TRIAL ADVOCACY
SYLLABUS
[Course No. 6203]

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MONIQUE ADAMS v. CORR-TRAIN, INC.** ............................... CASE
(Buy from the bookstore)

*Dates of recent events in the Monique Adams v. Corr-Train, Inc., materials are frequently stated in dates such as -1 which means one year ago, -2 means two years ago, -3 means three years ago, and so on. Please correct all dates to the appropriate years.

Copyright © 2014
(a) Opening Statement - MONIQUE ADAMS v. CORR-TRAIN, CIN. ................. IN CASE

(b) Direct/Cross Examination - MONIQUE ADAMS v. CORR-TRAIN, INC. ........ IN CASE

   (1) Key witness for Prosecution in MONIQUE ADAMS v. CORR-TRAIN, INC.
   (2) Key witness for the Defendant in MONIQUE ADAMS v. CORR-TRAIN, INC.

(c) Closing Arguments - MONIQUE ADAMS v. CORR-TRAIN, INC. ............... IN CASE

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<th>Event Description</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 13 (Mon.)</td>
<td>First Day of Class - <strong>First Written Assignment</strong></td>
<td>Courtroom - See p. 17</td>
</tr>
<tr>
<td>January 14 (Tues.)</td>
<td>Second Day of Class - <strong>Second Written Assignment</strong></td>
<td>Courtroom - See p. 18</td>
</tr>
<tr>
<td>January 20 (Mon.)</td>
<td><strong>Dr. Martin Luther King, Jr. Holiday</strong></td>
<td>No class</td>
</tr>
<tr>
<td>January 21 (Tues.)</td>
<td>Third Day of Class - Meet with Judges - <strong>Pretrial Hearings - due</strong></td>
<td>Courtroom - See p. 19</td>
</tr>
<tr>
<td>January 27 (Mon.)</td>
<td><strong>Fourth Day of Class - Critique Pretrials</strong></td>
<td>See - p. 22</td>
</tr>
<tr>
<td>January 28 (Tues.)</td>
<td><strong>Fifth Day of Class - Third Written Assignment</strong></td>
<td>See p. 22</td>
</tr>
<tr>
<td></td>
<td>Due - Submit 3rd Assignment to Ms. Briggs, WATR 183B</td>
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<tr>
<td></td>
<td><strong>Sixth Assignment - Opening Statements - Due</strong> to Judges</td>
<td></td>
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<tr>
<td>February 3 &amp; 4 (Mon./Tues.)</td>
<td><strong>Seventh Assignment</strong> - Monday: Critiques Opening Statements</td>
<td>See p. 23</td>
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<td></td>
<td><strong>Eight Assignment - Tuesday: Plaintiff’s Direct/Defendant’s Cross-X</strong></td>
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<tr>
<td>February 5 (Wed.)</td>
<td><strong>LAST DAY TO SUBMIT NAME OF PARTNER TO MS. BRIGGS</strong></td>
<td>WATR 183B</td>
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<td></td>
<td></td>
<td>See p. 23</td>
</tr>
<tr>
<td>February 6 (Thurs.)</td>
<td><strong>PAIRINGS WILL BE E-MAILED TO STUDENTS</strong></td>
<td>E-mailed to class</td>
</tr>
<tr>
<td></td>
<td></td>
<td>See p. 23</td>
</tr>
<tr>
<td>February 10 (Mon.)</td>
<td><strong>LOTTERY IN THE COURTROOM</strong></td>
<td>See p. 24</td>
</tr>
<tr>
<td>February 10 &amp; 11 (Mon. &amp; Tues.)</td>
<td><strong>Ninth Assignment - (NO CLASS!)</strong></td>
<td>See p. 24</td>
</tr>
<tr>
<td></td>
<td>Monday: Prepare for Defendant’s Direct - X; <strong>Tenth Assignment - Tuesday: Defendant’s Direct -x; Plaintiff Cross-x</strong></td>
<td></td>
</tr>
<tr>
<td>February 17 &amp; 18 (Mon. &amp; Tues.)</td>
<td><strong>Eleventh Assignment</strong> - Monday: Critique - Direct / Cross; Twelfth Assignment - Tuesday: Closing Arguments - due</td>
<td>See p. 25</td>
</tr>
<tr>
<td>February 19 (Wed.)</td>
<td>Collect Instructions for the Big Trial PreTrial Conferences (See Mrs. Briggs #183B)</td>
<td>See p. 25</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td>Reference</td>
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<td>--------------------------------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>February 24 (Mon.)</td>
<td>Thirteenth Assignment - Monday: Lecture/Critique on Closing Arguments;</td>
<td>See p. 26</td>
</tr>
<tr>
<td>February 25 (Tues.)</td>
<td>Pretrial Conferences - begin</td>
<td>See p. 26</td>
</tr>
<tr>
<td>March 3 (Mon.)</td>
<td>*TRIALS BEGIN</td>
<td>SEE BELOW</td>
</tr>
<tr>
<td>Date to be announced</td>
<td>NOTICE REGARDING CONFERENCES TO DISCUSS GRADES*</td>
<td>Posted at various locations (e-mail list serv)</td>
</tr>
</tbody>
</table>

**PRETRIAL DATE:** February 25 and on other dates agreed upon by all involved.

**TRIAL DATES:**

<table>
<thead>
<tr>
<th>Month</th>
<th>Day</th>
<th>Date</th>
<th>Trial #</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 3</td>
<td>Mon.</td>
<td>3</td>
<td>(Trial #1)</td>
</tr>
<tr>
<td>March 4</td>
<td>Tues.</td>
<td>4</td>
<td>(Trial #2)</td>
</tr>
<tr>
<td>March 5</td>
<td>Wed.</td>
<td>5</td>
<td>(Trial #3)</td>
</tr>
<tr>
<td>March 6</td>
<td>Thurs.</td>
<td>6</td>
<td>(Trial #4)</td>
</tr>
<tr>
<td>March 10</td>
<td>Mon.</td>
<td>10</td>
<td>(Trial #5)</td>
</tr>
<tr>
<td>March 11</td>
<td>Tues.</td>
<td>11</td>
<td>(Trial #6)</td>
</tr>
<tr>
<td>March 12</td>
<td>Wed.</td>
<td>12</td>
<td>(Trial #7)</td>
</tr>
<tr>
<td>March 13</td>
<td>Thurs.</td>
<td>13</td>
<td>(Trial #8)</td>
</tr>
<tr>
<td>March 17</td>
<td>Mon.</td>
<td>17</td>
<td>(Trial #9)</td>
</tr>
<tr>
<td>March 18</td>
<td>Tues.</td>
<td>18</td>
<td>(Trial #10)</td>
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</table>

**TRIAL TIME/PLACE:** 4:00 to 7:00 P.M.

All Trials will be in the COURTROOM, ROOM 240.

*Discussion of tentative grades will take place in Professor Bailey's office (#315). (Sometime after “Spring break” but before “Finals”!) See FORM #2 on p. 10.
A. The Importance of the Litigation System

The Preamble to the United States Constitution lists, in part, the fundamental objectives of an ordered society. The list of objectives includes "establishing justice and insuring domestic tranquility . . ." To achieve those objectives, the drafters established a government, including a judicial system described in Article III of the Constitution. The functions of that system are corollaries of the drafters' objectives: to dispense justice to litigants and to insure domestic tranquility by serving as a public mechanism for peaceful dispute resolution. As Hobbes wrote in the 17th century, when people feel free to resort to private, violent methods of dispute resolution, "the life of man" is likely to be "poor, nasty, brutish, and short."1 In short, an effective litigation system is a sine qua non for a just, orderly society. In our republic, the right of access to the litigation system is considered so valuable that the Supreme Court has elevated the right to constitutional status.2


COUNSEL'S ROLE IN THE LITIGATION SYSTEM

Just as the litigation system serves a vital function with our society, so, too, does the attorney serve a critical role within that system. The primary conception of the trial attorney's role is that he/she functions as a representative of and an advocate for a client involved in litigation or anticipated litigation. The Arkansas Model Rules of Professional Conduct in its preamble lists the first role of counsel as that of a "representative of clients." Such a representative, however, must be competent, because incompetent counsel can neither protect a client's interests nor help insure the effective operation of the system.

The purpose of this course is to assist law students to become either competent trial counsel or competent assistants to competent trial counsel (or competent to determine when you're not competent). The 2014 Spring Trial Advocacy course will attempt to inculcate basic trial competencies by following a rigid schedule of assigned readings, brief lectures, video presentations, drafting, role play and critiques. The following table of contents outlines the Syllabus in Part A, the general requirements of the course; Part B, the specific daily graded activities and their due dates; and Part C, the case file (MONIQUE ADAMS v. CORR-TRAIN, INC.) and additional trial problems.
PART "A"

The class schedule is extremely tight. So there will be no opportunities to make up a missed assignment. A major objective of the course is to permit you to perform segments of and a full trial before MARCH 19, 2014.

GRADE SCHEME OF THE COURSE

Three graded activities:
1. Written preparatory assignments - 10%  
2. Oral presentations (Five Classroom Exercises) - 40% and  
3. Big Trial - 50%  

I. Written Preparatory Assignments - 10% of Grade

Each Student Must:

(a) Read assignments from Mauet's "Fundamentals of Trial Techniques". Based on these reading assignments, each student is then required to prepare and submit three (3) written assignments to Professor Bailey, or Ms. Briggs.

(b) Be evaluated via these written assignments on how well each student understands the (1) "First Case Assignment," (2) Federal Rules of Evidence, (3) Principles from Mauet, and (4) application of I.(b)(1)-(4) to MONIQUE ADAMS v. CORR-TRAIN, INC.

II. Oral Classroom Assignments - 40% of Grade


(b) Before each graded exercise, each student should prepare a written outline or a verbatim account of the questions or issues he/she plans to raise during that exercise. This outline should be based on the Professor's lecture(s), the comments of his/her judge, and the appropriate chapter(s) in Mauet. [For extra credit, a student may submit a one page "Prep Sheet to his/her Judge ("Prep Sheet" - see description in Appendix G).

(c) On the day (Usually on Tuesday) of the exercise, the judge will require each student to present that day's exercise. (Please be present and on time!)

(d) At the next class day, (Monday's), the judge will critique (assess the good and bad points) each student's performance. [The judge shall inquire of the students what lessons should have been learned from the exercise.] The judge shall offer some "general" lessons or principles from the completed exercise and may offer some pointers for the next exercise.
(e) This performance of a trial "exercise" at one class and critique of that performance at the next class format will be repeated until all FIVE (5) exercises have been completed.

III. BIG TRIAL: 50% of Grade

(a) Two (2)-two-person teams will try MONIQUE ADAMS v. CORR-TRAIN, INC, in its entirety before a twelve-person jury. As a part of the team’s presentation, each student (team member) will be required to do an opening or closing, a direct examination, cross-x, and part of a pretrial conference.

(b) At the end of the trial, the judge will critique the students’ presentations and inquire of them whether they have learned anything in the lessons from trying a full case.

(c) The jury will be required to complete a two-page evaluation of the students’ presentations. The evaluations will not be used to determine a student’s grade.

(d) Students* may earn extra points by submitting a TRIAL NOTEBOOK to Mrs. Audrey Briggs (Room 183B) NO LATER THAN 2:00 P.M., THE NEXT DAY AFTER HIS/HER TRIAL. LATE NOTEBOOKS WILL NOT BE ACCEPTED.

(e) The actual grade for the Big Trial will be provided some time after Spring Break. An e-mail message to all students enrolled in the class will announce where and when the “tentative” grade may be collected.

* Please submit as a Team of two (2) - not individually.
PART "B"

THE BIG TRIAL

(1) See p. 1-2 of the Syllabus for the Pretrial and Big Trial dates.

(2) Trial dates begin **MONDAY, MARCH 3, 2014**.

(3) Each trial team will consist of two partners. Students should submit both team members' names to Ms. Audrey Briggs in a special envelope located in her office (Room 183B, Leflar Law Center) no later than **WEDNESDAY, FEBRUARY 5, 2014**.

(4) Each trial will be preceded by a Pretrial conference. Each team member will not only be graded on his/her performance at the 3-hour "Big Trial", but the Pretrial conference as well.

EXTRA POINTS AFTER BIG TRIAL

- **TRIAL NOTEBOOK** - MUST BE SUBMITTED TO MS. AUDREY BRIGGS IN WATR 183B NO LATER THAN 2:00 P.M. THE NEXT DAY AFTER HIS/HER TRIAL [A TRIAL NOTEBOOK, (P. 30 OF SYLLABUS) IS NOT A REQUIREMENT. ONLY ONE NOTEBOOK PER TEAM!]
  LATE NOTEBOOKS WILL NOT BE ACCEPTED.

- See Form #2 - See p. 10 of Syllabus - CLASSROOM and FINAL grade form for the Big Trial.
REQUIRED BOOKS AND MATERIALS

A. Required Books

   — Mauet "Fundamentals of Trial Techniques" ("Theory" and "Theme" of a Case!) - 5TH - 8TH Editions
     (Any one of these)

B. Required Course Materials

   — Syllabus & Case Materials (MONIQUE ADAMS v. CORR-TRAIN, INC.)
     (Available in Room 183B, Ms. Audrey Briggs office.)

   — Model Rules of Professional Conduct
   — Federal Rules of Evidence
   — Arkansas Rules of Civil & Criminal Procedure

PLEASE READ THE "GROUND RULES" FOR THE COURSE (pp. 11-13 of Syllabus)
AND CERTAIN RULES IN THE MODEL RULES FOR PROFESSIONAL CONDUCT
(e.g. RULES 3.1 - 3.9).

SUPPLEMENTARY BOOKS & TAPES (not required)

   — Bibliography of tapes and study aids in Appendix D.

   — Suggested Readings: Several copies in the library of Professor Bailey’s materials located on (1) the
     Web and (2) Bailey’s Reserve Shelf.
     a. What Lawyers Owe One Another
     b. Arkansas case - Lessenberry
     c. "They Don't Like What They Hear," an article taken from Legal Times (December 24, 1990)
        about the D.C. Circuit’s increasing frustration with the lack of quality in oral advocacy before the
        courts.
     d. How to Prepare a Motion
     e. Pretrial Conference Order
     f. Stipulations
     g. Trial Notebook
     h. The American Board of Trial Advocates Civility Code
     i. Key Grading Issues
FORM NO. 1

TO WHOM IT MAY CONCERN:

I, ________________________, consent to the use of audio or video recordings of my presentations in the Trial Advocacy course at the University of Arkansas Law School. I understand that the recorded presentations and transcripts thereof will be used for educational purposes at the Law School and that only those authorized will be allowed to utilize said video or audio records and transcripts.

SIGNED

DATE

[Please complete and submit to Ms. Briggs (WATR 183B) by Wednesday, February 5, 2014]
TRIAL ADVOCACY  
SPRING 2014

FORM #2
FINAL GRADE  
(Class and Big Trial)

Student's Name: 

<table>
<thead>
<tr>
<th></th>
<th>Pretrial</th>
<th>Opening</th>
<th>Direct</th>
<th>Cross X</th>
<th>Closing</th>
<th>Total Points</th>
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<tbody>
<tr>
<td>Critiques</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Prep Sheets</td>
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</table>

TOTAL: (÷ 5)

CLASSROOM GRADE:

(1) Classroom Exercises (5) (as shown above)  

(2) Classroom Written Assignments

(3) Total

BIG TRIAL GRADE:

(a) Trial Grade

(b) Extra Points

(c) Total  

GRAND TOTAL  

Numerical Grade  
Letter Grade

GRADE SCALE
93-100 = A  
90-92 = A-  
88-89 = B+  
83-87 = B

10
GROUND RULES FOR THE COURSE

1. Preparation and Background Materials for Classroom Participation

Each student is required to make at least FIVE (5) oral presentations in order to satisfy a portion of his/her classroom component grade. *(See Key Grading Issues on the Web)*. Before each student performance, your instructor will assign appropriate chapters from Mauet as background reading for the upcoming exercise.

In addition to the assigned chapters from Mauet, your instructor will present a short lecture and invite classroom discussion on that scheduled exercise. The research assignments for classroom discussion and the discussions based on them will be considered as part of the 10% component to the classroom grade average.

Grade Form for Classroom Component

Student's Name ____________________________

(1) (a) Oral exercise #1 ________

(b) Oral exercise #2 ________

(c) Oral exercise #3 ________ (40%)

(d) Oral exercise #4 ________

(e) Oral exercise #5 ________

(2) (a) First written assignment ________

(b) Second written assignment ________ (10%)

(c) Third written assignment ________

2. Student preferences will be observed in assigning partners for the Big Trial. Students desiring to work together in the Big Trial should advise Ms. Briggs in WATR 183B as soon as possible (or no later than WEDNESDAY, FEBRUARY 5, 2014).
3. Unless otherwise indicated, each case (in the simulated class exercises) is pending or is to be filed or has been filed in the courts of Washington County.

4. The applicable rules of civil procedure are the same as the Arkansas Rules of Civil Procedure (Arkansas Rules), with such modifications as are necessary to make them applicable in a state court. You should be thoroughly familiar with the rules affecting trial and Pretrial procedures, and especially the rules dealing with depositions.

Arkansas Rules of Criminal Procedure or the United States Supreme Court opinions should be consulted as the need warrants.

5. All classroom participation assignments follow the Federal Rules of Evidence.

6. Unless otherwise indicated, assume that the only available witnesses who can give admissible testimony are those disclosed in the file materials distributed with the assignment. If you wish to use other testimony, which you consider would surely be available in such a case as the one on trial, ask the instructor before the class meeting for permission to assume the availability of such testimony.

7. All students, whether called on to participate in an oral presentation as counsel or not, may be asked during a subsequent class how he/she would have handled some particular aspect of an exercise. The student questioned in this manner must answer orally or as otherwise instructed regarding the following issues: (1) the theory of the client's case (its strength and weakness); (2) the objectives in that phase of trial and how those objectives relate to the theory of the case (overall plan for trial); (3) any risks in the case, and (4) the applicable [Federal Rules of Evidence].

8. Assume that all parties have been given due notice of the taking of any deposition that appears in the course materials.

9. At times, for tactical reasons, a student may decide not to make a valid objection to evidence. In all such instances, the student should make a note immediately and be prepared to state during the instructor's evaluation of that performance why valid objections were not made. Moreover, after the class assignment, the student should give a copy of his/her "non-objections" to the instructor.

10. Conversely, at times, a student may make a legally valid objection in carrying out his/her theory that he/she later regards as tactically unwise. The student should be prepared during a subsequent class or critique session to indicate such occasions with reasons for believing them tactically unwise.

11. In some assignments, counsel may decide that the tactically correct examination would be short or nonexistent. Even so, a student may wish to conduct a longer examination in order to gain experience. That student should indicate this desire by a note to the instructor. If time allows, the instructor may then permit the student to conduct the longer examination.

12. To conserve time for critique, the trial Judge may interrupt proceedings during any student presentation and instruct counsel to summarize one or more elements of the planned examination. In that event, the instructor may also call on opposing counsel to indicate what objections, if any, she would have made.
13. The roles of court reporter and bailiff will be performed by students. The instructor will designate a court reporter and a court clerk (or a single individual to play the role of a clerk-reporter).

14. Most statements of witnesses, in this handout and in the special materials, are type written for legibility. The signature should be assumed to be the handwritten signature of the witness. All photographs and letters should be considered originals.

15. DATES OF RECENT EVENTS IN THESE MATERIALS ARE FREQUENTLY STATED IN TERMS -1 WHICH MEANS ONE YEAR AGO, -2 WHICH MEANS TWO YEARS AGO, -3 WHICH MEANS THREE YEARS AGO, AND SO ON. PLEASE CORRECT TO THE APPROPRIATE YEARS.

16. IN THE EVENT OF A CONFLICT BETWEEN A GROUND RULE AND ANY SPECIAL INSTRUCTION IN THE ASSIGNMENT BOOK, THE SPECIAL INSTRUCTION GOVERNS BUT, TO BE SAFE, DISCUSS WITH PROFESSOR BAILEY.

17. A STUDENT MAY NOT CHANGE A TRIAL DATE, TIME, SUBJECT MATTER, WITNESSES, EXHIBITS WITHOUT THE CONSENT OF THE JUDGE AND PROFESSOR CARLTON BAILEY.
GRADE FORMAT FOR CLASSROOM/TRIAL

GRADING KEY

90 - 100   A- to A
80 - 89    B- to B+
70 - 79    C- to C+
60 - 69*   D- to D+

* (ALTHOUGH I HAVE NEVER GRADED BELOW A D-, I RESERVE THE RIGHT TO "AWARD" A FailING GRADE TO ANY STUDENT WHO DESERVES IT)

CLASSROOM PARTICIPATION - GRADE FORMAT

Comments: Generally your performance was (poor), (satisfactory-average), (good), or (excellent).

Poor       = 60-69
Average    = 70-79
Good       = 80-89
Excellent  = 90-100

(1) Salient issues in the exercise.
(2) Issues student presented.
(3) Quality of execution.
(4) Significant issues missed.

TIP: If quality of execution is poor and significant issues are missed, students are likely to score in the low average range or the mid-poor range.
MASTER FOR TRIAL ADVOCACY KEYS

CLASSROOM PARTICIPATION
   Knowledge of class objectives - 25 points
   Quality of preparation - 25 points
   Extent and quality of participation - 25 points
   Creativity - 25 points

WRITTEN ASSIGNMENTS
   Recognition of assignment objectives - 25 points
   Quality of preparation - 25 points
   Clarity and organization of product - 25 points
   Creativity (unique interpretation, etc.) - 25 points

PRETRIAL
   Display knowledge regarding facts and law
   Effective motions and arguments
   Effective preservation of the record
   Establish general ground rules for the trial

OPENING STATEMENTS
   Introduction (i.e., parties, scene, instrumentalities, etc.) - 20 points
   Clear statement of relevant issues - 20 points
   Statement of the case - 20 points
   Conclusions/damages (criminal case only) - 20 points
   Manner and style of delivery - 20 points

DIRECT-EXAMINATION
   Introduction - 20 points
   Tell a story (develop facts) - 20 points
   Let witness dominate - 20 points
   Exhibits (use of) - 20 points
   Style, demeanor, objections, responses - 20 points

CROSS-EXAMINATION
   Beginning/middle/conclusion - 20 points
   Control witness - 20 points
   Style and demeanor - 20 points
   Evidence and objections - 20 points
   Confirming points for your case - 20 points

CLOSING
   Introduction - 20 points
   Statement of key jury instructions - 20 points
   Resolve issues, style and demeanor - 20 points
   Conclusion - 20 points
   Rebuttal - 20 points
STUDENTS WITH DISABILITIES

Students with disabilities, whether physical, learning, or psychological, who believe that they may need accommodations in this class, are encouraged to contact the

Center for Students with Disabilities
ARKU 104
Fayetteville, AR 72701
(479) 575-3104 (voice)
(479) 575-3646 (TTY)
ada@uark.edu
web: http://www.uark.edu/edu/us/csd/

as soon as possible to ensure that such accommodations are implemented in a timely fashion. Please meet with CSD staff to verify your eligibility for any classroom accommodations and for academic assistance related to your disability.
ASSIGNMENTS - SPRING 2014

FIRST WRITTEN ASSIGNMENT - Monday, January 13
PLACE: Courtroom 240

ALL STUDENTS!

A. Read the MONIQUE ADAMS v. CORR-TRAIN, INC. case - (Buy the case from the Bookstore). Also pick-up the Syllabus from Ms. Audrey Briggs, in WATR 183B.
B. Read Mauet - Chapters 1, 2 & 3
C. Read pp. 1-26 of the Syllabus! (Read Ground Rules on pp. 11-13).

   1. Prepare a one (1) page (no more) memorandum identifying:
      - The necessary elements supporting the Plaintiff’s case-in-chief in MONIQUE ADAMS v. CORR-TRAIN, INC.;
      - The key witness for the Plaintiff’s case-in-chief;
      - The weakest aspect of the Plaintiff’s case-in-chief;
      - One concern you have about the case that you wish to discuss with the Plaintiff’s lead counsel-
        Prof. Bailey.

   1. Prepare a one (1) page (no more) memorandum identifying:
      - The necessary elements supporting CORR-TRAIN, INC.’s defense;
      - The key witness for CORR-TRAIN, INC.;
      - The weakest aspect of the defense;
      - One concern you have about the case that you wish to discuss with the Senior Partner-
        Prof. Bailey.
ASSIGNMENTS - SPRING 2014

SECOND WRITTEN ASSIGNMENT - Tuesday, January 14
PLACE: Courtroom 240

ALL TEAMS
A. Read Mauet - Chapters 2 and 3.
B. Read MONIQUE ADAMS v. CORR-TRAIN, INC., case.
C. See Pretrial Conference Order on Professor Bailey’s webpage.

D. PLAINTIFF TEAMS
Submit to Prof. Bailey at class time a two page (no more, of course, it can be less than 2 pages) memorandum (keep a copy for purposes of #3 below) which should cover the following:

1. Identify one fact that the Plaintiff may wish to persuade the Defense to stipulate to that could simplify the issues in this case. (See cases interpreting “stipulations” or on the Web).

2. Identify an issue that could be resolved by the Trial Court. How should the court resolve this issue? Is there an issue the Plaintiff should request the court to resolve before trial? What is it? (Maybe the same issue as in the Short Form Motion-D.3. below).

3. Submit a short form motion* and be prepared to orally argue to the court (Prof. Bailey) for the exclusion of one (1) item of evidence that will help the prosecutor’s theory.

E. DEFENSE TEAMS
Submit to Prof. Bailey at class time a two page (no more, of course, it can be less than 2 pages) memorandum (keep a copy for purposes of #3 below) which should cover the following:

1. Identify one fact that the Defense may persuade the Plaintiff to stipulate to that could simplify the issues in this case. (See cases interpreting “stipulations” on the Web.)

2. Identify an issue that could be resolved by the Trial Court. How should the court resolve this issue? Is there an issue the Defendant should request the court to resolve before trial? What is it? (Maybe the same issue as in the Short Form Motion-E.3. below).

3. Submit a short form motion* and be prepared to orally argue to the court (Prof. Bailey) for the exclusion of one (1) item of evidence that will help the defendant’s theory.

*Short Form Motion on Professor’s Web Resource page.
THIRD WRITTEN ASSIGNMENT - Tuesday, January 21, 2014 (Submit written assignment to (Ms. Briggs in room 183B)

FOURTH ASSIGNMENT: First meeting with Judges: Pretrial Conferences - Tuesday, January 21

PLACE: Hatcher - Courtroom 240
       Threet - Room 328
       Durrett - Room 339
       Prettyman - Room 342

ALL TEAMS:
A. Read Mauet - Chapters 4, 5, 6 & 8
B. Read MONIQUE ADAMS v. CORR-TRAIN, INC. case

C. PLAINITFF TEAMS

Submit to Mrs. Briggs BEFORE class time a one page (no more) memorandum [Title: “Plaintiff’s One-Page Memo”] identifying:

1. Two (2) issues that the Plaintiff must raise during its opening statement.

2. One (1) key portion of the key witness’s testimony that is essential to the Plaintiff’s case-in-chief. In three sentences or less, describe how you will dramatize this testimony to the jury.

3. One Key exhibit necessary to prove an element of the Plaintiff’s case-in-chief. What rule or rules of evidence will govern the admissibility of this exhibit?

4. One key portion of the key witness’s testimony that you should be prepared to protect him/her on during the Defense’s cross examination.

When a Lawyer requests a judge to make a preliminary determination regarding the authentication of a piece of evidence the Lawyer must submit sufficient information to the judge.

5. What is the most important issue the attorney should consider before making that request?

6. What rule of evidence best supports a judge’s decision to determine that an item of evidence is authentic?
D. DEFENSE TEAMS

Submit to Mrs. Briggs BEFORE class time a one page (no more) memorandum
[Title: "Defendant’s One-Page Memo"] identifying:

1. **Two (2)** issues that the Defendant must raise during its opening statement.

2. **One (1) key portion** of the Defendant’s key witness’s testimony that is essential to the defendant’s defense. In **three sentences or less**, describe how you will **dramatize** this testimony to the jury.

3. **One Key exhibit** that is supportive of the Defendant’s theory. What rule or rules of evidence will govern the admissibility of this exhibit?

4. **One key portion** of the Defendant’s key witness’s testimony that you should be prepared to protect him/her on during the Plaintiff’s cross examination.

When a Lawyer requests a judge to make a preliminary determination regarding the authentication of a piece of evidence the Lawyer must submit sufficient information to the judge.

5. What is the most important issue the attorney should consider before making that request?

6. What rule of evidence best supports a judge’s decision to determine that an item of evidence is authentic?
ASSIGNMENTS - SPRING 2014

FOURTH ASSIGNMENT CONTINUED (classroom exercises) - Tuesday, January 21
PRETRIAL CONFERENCES

PLACE: Hatcher - Courtroom 240
Threet - Room 328
Durrett - Room 339
Prettyman - Room 342

PLAINTIFF AND DEFENSE TEAMS*:
A. Read Mauet - Chapter 1, 2, and 3
B. Read Ark. R. Civ. P. 16 and Ark. R. Crim. P. 20.1-20.4
C. See Stipulation Cases on Professor Bailey’s webpage.
D. Read MONIQUE ADAMS v. CORR-TRAIN, INC. case

1. TUESDAY, JANUARY 21, 2014 - Pretrial Conferences: Each student from the Plaintiff’s side* and each student from the Defense* side must meet outside of class [JANUARY 17-19] and stipulate (agree not to contest at trial) to certain facts or other matters that will facilitate an efficient and uninterrupted trial. Attorneys should not, however, weaken their client’s case by stipulating!!

2. All matters stipulated must be reduced to writing and signed by the attorneys. A copy of the written stipulations should be presented to your judge at class time on MONDAY, JANUARY 27, 2014.

3. TUESDAY, JANUARY 21, 2014 - More about the Pretrial Conferences. During the Pretrial Conference in MONIQUE ADAMS v. CORR-TRAIN, INC., each student from the Plaintiff’s side and each from the Defense side will meet with the judge in “chambers” and discuss those matters usually covered at a pretrial conference (see Pretrial Conference Order **on the Web or on Reserve in the Law Library, Ark. R. Civ. P. 16 and Ark. R. Crim. P. 20.4. Also, see on the Web how your judges identify Strong and Weak characteristics of Pretrial conference presentations). Each student will have approximately TEN MINUTES to present his/her issues at the conference.

4. The judge will select one of the two attorneys to prepare a Pretrial order based on the judge’s decisions and the party’s stipulations at the Pretrial conference on JANUARY 21, 2014.

The student attorney who was not selected to draft the Pretrial order will be responsible for reviewing and editing the selected party’s draft order. After the order has been reviewed and edited, both attorneys will sign their names to the completed order. The signed order shall be presented to the judge at the class hour on MONDAY, JANUARY 27, 2014.

* See Appendix A, for Classroom Team Designations and name of judge.
** Of course, your Orders will not include as much information as found in the Order on the web.
ASSIGNMENTS - SPRING 2014

FIFTH ASSIGNMENT - Monday, January 27
SIXTH ASSIGNMENT - Tuesday, January 28

PLACE:       Prettyman - Courtroom 240
             Threet - Room 328
             Durrett - Room 339
             Hatcher - Room 342

PLAINTIFF AND DEFENSE TEAMS*:

A. Read Mauet - Chapter 3
B. Read the Pretrial conference order in MONIQUE ADAMS v. CORR-TRAIN, INC.
C. Read the Ground Rules for the Course

1. MONDAY, JANUARY 27, 2014 - All students (both Plaintiff* and Defense* teams) must meet with their judges to discuss critiques of the Pretrial exercises in MONIQUE ADAMS v. CORR-TRAIN, INC.

2. TUESDAY, JANUARY 28, 2014 - Each student from the Plaintiff and Defense Teams will present Opening Statements in MONIQUE ADAMS v. CORR-TRAIN, INC. Each student will have approximately TEN MINUTES to complete his/her Opening Statement.

* See Appendix A, for Classroom Team Designations and name of judge.
ASSIGNMENTS - SPRING 2014

SEVENTH ASSIGNMENT - Monday, February 3 & Tuesday, February 4

PLACE:  Durrett - Courtroom 240
        Threet - Room 328
        Prettyman - Room 339
        Hatcher - Room 342

PLAINTIFF AND DEFENSE TEAMS*:

A. Read Mauet - Chapter 4, 5, 6, & 8
B. Read the pretrial conference order in MONIQUE ADAMS v. CORR-TRAIN, INC.
C. Read the Ground Rules for the Course

1. MONDAY, FEBRUARY 43 2014 - All students (both Plaintiff and Defense* teams) must meet with their judges to discuss critiques of opening statements in MONIQUE ADAMS v. CORR-TRAIN, INC.

2. TUESDAY, FEBRUARY 4, 2014 - Each student from the Plaintiff's side will conduct a Direct Examination of his/her key witness. Although each student should prepare a full Direct Examination, he or she will only be given TEN MINUTES to conduct the Direct Examination.

3. Each student from the Defense side will conduct a Cross Examination of the Plaintiff’s witness. Although each defense attorney should prepare a full Cross Examination, he/she will only be given FIVE MINUTES to conduct the Cross Examination.

4. WEDNESDAY, FEBRUARY 5, 2014 - FINAL DAY TO SUBMIT NAME OF PARTNER TO MS. BRIGGS. AN ENVELOPE WITH THE HEADING “PARTNERS FOR BIG TRIAL” WILL BE AVAILABLE IN MS. BRIGGS’ OFFICE (Room 1838).

5. THURSDAY, FEBRUARY 6, 2014 - Ms. Briggs will e-mail the “Pairings” for the Big Trial (e.g., what persons will be Plaintiffs and their respective opponents on Defense). There shall be two (2) attorneys on each team. All four (4) attorneys should meet on the weekend of February 7th, 8th & 9th to decide (a) the date of the trial; and (b) the name of the trial judge. The final selections will be by LOTTERY. ONE representative from this four-person discussion group should come to the COURTROOM at class time on MONDAY, FEBRUARY 10, 2014 to select a lottery number (1-10). The lowest pick (#1) will select first. The lottery (selection) will take place in the COURTROOM AT 4:10 P.M. on MONDAY, FEBRUARY 10, 2014.

* See Appendix A, for Classroom Team Designations and name of judge.
ASSIGNMENTS - SPRING 2014

SEVENTH ASSIGNMENT - Monday, February 10 & Tuesday, February 11

PLACE:  Threet - Courtroom 240
        Durrett - Room 328
        Prettyman - Room 339
        Hatcher - Room 342

[LOTTERY IN THE COURTROOM!]
Monday, February 10, 2014

PLAINTIFF AND DEFENSE TEAMS*:

A. Read Mauet - Chapters 4, 5, 6, & 8
B. Read the pretrial conference order in MONIQUE ADAMS v. CORR-TRAIN, INC.
C. Read the Ground Rules for the Course

1. MONDAY, FEBRUARY 10, 2014 - LOTTERY IN THE COURTROOM [Otherwise NO CLASS!!]

2. TUESDAY, FEBRUARY 11, 2014 - Each student from the Defense side will conduct a Direct Examination of its key witness. Although each defense attorney should prepare a full Direct Examination, he or she will only be given TEN MINUTES to conduct the Direct Examination.

3. TUESDAY, FEBRUARY 11, 2014 - Each student from the Plaintiff's side will conduct a Cross Examination of the defense's key witness. Although each Plaintiff should prepare a full Cross Examination, he/she will be given only FIVE MINUTES to conduct the Cross Examination.

* See Appendix A, for Classroom Team Designations and name of judge.
ASSIGNMENTS - SPRING 2014

EIGHTH ASSIGNMENT - Monday, February 17 & Tuesday, February 18

** JUDGES: Please schedule the time and place of your Pretrial Conferences for the Big Trial with Mrs. Audrey Briggs in Room 183B.

PLACE:    Hatcher - Courtroom 240
          Durrett - Room 328
          Prettyman - Room 339
          Threet - Room 342

PLAINTIFF AND DEFENSE TEAMS*

A. Read Mauet - Chapter 7
B. Read the pretrial conference order in MONIQUE ADAMS v. CORR-TRAIN, INC.
C. Read the Ground Rules for the Course

1. MONDAY, FEBRUARY 17, 2014 - All students (both Plaintiff* and Defense* teams) must meet with their judges to discuss critiques of the Direct Examinations, Cross Examinations, and Closing Arguments.

2. TUESDAY, FEBRUARY 18, 2014 - Closing Arguments by the Plaintiff and Defense teams.

3. WEDNESDAY, FEBRUARY 18, 2014 - All Teams - collect the Big Trial Instructions from Ms. Briggs in Room 183B.

4. Prepare to negotiate with opposing teams regarding issues in the BIG TRIAL (on or after FEBRUARY 19, 2014).

4. Begin Pretrial Conferences on TUESDAY, FEBRUARY 25 and THURSDAY, FEBRUARY 27, 2014 OR WHENEVER ALL PARTIES CAN AGREE ON A CONVENIENT TIME THEREAFTER. (PLEASE DRESS-UP FOR THE “PRETRIAL” AS YOU WOULD FOR THE BIG TRIAL) AND PLEASE ALERT MS. BRIGGS TO THE TIME, DATE, AND ROOM FOR YOUR PRETRIAL SO THAT SHE CAN INSURE THAT YOU WILL HAVE THAT ROOM ON THAT DATE AND AT THAT TIME!

* See Appendix A, for Classroom Team Designations and name of judge.

** Judges - Rooms available February 20th for Pretrials - 240, 328, 342, & 339
February 21st for Pretrials - 240, 328, 339, & 342
ASSIGNMENTS - SPRING 2014

NINTH ASSIGNMENT - Monday, February 24, 2014 & Tuesday, February 25, 2014
Trials Begin! Pretrials continue!

PLACE:  Hatcher* - Courtroom 240
         Durrett* - Room 328
         Prettyman* - Room 339
         Threet* - Room 342

PLAINTIFF AND DEFENSE TEAMS:*  

A. Read Mauet - Chapter 5  
B. Read the Ground Rules for the Course

1. **MONDAY, FEBRUARY 24, 2014** - All students (both Plaintiff* and Defense* Teams) must meet with their judges to discuss the critiques of the Closing Arguments.

2. **MONDAY, FEBRUARY 24, 2014** - All students (both Plaintiff* and Defense* teams) continue with Pretrials for the Big Trial.


* Four (4) Rooms should be available for Pretrials.
APPENDIX A

OPPONENTS (TEAMS) AND JUDGES

<table>
<thead>
<tr>
<th>JUDGE DURRETT</th>
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<tbody>
<tr>
<td><strong>PLAINTIFF’S TEAM</strong></td>
<td><strong>vs.</strong></td>
</tr>
<tr>
<td>1. Jenna Fogleman</td>
<td>1. Neil Bora</td>
</tr>
<tr>
<td>2. Angela May</td>
<td>2. Austin Grinder</td>
</tr>
<tr>
<td>4. Micah Brandon</td>
<td>4. Donald Ung</td>
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<tr>
<td>5. Darrington Parrish</td>
<td>5. Nicholas Hornung</td>
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<tr>
<th>JUDGE HATCHER</th>
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<tbody>
<tr>
<td><strong>PLAINTIFF’S TEAM</strong></td>
<td><strong>vs.</strong></td>
</tr>
<tr>
<td>1. Brinkley Cook-Campbell</td>
<td>1. William Montgomery</td>
</tr>
<tr>
<td>2. Dustyn Martin</td>
<td>2. Thomas Keller</td>
</tr>
<tr>
<td>3. Mark Lucas</td>
<td>3. Thomas Keller *</td>
</tr>
<tr>
<td>5. John Alexander</td>
<td>5. Anthony Pelligrini</td>
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</tbody>
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* Going twice! See Professor Bailey
OPPONENTS (TEAMS) AND JUDGES

JUDGE PRETTYMAN

<table>
<thead>
<tr>
<th>PLAINTIFF’S TEAM</th>
<th>vs.</th>
<th>DEFENDANT’S TEAM</th>
</tr>
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<tbody>
<tr>
<td>1. Ariel Flood</td>
<td></td>
<td>1. Benjamon Hale, III</td>
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<tr>
<td>2. Jordan Broyles</td>
<td></td>
<td>2. Andrew Tarvin</td>
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<tr>
<td>3. Lauren Summerhill</td>
<td></td>
<td>3. John Morrison</td>
</tr>
<tr>
<td>4. Maranda White</td>
<td></td>
<td>4. Amos Gregory</td>
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<tr>
<td>5. Allison Blake</td>
<td></td>
<td>5. Quintin Whiteside</td>
</tr>
</tbody>
</table>

OPPONENTS (TEAMS) AND JUDGES

JUDGE PIRANI

<table>
<thead>
<tr>
<th>PLAINTIFF’S TEAM</th>
<th>vs.</th>
<th>DEFENDANT’S TEAM</th>
</tr>
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<tbody>
<tr>
<td>1. Laura Pearn</td>
<td></td>
<td>1. Mark Barret</td>
</tr>
<tr>
<td>2. Kaylee Haywood</td>
<td></td>
<td>2. Tyler Squires</td>
</tr>
<tr>
<td>4. Jessica Pruitt</td>
<td></td>
<td>4. Steven Hawkins</td>
</tr>
<tr>
<td>5. Johnathan Faught</td>
<td></td>
<td>5. Mark Chaney</td>
</tr>
</tbody>
</table>
APPENDIX B

ATTORNEY WORKSHEET FOR THE PRETRIAL CONFERENCE

1. Who is my judge?
   
   (a) What does he/she require at the Conference?
   - Proposed jury instructions
   - Written motions with briefs - Proof of service on opposing counsel
   - Other?

   Some evidence that the parties have attempted to resolve dispute (e.g. negotiation, mediation, arbitration).

   (b) Do I have a particular message for the judge? (About my case? My client? Opposing party? opposing party's client? the law? the method of proof?)

2. Are there matters that could/should be easily decided prior to trial?
   - How should it be done - Stipulation?

3. Procedure at trial:
   (a) Pre-marking exhibits
   (b) Exchanging witness lists
   (c) The lectern
   (d) Moving about the courtroom
   (e) Side bar conferences

4. Questions for Voir Dire
   (a) Who asks?
   (b) Exercising challenges

5. Drafting the order
   - editing the draft
   - signing the draft
   - submitting the draft to the court
APPENDIX C

REPRESENTATIVE TABLE OF CONTENTS
FOR A TRIAL NOTEBOOK

1. Introduction - Nature of the case (Civil/Criminal) - Main Issues - Burden of Proof
2. Personnel - Investigators, Clerks, Witnesses, Doctors, Police Officers, etc.
3. Jury Questionnaires
4. Motions in Limine
5. Voir Dire (Method of Challenges)
6. Opening Statement
7. Opponent's Opening Statement
8. Witness List
9. Order of Witnesses
10. Elements of Proof
11. Witness Proof
12. Document List/Litany for Authentication or Discovery Admitting Authentication (Index like pleadings).
13. Closing Argument
14. Pleadings
15. Exhibits
16. Jury Charges

*** Examples of trial notebooks on Prof. Bailey's Reserve Shelf in the Law Library.
APPENDIX D

BOOKS:


2. Volumes on Litigation, produced by the American Bar Association, section on Litigation; (published four times a year).

   Comment: A must journal for any lawyer who intends to do trial work.

3. Making and Meeting Objections, by Robert A. Wenke, Judge of Superior Court.

   Comment: Easy to read, short booklet on the common objections raised and heard in trial.

4. The Trial Lawyers Guide, Roland P. Klinge, J.D.

   Comment: Can be secured through most law libraries through the Bar Association.


   Comment: Good-Excellent.


   Comment: Excellent.

7. Various Volumes published by The Practical Lawyer.

   Comment: Usually fair reading.

APPENDIX D – (CONT.)

9. Prisoner's Rights, 1979, Alvin J. Brunstein, Phillip J. Hirschkop, Co-Chairman, Vol. Two, Produced by the Staff of the National Prison Project of American Civil Liberties Union Foundation, C4-4137/C6-4133, Practicing Law Institute, New York City.


Comment: O.K.


Comment: Good.


17. Examples of Trial Notebooks: On reserve shelf in library and in the clinic office.
APPENDIX D – (CONT.)

FOLDERS - Closing Arguments - 2 copies.

COMMERCIAL VIDEOTAPES

A089  ART OF ADVOCACY SKILLS IN ACTION SERIES: OPENING STATEMENT.

A167  DEMO: JURY SELECTION IN A PERSONAL INJURY CASE.

A190  DEVELOPING TRIAL STRATEGY: PREPARING & TRYING A CUSTOMODY CASE.

A215  TRIAL DEMONSTRATION SERIES: FINAL ARGUMENT (CRIMINAL MURDER CASE).

A235  TRIAL TECHNIQUE SERIES: FINAL ARGUMENT IN A CRIMINAL CASE: CONSPIRACY - UNITED STATES V. PETERS.

A32  INTRODUCTION & USE OF EXHIBITS.

LOCALLY-MADE VIDEOTAPES

ABOTA TRIAL COMPETITION 1983 (1 Tape)
ABOTA TRIAL COMPETITION 1984 Tape 1, Tape 2, Tape 3
APPENDIX E

KEY TO EACH EXERCISE

(1) What we will do.

(2) Why we will do it.

(3) How we will do it.

(4) When we will do it.

(5) Whether "we" did it correctly.

(6) Why I did it my way (submit written outline to judge after the exercise).
APPENDIX F

PLANNING FOR THE BIG TRIAL
EVIDENTIAL ISSUES TO CONSIDER

1. Credibility of witnesses (Impeachment)

2. Burden of Proof - Elements in the Case

3. Court Procedures - Lectern, etc.

4. Authentication of Documents and Things (Laying a Foundation)

5. Criminal case - Miranda - 4th & 6th Amendment (Confrontation Issues)

3. Probative Nature Versus Prejudicial Impact

4. Hearsay/ Exceptions/ Constitutional Issues

5. Offers of Proof/ Making a Record
APPENDIX G

KEY FOR PREP SHEETS
(EXTRA POINTS)

1. One page for Prep!

2. Name of student

3. Identify as Plaintiff (Plaintiff) or Defendant.

4. Identify the applicable stage of the proceeding (e.g., Opening Statement, Cross-Examination, etc.).

5. Explain in four (4) sentences or less your strategy for this particular proceeding.

6. Explain how this strategy helps your case.
APPENDIX H

ADDITIONAL* GROUND RULES FOR EACH OF THE FIVE (5) CLASSROOM EXERCISES AND THE BIG TRIAL

1. Be present.

2. Be on time.

3. Stay in character throughout the exercise.

4. Show the judge you have a “theory” (“strategy”) for your side of the case.

5. Protect your client at all times.

6. Consult with a professor (or a local attorney) before each exercise.

7. Submit your “Prep Sheet” (page 35) to the judge immediately after your exercise.

8. Ask questions about your performance.

* See Trial Advocacy pp. 11-13 syllabus for the basic “ground rules.”
APPENDIX I

ANATOMY OF A TRIAL

1. PRETRIAL CONFERENCE
2. JUDGE DESCRIBES THE CASE (KEY WORDS)
3. INVOKING THE RULE — FRE 615
   (WITNESSES SWORN IN)
4. VOIR DIRE — [JURY SELECTION]
5. OPENING STATEMENTS
   [CAVEAT! — MOTION TO DISMISS! — ADMISSIONS]
6. PROSECUTION’S CASE-IN-CHIEF
   (a) PROSECUTION’S DIRECT EXAMINATION
   (b) DEFENDANT’S CROSS EXAMINATION
   (c) PROSECUTION’S RE-DIRECT
   (d) DEFENDANT’S RE-CROSS
   [REPEAT PROCESS WITH OTHER WITNESSES]
7. PROSECUTION RESTS — [ASK FOR RECESS BEFORE!]
8. DEFENDANT’S MOTION FOR DIRECTED VERDICT
   [ARK. R. CIV. P. 50(a)]
   [ARK. R. CRIM. P. 33.1]
9. DEFENDANT’S CASE-IN-DEFENSE
   (a) DEFENDANT’S DIRECT EXAMINATION
   (b) PROSECUTION’S CROSS EXAMINATION
   (c) DEFENDANT’S RE-DIRECT
   (d) PROSECUTION’S RE-CROSS
   [REPEAT PROCESS WITH OTHER WITNESSES]
10. DEFENDANT RESTS — ARK. R. CIV. P. 50(b) [ARK. R. CRIM. P. 33.1] [ASK FOR RECESS BEFORE!]
11. PROSECUTION’S MOTION
12. PROSECUTION’S REBUTTAL
13. DEFENDANT’S SURREBUTTAL
APPENDIX I (CONT.)

14. MOTIONS AT THE CLOSE OF ALL THE EVIDENCE.
   (a) CIVIL CASE — ARK. R. CIV. P. 50(b)
   (b) CRIMINAL CASE — ARK. R. CRIM. P. 33.1

FAILING TO MAKE THIS MOTION WAIVES A PARTY’S RIGHT TO
CHALLENGE THE SUFFICIENCY OF THE EVIDENCE ON APPEAL.

SEE WILLIS v. STATE, 334 ARK. 412, 417-18 (1998)
SEE WILSON SAFETY PRODS. v. ESCHENBRENNER, 302 ARK. 228 (1990)
[CAVEAT! THE 50(b) (OR 33.1) MOTION MUST BE MADE BEFORE THE JURY
IS INSTRUCTED AND BEFORE CLOSING ARGUMENTS!]

15. CONFERENCES WITH THE JUDGE REGARDING JURY INSTRUCTIONS.
16. JUDGE INSTRUCTS THE JURY.
17. CLOSING ARGUMENTS — (ARGUE!)
   (a) PROSECUTION/PROSECUTION (OR PARTY WITH THE BURDEN OF
       PROOF) SHOULD REQUEST REBUTTAL TIME.
   (b) PREPARE KEY JURY INSTRUCTIONS, EXHIBIT
       [BLOWUP! POWERPOINT! TRANSPARENCY, VIDEO CLIP!]
       TO USE DURING CLOSING.
   (c) CONTENTS OF CLOSING:
       (i) PROMISES FROM THE OPENING;
       (ii) EVIDENCE SUBMITTED AND RECEIVED DURING TRIAL;
       (iii) CREDIBILITY OF WITNESSES;
       (iv) REASONABLE INFERENCES;
       (v) TELL THE JURY WHY CLIENT IS ENTITLED TO THEIR
           VERDICT. — ASK FOR VERDICT!
18. JURY RETIRES TO DELIBERATE
19. JURY’S VERDICT
20. POST VERDICT MOTIONS
APPENDIX J

EXAMPLE OF A SHORT FORM MOTION

TRIAL ADVOCACY

SHORT FORM MOTION

STATE OF NITA
COUNTY OF Darrow

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Fran Meryll, Plaintiff

v.

Carrie Porter and
Grass Golf course, Inc., Defendant

File No. 4762

MOTION TO POSTPONE A TRIAL
ON ACCOUNT OF THE ABSENCE OF A WITNESS

Defendant, Carrie Porter, moves this court to continue this case to January 30, 2006 for reasons that follow and those more particularly described in the attached affidavit:

1. that Thomas (Tom) Tucker, a former mechanic of defendant, Grass Golf Course, cannot be found;
2. that Tom Tucker’s testimony about the maintenance of the golf cart in question vital to the defense as shown more particularly in the attached affidavit;
3. that Tom Tucker’s absence has not been caused by the consent, connivance or procurement of the defendant, Carrie Porter; and
4. that the contents of this motion and the attached affidavit are consistent with Ark. Stat. Ann. 16-63-402.

Therefore, the defendant Carrie Porter moves this court to continue this case to January 4, 2006.

Shannon Poore
Bar No. 00001
1512 Leflar Law Center
University of Arkansas
Fayetteville, AR 72701
(479) 575-0001

40
CERTIFICATE OF SERVICE

I, Shannon Poore, attorney for the defendant Carrie Porter, do hereby swear that this motion a continuance and attached affidavit has been hand delivered to attorney Ann Elliot, attorney Plaintiff, on the 19th of May, 1993 at 12:05 p.m.

Shannon Poore
Attorney for
Date

STATE OF NITA DISTRICT COURT
COUNTY OF DARROW FOURTH JUDICIAL DISTRICT

Fran Meryll, Plaintiff

V. File No. 4762

Carrie Porter and
Grass Golf Course, Inc., Defendants

ORDER

Judge Bailey