Professor: Tom Margolis

Administrative Assistant: Carol Manis, 453-8719

Contact Information: margolislaw1@aol.com or 618-924-0988

Office Hours: No specific hours – please call, text or e-mail to schedule appointment. I am available evenings during the week and throughout the weekend, if necessary

Class Meeting Information: Wednesdays from 6:45-9:15 p.m. – Room 164

Course Overview and Objectives:
The purpose of this course is to build the foundational skills you will need to try a bench trial and jury trial in a courtroom setting. The trial advocacy course will focus exclusively on those skills. The course objectives are three-fold:

• to achieve mastery of basic trial skills, including case analysis, opening statements, closing arguments, direct examinations and cross examinations;

• to try two cases in an actual courtroom setting; and

• to develop confidence in public speaking and courtroom procedures.

Weekly Course Rhythm During the Semester
PRIOR to each class meeting, there will be specific reading assignments that MUST BE COMPLETED before you arrive at class. Before we get into the nuts and bolts of the particular assignment, there will be a brief quiz covering the reading assignment for each class. The quiz will consist of three (3) to five (5) short questions that will cover various aspects of the assigned chapter.

Following the quiz, we will discuss the assigned materials and how they connect to the particular activity being discussed that evening.

The entire class will meet at the beginning of each evening to discuss the substantive topic(s) set forth in the syllabus. The class will consist of some lecture, brief review of pertinent articles/videos, and intermittent skill drills focusing on the areas of evidentiary objections and cross-examination. The drills will be brief, hopefully fun, and should make your bench and jury trials more meaningful and productive.
Basic Rules
It is critical that you adhere to the following rules in order to achieve the goals/objectives referenced above.

1. **Dress:** For the class sessions and trials, you must wear appropriate courtroom attire.

2. **Computers:** Computers are not permitted in the class, unless otherwise excused by Professor.

3. **Class Participation:** You are **never** allowed to “note out,” “pass,” or decline to participate, whether as an attorney, witness, or observer. *If you can’t live by this rule, please drop the class now so you don’t waste everyone else’s time.* Abiding by this rule means you must show up prepared for class, every time. Additionally, keep in mind that all real world trial work takes place in front of other people (opposing counsel, judge, court reporter, co-counsel, students, bailiffs, etc.). Now is the time to learn to overcome embarrassment, self-consciousness, fear of public speaking, and other potential phobias that might interfere with your effective representation of a client in court.

4. **Punctuality:** Please arrive on time for all classes.

5. **Partners:** At least one of the exercises during the semester requires a partner. Depending on enrollment numbers, it is possible that someone may have to try a case without a partner or try the case two times. If you absolutely prefer to work alone, please let me know as soon as possible.

Course Materials:

**Case Files:** We will use two case files in the course. The “bench trial” assignment will be available on or before the first class meeting. The “jury trial” materials will be distributed immediately following the completion of the bench trials.

TWEN: I will post articles, updates and video links frequently throughout the duration of the class. Please check the Trial Advocacy SPRING 2018 TWEN page at least daily.

Advocacy Resource Center (ARC): throughout the class, videotaped lectures, articles and other helpful information will be reviewed from Stetson University College of Law’s Advocacy Resource Center – [http://www.law.stetson.edu/advocacy-resource-center/](http://www.law.stetson.edu/advocacy-resource-center/). There is an incredible volume of video discussions on literally every aspect of Trial Advocacy in the ARC and, frankly, I am shocked each semester at how few students utilize this resource!

Grading:

a. **Grading Philosophy.** This course is graded. Law school rules allow sections with 12 or fewer students to use a median between 3.1 and 3.4. Some of you may be worried that advocacy is all about style and therefore cannot be graded. To the
contrary, there are objective evaluation criteria that can be applied to every skill we will learn this term.

b. **How Your Grade is Determined.** There are several components to your grade.

1. *Written Case Analysis Memorandum/Bar Prep Assignment (20%).* This is a written case analysis of the final trial case. A template will be provided for you on the course website.

2. *Weekly Advocacy Exercises (Prepared/Unprepared).* As explained above, there will be intermittent assignments that will require you to post a draft video performance of the exercise for the week. In class, you will perform the skill live, receiving critiques and coaching from your professor. These exercises are not graded, but if you fail to post your draft video by the deadline or show a lack of preparation in the classroom, you will receive a .1 reduction in your final course grade for every such lapse.

3. *Graded Trials.* In the graded trials, you put together the individual skills you’ve worked on during the weekly advocacy exercises. It is in the trials themselves that you earn a grade.

   a. **First Trial (Bench) (20%).** In this trial, you will try a small case in front of a judge (no jury) with one witness per side. This will give you experience giving an opening statement, conducting a direct and cross examination, and conducting a closing argument. You will be graded on your performance for each of these skills using a detailed rubric that you will be provided in advance of trial and according to the grading standards listed in subparagraph “c” below.

   b. **Final Trial (50%).** In the final trial, you will be expected to give either an opening or closing statement, to conduct the direct examination of at least one witness, and to conduct the cross examination of at least one witness. You will also serve as a witness in another trial. You will be graded on your performance for each of these skills—including your performance as a witness—using a detailed rubric that you will be provided in advance of trial and according to the grading standards listed in subparagraph “c” below. In addition, you may be expected to serve as a juror in another group’s trial (this will be dependent on the total number of students and trial pairings).

c. **Grading Standards for Trials:**

   - **Outstanding (15 points).** Prepared and gives an exceptional performance—considerably and objectively exemplary when compared to the typical student performance for this section. Such a performance must demonstrate complete mastery of the
evaluation criteria and be on par with the performance of an experienced and talented attorney.

- **Superior (12.5 points).** Prepared and gives a very good performance that satisfies the evaluation criteria and is noticeably and objectively superior to the typical student performance for this section. Such a performance must demonstrate mastery of the evaluation criteria and be on par with the performance of a talented junior attorney.

- **Above Average (10.0 points).** Prepared and gives a performance that meets the evaluation criteria and is objectively better than the typical student performance for this section.

- **Meets Standards (7.5 points).** Prepared and gives a performance that meets most of the evaluation criteria and is typical of the students for this section.

- **Below Standards (5 points).** Prepared and gives a below average performance (for students of this section) that meets some, but not all, of the evaluation criteria.

- **Severe Deficiencies (2.5 points).** Unprepared and gives a performance significantly below the average performance for this section and fails to meet most of the evaluation criteria.

4. **Ungraded Assignments.** You will have one ungraded written assignment. Although it is ungraded, you will not pass the class unless you turn this assignment in, unless other circumstances arise to excuse this (in-person meeting with professor to review video). This assignment is a memo assessing your final trial performance at the end of the semester. A template will be posted on the course web page.

5. **All Assignments Must Be Complete to Pass Course.** Although there are weights assigned to each component of the class, you cannot pass unless you complete them all. For example, if you decide not to turn in your case analysis or participate in the final trial, yet complete all other requirements, you will fail the class.

d. **Workload.** The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of
work over a different amount of time.” This is a 3-credit hour class, divided into a one-hour plenary session and a two-hour lab session. The amount of assigned reading and out of class preparation should take you, on average, about six (6) hours each week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending an average of 9 hours per week (3 in class and 6 preparing for class) on course-related work. Please understand from the beginning that this class carries a heavy workload. We make no apologies for the demands placed on your time during the term (and when you practice, neither will your supervisors, judges, clients or opponents).

Attendance:
In a skills class, it’s difficult to learn if you aren’t present. An advocacy course absolutely requires your presence so you can learn, and through you, others can learn.

Bar-Type Assessment
As part of the law school’s requirement to conduct MEE, MPT or MBE type question(s) during the semester, we will incorporate a “Legal Memorandum” pertaining to the bench trial during the first or second class of the semester. Although this assignment will not be graded, I will speak with each student individually to discuss the quality of the responses.

Audio/Visual recordings:
The School of Law, beginning Spring Semester 2018, will be recording all classes, unless the professor opts out. PLEASE NOTE that all our classes will be recorded. With that said, PLEASE FURTHER NOTE students MAY NOT record any class (via audio and/or video) without express permission by the professor. The final jury trials will be recorded by the professor and used to conduct evaluations following the trials.

Students with Disabilities:
The law school’s policies and procedures regarding students with disabilities may be found online at www.law.siu.edu. Students with disabilities requiring reasonable accommodations should contact the Registrar’s office.

Emergency Procedures:
Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website at www bert siu edu Department of Safety’s website www dps siu edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Plagiarism and Collaboration
Plagiarism: You may not copy another’s work, in whole or part, for any assignment, quiz, or exam.
Collaboration: Unless otherwise instructed as part of a class assignment, you should NOT collaborate with any other student, faulty member, or outside individuals when preparing written assignments or drafting documents in preparation for in-class exercises.

Any violation of either the Plagiarism or Collaboration policy noted above, could involve SIU School of Law’s Ethics Policy/Procedure and, ultimately, impact your admission to the bar.

**Reading and Assignment Schedule – SPRING 2018**

<table>
<thead>
<tr>
<th>Week</th>
<th>Dates</th>
<th>Topic</th>
<th>Reading Assignment &amp; Lecture</th>
<th>Advocacy Assignment (draft due by 5 pm the night before class)</th>
<th>Self-Analysis Assignment (when assigned, is due by 5 pm on Friday)</th>
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<tbody>
<tr>
<td>1</td>
<td>Jan 17</td>
<td>Course Introduction Trials and Storytelling <em>The Lost Dog</em> Intro to Case Analysis</td>
<td>Rose Chapter 1 Storytelling Materials</td>
<td>AE 1: Case Analysis Memo for first trial</td>
<td>Case Analysis final memo due via email by 5 pm on Friday.</td>
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<tr>
<td>2</td>
<td>Jan 24</td>
<td>Case Analysis, Theme and Theory Development Developing Trial Notebook</td>
<td>Rose Chapter 2 Case File for First Trial</td>
<td>1-2 page memo to instructor outlining your goals for the course</td>
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<tr>
<td>3</td>
<td>Jan 31</td>
<td>Closing Arguments Start at the END and work/walk backwards like a TRIAL NINJA!</td>
<td>Rose Chapter 10</td>
<td>AE 2: Closing Argument [Bench trial case]</td>
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<td>4</td>
<td>Feb 7</td>
<td>Intro to Direct Examination (Witness is the Star) Video with former student, Tess Perica</td>
<td>Rose Chapter 5 Rose Chapter 11</td>
<td>AE 3: Direct examination in [using bench file materials]</td>
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<td>5</td>
<td>Feb 14</td>
<td>Intro to Cross Examination / Cross Indictorina (attorney is the Star)</td>
<td>Rose Chapter 7</td>
<td>AE 4: Cross examination in [bench file] – we will consider: --performance as counsel --performance as witness</td>
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<td>6</td>
<td>Feb 21</td>
<td>Opening Statements&lt;br&gt;Bench Trial Review/Final Preparations&lt;br&gt;&lt;i&gt;Replay Lost Dog&lt;/i&gt;</td>
<td>Rose Chapter 4&lt;br&gt;Review Rose Chapter 1</td>
<td>AE 5: Opening Statement in [Case File]</td>
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<td>7</td>
<td>Feb 28</td>
<td>Bench Trial: Week One</td>
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<td>AE 6: Bench Trial – Procedure and Rules</td>
<td>Reflections on Bench Trial (use template provided on course webpage)</td>
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<td>8</td>
<td>Mar 7</td>
<td>Bench Trial: Week Two</td>
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<td>9</td>
<td>Mar 21</td>
<td>Case Analysis, Theme and Theory Development for Final Trial: Plaintiffs/Prosecutors</td>
<td>Review Rose Chapter 2&lt;br&gt;Case File for Jury Trial distributed</td>
<td>Work in class on theory and theme development.</td>
<td>Final Case Analysis Memo Due on evening of your Bench Trial</td>
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<tr>
<td>10</td>
<td>Mar 28</td>
<td>Case Analysis, Theme and Theory Development for Final Trial: Defense</td>
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<td>11</td>
<td>Apr 4</td>
<td>Direct Examination with Exhibits&lt;br&gt;Replay of &lt;i&gt;Tess Perica&lt;/i&gt; Video</td>
<td>Rose Chapter Six</td>
<td>AE 7: Direct Examination with Exhibits using Case File 2</td>
<td>Reflections on Direct Examination with Exhibits</td>
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<td>12</td>
<td>Apr 11</td>
<td>Cross-Examination and Impeachment&lt;br&gt;Using &lt;i&gt;Professor Wes Porter’s Flowchart&lt;/i&gt;</td>
<td>Rose Chapter 8</td>
<td>AE 8: Cross- Examination and Impeachment using Case File 2</td>
<td>Reflections on Cross Examination and Impeachment</td>
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<td>13</td>
<td>Apr 18</td>
<td>Jury Trial (Week One)</td>
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<td>AE 9: Final Trial – Procedure and Rules</td>
<td>Final Self-Assessment Memorandum due April 30, by 5:00 p.m., unless otherwise excused</td>
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<tr>
<td>14</td>
<td>Apr 25</td>
<td>Jury Trial (Week Two)</td>
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