and use exhibits in the following problems:
A & C: Problems 1 (diagram) & 14 (photographs)
B & D: Problems 3 (diagram) & 19 (baseball bat)
Be prepared to demonstrate the opposition of evidence in all problems.

Week 6 – March 1st
(Exhibits II)

Prepare to introduce and use exhibits in the following problems:
A & C: Problems 16 (bag & bottle) and Problem 22A (accident report)
B & D: Problems 23A (medical record) and Problem 25A (letters & Ex3-phone log)
Be prepared to demonstrate the opposition of evidence in all problems.

Trial Skills Assignments

SPRING 2021

Week 7 – March 8th
(Advanced Direct &
Cross Examination)

A: Direct in Problem 11A (Beskind), Cross in Special Problem A
B: Cross in Problem 11A (Beskind), Direct in Special Problem A
C: Direct in Problem 11B (Myers), Cross in Special Problem A
D: Cross in Problem 11B (Myers), Direct in Special Problem A

Week 8 – March 15th

BENCH TRIALS – No Lecture, Trial or Pretrial Workshops this Week

Week 9 – March 22nd
(Expert Witness)

A: Direct in Problem 42A
B: Cross in Problem 42A
C: Direct in Problem 42B
D: Cross in Problem 42B

Week 10 – March 29th
(Opening Statements)

Prepare a six-minute segment of Opening Statement in your final trial.

Week 11 – April 5th
(Closing Arguments)

Prepare a six-minute segment of Closing Argument in your final trial.

Week 12 – April 12th
(Pretrial Conferences)

PRETRIAL CONFERENCES

Trial workshops are cancelled during the week of Pretrial conferences.

Pretrial workshops are NOT cancelled during the week of pretrial conferences.

Week 13- April 19th

No Trial or Pretrial Workshops

FINAL TRIALS (Saturday, APRIL 24th, 2021)

Civil Pretrial Skills Assignments SPRING 2021

Pretrial workshops begin Week 2, February 1st, 2021
Each student will be assigned to be a counsel for Plaintiff (X) or Defense (Y).
Counsel assignments will be posted on Blackboard by January 22nd.

Assignment:

Week 2 – February 1 st	Client Interviewing
Week 3 – February 8 th	Complaints/Witness Interviewing
Week 4 – February 15 th	Answers/Responses
Week 5 – February 23 rd	Discovery Requests
Week 6 – March 1 st	Discovery Responses
Week 7 – March 8 th	Motions to Compel and Deposition Preparation
Week 8 – March 15 th	BENCH TRIALS Lecture, Trial and Pretrial workshops are cancelled during the week of Bench Trials.
Week 9 – March 22 nd	Depositions I
Week 10 – March 29 th	Depositions II
Week 11 – April 5 th	Motion Hearings
Week 12 – April 12 th	Ethics
Week 13 – April 19 th	No Trial or Pretrial Classes
	FINAL TRIALS, SATURDAY, APRIL 24TH, 2021

Criminal Pretrial Skills Assignments SPRING 2021

Pretrial workshops begin Week 2, February 1st, 2021

Each student will be assigned to be a counsel for Prosecution (X) or Defense (Y).

Counsel assignments will be posted on Blackboard by January 22nd, 2021.

Assignment:

Week 2 – February 1 st	Client Interviewing
Week 3 – February 8 th	Witness Interviews
Week 4 – February 15 th	The Charging Process: Arraignments/Bond Hearings
Week 5 – February 23 rd	Rules Review
Week 6 – March 1 st	Depositions I
Week 7 – March 8 th	Depositions II
Week 8 – March 15 th	BENCH TRIALS Lecture, Trial and Pretrial workshops are cancelled during the week of Bench Trials.
Week 9 – March 22 nd	Motions: Non-Evidentiary
Week 10 – March 29 th	Motions: Evidentiary
Week 11 - April 5 th	Plea Negotiations/Sentencing
Week 12 – April 12 th	Ethics
Week 13 – April 19 th	No Trial or Pretrial Classes

FINAL TRIALS, SATURDAY, APRIL 24TH, 2021