Trial Advocacy
Spring – 2015

I. Outline of Course – Grade Breakdown

A. Written Assignments - 10%

B. Five (5)* Oral Presentations - 40%
   “One on one” – see pp. 19 – 25 of Syllabus

C. Big Trial - 50%

D. Extra Points -
   • “Preps” (+.5 – 1.5)
   • “Trial Notebook” (+.5 – 2.5)
   • “Double Duty” (+.5 – 3)

II. First Class -

   • Orientation

   • Submit Written Assignment

   • Key Parts of Syllabus

   • Introduction to the Pretrial Conference

III. Second Class –

   A. Pretrial Conference

   B. Opening Statement

   C. Direct / Cross – (Prosecutor – Defense)

   D. Direct / Cross – (Defense – Prosecutor)

   E. Closing Arguments

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IV. Basic Evidence & Law of the Case

A. “Theory” of the Case!!

<table>
<thead>
<tr>
<th>1. Prosecutor</th>
<th>2. Defense</th>
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<tbody>
<tr>
<td>• Revenge</td>
<td>• SODDI / Self Defense</td>
</tr>
<tr>
<td>• Jealousy</td>
<td>• Alibi</td>
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<td>• Greed</td>
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B. Key Rules of Evidence:

1. Fed. R. Evid. 401 & 402

2. Fed. R. Evid. 403 – General Balancing Test!

3. Fed. R. Evid. 404(a) - Propensity
   - Exceptions:
     - Fed. R. Evid. 404(a)(1) & (a)(2)
     - Fed. R. Evid. 404(a)(3)
       - [607, 608 & 609]
     Fed. R. Evid. 104(a) / 104(b)
     • Fed. R. Evid. 404(b)
     • Fed. R. Evid. 406
     • Fed. R. Evid. 408
     • Fed. R. Evid. 410

4. Fed. R. Evid. 602

5. Fed. R. Evid. 615 - (The “Rule”)

6. Fed. R. Evid. 701
B. **Key Rules of Evidence - Cont’d.**

7. **Fed. R. Evid. 702 – 706**
   - Daubert
   - Kumho
   - Joiner
   - Advisory Notes!

8. **Fed. R. Evid. 801(a), (b) & (c) = Fed. R. Evid. 802**

   **Unless**
   
   a. **Fed. R. Evid. 801(d)(1)(A)**
      **Fed. R. Evid. 801(d)(1)(B)**
      **Fed. R. Evid. 801(d)(1)(C)**
      *Prior Statement of a Witness*
   
   b. **Fed. R. Evid. 801(d)(2)(A)**
      **Fed. R. Evid. 801(d)(2)(B)**
      **Fed. R. Evid. 801(d)(2)(C)**
      **Fed. R. Evid. 801(d)(2)(D)**
      **Fed. R. Evid. 801(d)(2)(E)**
      *Statement of a Party*

   **Except!!**
   
   • Statements made to a lawyer in confidence
   • Statements made to a wife / husband – in confidence
   • Statements made to a wife / husband - while married
   • Statements made during negotiations
   • Statements which are “fruits” of a 4th Amendment,
      5th Amendment, 6th Amendment or “due process” violation