

APPENDIX A

Sample of EATP Method Syllabus

SAMPLE
SCHEDULE

**Advanced
Advocacy**

Syllabus

**Professor John Sonsteng, Director
and Jennifer Miller, Administrator**

Spring 2016

Monday class

© John Sonsteng, Linda Thorstad and Jennifer Miller

**Mondays, 5:00 – 7:55 p.m.
Courtroom 201**

<u>Date</u>	<u>Week</u>	<u>Class Topics and Case Files</u>
Jan. 25	(1)	Course Introduction, Drills, Case Theory/Brainstorming, Opening Statement Lecture. Partnerships will be assigned. <i>(Brezenski)</i>
Feb. 1	(2)	Opening Statement – Video Review <i>(Brezenski)</i>
Feb. 8	(3)	Direct/Cross-Examination – Split Screen Video Review <i>(Brezenski)</i>
Feb. 15	(4)	Closing Argument and Exhibit Workshop – YouTube Video Review <i>(Brezenski)</i>
Feb. 22	(5)	Arbitration 1 - <i>(Brezenski)</i>
Feb. 29	(6)	Arbitration 2 – Switch Sides <i>(Brezenski)</i>
March 7	(7)	Brainstorming & Deposition Workshop <i>(Darngood)</i>
March 14	(8)	Opening Statement – Video Review <i>(Darngood)</i>
March 28	(9)	Impeachment & Exhibit Workshop <i>(Darngood)</i>
Apr. 4	(10)	Direct & Cross-Examination – Split Screen Video Review <i>(Darngood)</i>
Apr. 11	(11)	Closing Argument – YouTube Video Review <i>(Darngood)</i>
Apr. 18	(12)	Court Trial <i>(Darngood)</i>
Apr. 25	(13)	Question Session, Pretrial Conference and Jury Selection Briefing & Workshop <i>(Darngood)</i>
Apr. 28*	(14)	Thursday, April 28, FULL DAY Jury Trial*, 8:00 – 2:00 <i>(Darngood)</i>
		OR
Apr. 29*	(14)	Friday, April 29, FULL DAY Jury Trial*, 8:00 – 2:00 <i>(Darngood)</i>

***IMPORTANT:**
**All students WILL participate in a
FULL DAY JURY FINAL TRIAL on
Thursday or Friday, April 28 and 29.**
See syllabus for details.

REQUIRED MATERIALS

Purchase at bookstore:

- *The Effective Deposition, Techniques and Strategies that Work*, David M. Malone and Peter T. Hoffman
- *PUDS and Brezenski, Arbitration File – A Practicum Exercise for NITA* (2012), Sonsteng/Thorstad on CD.
- *Darngood v Landers and PUDS, Deposition File – A Practicum Exercise for NITA* (2011), Sonsteng/Thorstad on CD.

Posted on Blackboard:

- *Learning Materials for the Practicum Series Exercises*

RECOMMENDED MATERIALS

Purchase at bookstore:

- *Trial – Advocacy Before Judges, Jurors and Arbitrators*, any edition, by Roger Haydock and John Sonsteng (West – a Thomson Reuters business)

PURPOSE

The purpose of this course is to prepare you to be an effective advocate.

WHAT YOU DO

Students are required to prepare written materials, to orally perform exercises, and to act as witness or opposing counsel. You must be prepared to discuss all aspects of the exercise.

Student roles are specifically assigned. The syllabus indicates what you are assigned to perform each week. Students will be assigned as an A (representing plaintiff) or B (representing defendant) and are paired with another student for three 3-hour court trials and one 5 ½-hour jury trial. The Course Director will assign opposing counsel and witness roles during class. Students should be prepared to make objections to opposing witness examinations.

HOW YOU LEARN

The primary learning method used in this course is performance, critique, discussion, and video review. There will be at least one instructor for each group of students and for video review classes, there will be two. When there are two instructors, one will conduct a live critique and the other will review the student's recorded performance with the student. When no reviewer is present, the student will review their own recorded performance alone.

During two video review classes this semester, we will be using YouTube. After your oral performance, you will post your video on YouTube. **The adjunct faculty member has three days to provide you with feedback, which you log on to YouTube to view.** Directions are located below.

Student Instructions for Recording, Posting, & Sharing Videos

Students will **record** videos for each assignment. After the student has recorded a video, the student will **upload** the video to YouTube. After uploading the video, the student will **share** the video for critique. After the faculty member has analyzed the video, students can view the feedback **annotations** on YouTube.

Recording Videos

Students will use the courtroom to record their video. After uploading, you see a link to the uploaded video. Prior to starting to record the videos, make sure that your microphone is being picked up. There should be a mixer mounted underneath the desk.

Continued on next page

Using Picasa

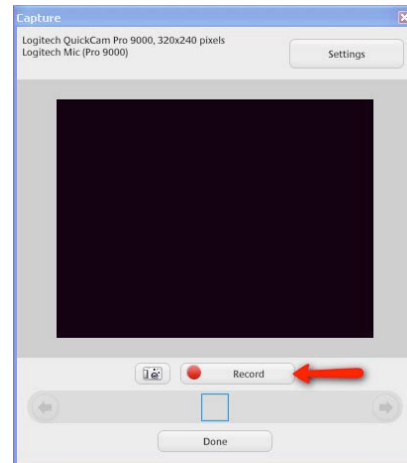
1) Open Picasa on the courtroom computer

2) Click on the Webcam icon

3) Position yourself in front of the camera

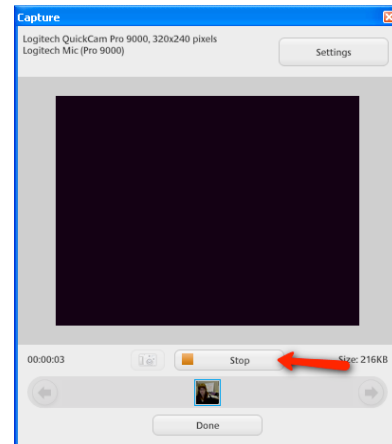


4) Click the **Record** Button



5) When finished, click **Stop**

6) Click **Done**

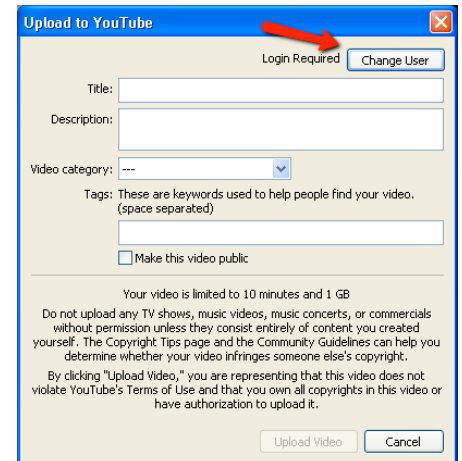
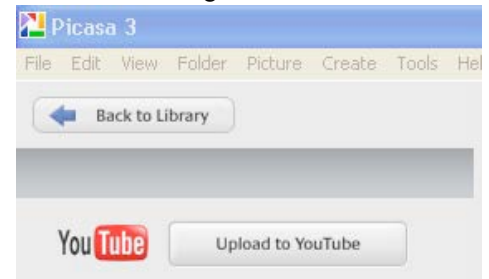


Uploading the Video to YouTube

Picasa allows you to directly upload the video into YouTube.

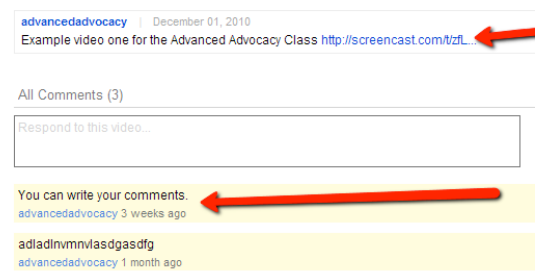
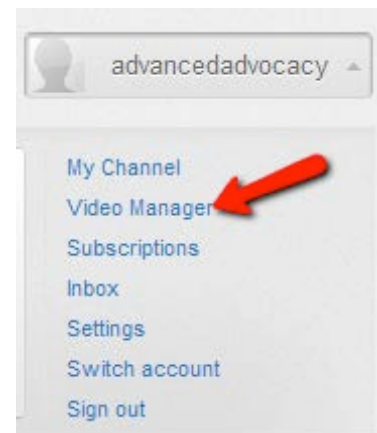
- 1) Click on **Upload to YouTube**.
- 2) Add a title in the following format:
LastName_FirstName_Assignment
- 3) Add a description and category (Education) and click on **Upload Video**

****You will be unable to upload the video if you do not add a description or a category****



To View Your Video's Comments

- 1) Log in to YouTube (www.youtube.com)
advancedadvocacy875@gmail.com
Password: wmcl2012
- 2) Click on **advancedadvocacy875** in the upper right corner and click on **Video Manager**
- 3) On the left side of screen, click on the playlist for the appropriate assignment.
- 4) Find your video. Watch your video.
- 5) Faculty can comment on your video in three ways:
 - a) The Comments section
 - b) Embedded in your video or
 - c) As a link in your video's description.



SUBMITTING WRITTEN ASSIGNMENTS

**All written assignments will be submitted to the
Assignment Drop Box
on Blackboard each Monday by 8:00 a.m.**

- 1) Submit each week's assignment as ONE DOCUMENT.**
- 2) Include your NAME at the top of each page of your assignment.**
- 3) Save/name your written work as a Microsoft Word document or PDF titled Name-of-Assignment.**
- 4) Upload document as Name-of-Assignment to Assignment Drop Box on Blackboard by 8:00 a.m. the Monday it is due. (See syllabus for exact dates.)**

ORAL AND WRITTEN ASSIGNMENTS

There are oral and written assignments each week. See specific assignments in syllabus.

ORAL ASSIGNMENTS

There are four graded oral performances, listed below. All other oral assignments are practice and are not graded.

- *PUDS and Brezenski Exercise* – two 3-hour arbitrations
- *Darngood v Landers and PUDS Exercise* – one 3-hour court trial
- *Darngood v Landers and PUDS Exercise* – one 5 ½-hour jury trial

WRITTEN ASSIGNMENTS

The four written assignments are graded, however, your outlines are not graded. See written assignments in syllabus. For reference, see *Partial List of Learning Materials for the Practicum Series Exercises Oral and Written Learning Objectives* at the back of this syllabus and assessment and feedback forms that are posted on Blackboard.

INDIVIDUAL WRITTEN WORK

Weekly Exercises

WRITTEN ANALYSIS (individual work): See the *Partial List of Learning Materials for the Practicum Series Exercises Oral and Written Learning Objectives* at the back of this syllabus. The entire *Learning Materials for the Practicum Series Exercises* are

posted on Blackboard.

Arbitration/Court Trial/Jury Trial

DETAILED OUTLINE (individual work): See *Learning Materials for the Practicum Series Exercises*, posted on Blackboard.

TEAM WORK-

WRITTEN CASE ANALYSIS (team work): See **Written Objective A (Identifying and Analyzing Issues)** in the *Partial List of Learning Materials for the Practicum Series Exercises Oral and Written Learning Objectives* at the back of this syllabus. The entire *Learning Materials for the Practicum Series Exercises* is posted on Blackboard.

GENERAL INFORMATION

What Classroom Do I Go To?

At the beginning of class each week, you will go to your assigned courtroom. The Small Group Schedules will be emailed to you during the semester listing student pairings and opposing counsel.

What do I wear?

Trial garb must be worn for all classes, pretrial conference, arbitrations, court and jury trials, unless otherwise noted in the syllabus.

Grading

Approximately -

Written Work:	20% (5% for each written exercise)
Oral Work:	80%

Attendance

Attendance at all classes is mandatory. Students who will be absent must contact Professor Sonsteng at least 24 hours in advance of class, unless an unexpected emergency or illness arises.

Please also let Jennifer Miller know. No other absences are allowed except for extraordinary exigent circumstances, and substantial make-up work will need to be completed. Written work for the missed exercise must be handed in on time (unless permission is received to do otherwise), or it will not be accepted and grading points will be deducted from total.

Time Limits

Deadlines are established to simulate practice as realistically as possible.

Learning Opportunities

You may well be taking this course because you plan to be an advocate after law school. You can use the opportunities in this course to meet, talk with, and seek advice about effective advocacy from the adjunct faculty, who are lawyers and judges.

Help and Contact Information

You may confer, consult, and discuss any exercise with anyone. However, your written work, questions, and analyses must be your own product. Professor John Sonsteng is available to assist you with practicing your oral exercises and to discuss any aspect of the course, grades, case preparation, strategies and presentations.

John Sonsteng, room 259

Office: (651) 290-6324

Cell: (612) 702-1024

John.Sonsteng@mitchellhamline.edu

The Course Administrator is available to answer any questions about scheduling.

Jennifer Miller, room 259

Office: (651) 290-6314

Jennifer.Miller@mitchellhamline.edu

HOURS: Monday – Thursday, 7:30 – 2:30; Friday, 7:30 – 2:00

WEEK 1: January 25, 2016

**Course Introduction, Drills, Case Theory/Brainstorming,
Opening Statement Lecture**

PUDS and Brezenski

NO TRIAL GARB NECESSARY

PARTNERSHIPS WILL BE ASSIGNED.

ORAL ASSIGNMENT: None.
WRITTEN ASSIGNMENT: None.
READING ASSIGNMENT: Know the facts of <i>PUDS and Brezenski Exercise</i> .

5:00 – 5:15 Introduction to the course

5:15 – 6:00 Lecture/Workshop – Drills for focused learning

6:00 – 6:50 Brainstorm/Case Analysis*

6:50 – 7:00 Break

7:00 – 7:55 Determining the themes

*For all exercises in this program, if you are assigned to prepare the direct or re-direct examination of a witness, you should also be prepared to play the role of the witness. Case Theory, as used here, has three components which are legal, factual and persuasive theory defined as follows:

1. Legal theory is defined as the basis for a trial verdict or decision by an arbitrator;
2. Factual theory is defined as an explanation of what really happened in the case and why; and
3. Persuasive theory is defined as why an arbitrator, judge or jury should want to find in your favor, in terms of themes from common experience which can be found in great literature, moral fables, and religious writings or in statements of truism taught by parents to their children.

WEEK 2: February 1, 2016

Opening Statement – Video Review

PUDS and Brezenski

ORAL ASSIGNMENT:

Refer to Oral Objective B - Opening Statement in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus. The entire *Learning Materials for the Practicum Series Exercises* are posted on Blackboard.

Prepare to perform your opening statement twice during this class. First there is a 2-minute drill, which requires that you capsulize your persuasive theory of the case. This presentation will likely be the beginning of your full opening statement. Critique will focus on whether your theme for the case captures the trier's attention, and sets the scene for an effective presentation of the evidence.

After a short break, you will present an 8-minute portion of your opening statement. Critique will again focus on case theory, and will also provide commentary on non-argumentative persuasive statements, structure, style and delivery.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare and submit an outline sufficient to present your opening statement. Do not write out your opening.

SUGGESTED READING:

TRIAL, Chapter 6 – Opening Statement

Practice Opening Statement

Opening statement - All prepare and present a 2-minute opening statement drill and an 8-minute portion of your opening statement. Participants will have two opportunities to perform.

WEEK 3: February 8, 2016**Direct/Cross-Examination – Split Screen Video Review***PUDS and Brezenski***ORAL ASSIGNMENT:**

Refer to Oral Objective C (Direct Examination) and Oral Objective D (Cross-Examination) in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus. The entire *Learning Materials for the Practicum Series Exercises* are posted on Blackboard.

Partners should decide who conducts the direct and who conducts the cross-exam of the witnesses. Prepare to conduct this practice examination based on the partnerships listed in the Small Group Schedule for this class. (*Students in your Small Group representing the plaintiff, play plaintiff witnesses. Students in your Small Group representing the defense, play defense witnesses.*)

If you represent Brezenski, you should prepare a direct of either Brezenski or Dover. If you represent PUDS, you should prepare a direct of either Wexler or Marino. You should discuss this with your partner. You can both do the same direct if you want to. It will be the same with the cross-exam. You should choose one witness to cross-exam and if you and your partner want to practice the same cross-exam, that is ok. Practice a key 8-9 minute part of your direct examination and a 6-7 minute part of your cross-examination.

The direct examiner of A.M. Wexler must cross-examine Ashley Dover.

The direct examiner of Karol Brezenski must cross-examine L.T. Marino.

The direct examiner of Ashley Dover must cross-examine A.M. Wexler.

The direct examiner of L.T. Marino must cross-examine Karol Brezenski.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare and submit an outline sufficient to present your direct and cross-examination. Do not write out your direct and cross.

SUGGESTED READING:

TRIAL, Chapter 7 - Direct Examination and Chapter 9 - Cross-Examination

Direct and cross-examination - Prepare to conduct this practice examination based on the partnerships listed in the Small Group Schedule. Practice a key 8-9 minute part of your direct examination and a 6-7 minute part of your cross-examination.

WEEK 4: February 15, 2016

Closing Argument and Exhibit Workshop – YouTube Video Review

PUDS and Brezenski

ORAL ASSIGNMENT:

Refer to Oral Objective E (Closing Argument) in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus. The entire *Learning Materials for the Practicum Series Exercises* are posted on Blackboard.

Prepare to perform your closing argument twice during this class. First there is a 1 minute drill, which requires that you capsulize your persuasive theory of the case. This presentation will likely be the beginning of your full closing argument. Critique will focus on whether your theme for the case captures the trier's attention, and sets the scene for an effective presentation of the evidence.

After a short break, you will present a 7 minute portion of your closing argument. Critique will again focus on case theory, and will also provide commentary on non-argumentative persuasive statements, the potential use of visual aids to assist the presentation, structure, style and delivery.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare and submit an outline sufficient to present your closing argument. Do not write out your closing argument.

SUGGESTED READING:

TRIAL, Chapter 8 – Exhibits and Chapter 11 – Summation

5:00 – 6:30 **Closing Argument** - All prepare for and present a 1 minute closing argument drill and a 7 minute portion of your closing argument.

6:40 – 7:55 **Exhibit Workshop**

WEEK 5: February 22, 2016

Arbitration

PUDS and Brezenski and IATW

ORAL ASSIGNMENT:

Attorneys will act as the witness for their partners. One attorney will give the opening statement; the other attorney will give the closing argument. Each attorney will conduct a direct examination and a cross-examination.

The statements of the doctors are admissible without further foundation. They should be marked as exhibits. The statements may be used in opening statements and closing arguments.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare an outline sufficient to make the arbitration (presentation). Do not write out your questions or arguments.

WRITTEN CASE ANALYSIS: 5% of grade. Prepare an individual detailed double-spaced case analysis not to exceed 4 pages. See *Learning Materials for the Practicum Series Exercises*, posted on Blackboard, **Written Objective A (Identifying and Analyzing Issues)**.

READING ASSIGNMENT:

None.

Arbitrations (PUDS and IATW and Exercise)

- Employer (PUDS) must call both A.M. Wexler and L.T. Marino.
- Grievant (IATW & Brezenski) must call both Karol Brezenski and Ashley Dover.

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WEEK 5: February 22, 2016 (continued)

Suggested Time Limits: (Attorneys may, of course, use the time any way they see fit.)

Each side has 65 minutes available and will be responsible for keeping track of its time. The arbitration may take less time, however, the time should not exceed 3 hours.

Arbitration - 3 Hours

Preliminary Discussion	10 minutes	
Plaintiff	65 minutes —>	[Opening statement 5 min.]
Employer/PUDS		[Direct examination 30 min.]
		[Cross-examination 20 min.]
		[Final argument 10 min.]
Defendant	65 minutes —>	[Opening statement 5 min.]
Employee/Brezenski		[Direct examination 30 min.]
		[Cross-examination 20 min.]
		[Final argument 10 min.]
Critique	30 minutes	

Employer/PUDS Opening	5 minutes
Employee/Brezenski Opening	5 minutes
Employer/PUDS Direct of A.M. Wexler	20 minutes
Employee/Brezenski Cross of A.M. Wexler	10 minutes
Employer/PUDS Direct of L.T. Marino	10 minutes
Employee/Brezenski Cross of L.T. Marino	10 minutes
Employee/Brezenski Direct of Brezenski	20 minutes
Employer/PUDS Cross of Brezenski	10 minutes
Employee/Brezenski Direct of Ashley Dover	10 minutes
Employer/PUDS Cross of Ashley Dover	10 minutes
Employee/Brezenski Final Argument	10 minutes
Employer/PUDS Final Argument	10 minutes
Critique	30 minutes

ADVANCED ADVOCACY

Final Trial Partnership

**Final trials (FULL DAY) will be held on
Thursday and Friday, April 28 and 29.**

**All students must be prepared to participate in the full day final trials
on April 28 or April 29.**

Detailed information on pages 28-29.

Please choose your final trial partner.

If you do not choose a partner, one will be assigned.

**Email Jennifer Miller
no later than Monday, February 22.**

Please email Jennifer only once per team.

WEEK 6: February 29, 2016

Arbitration – switch sides

PUDS and Brezenski and IATW

ORAL ASSIGNMENTS:

Arbitration – teams will switch sides.

Openings and Closings

The attorney who gave the opening in the first arbitration will give the closing in this week's arbitration. The attorney who gave the closing in the first arbitration will give the opening in this week's arbitration.

Directs and Cross-Examinations

The attorney who conducted the direct in the first arbitration will conduct the cross-examination in this week's arbitration. The attorney who conducted the cross-examination in the first arbitration will conduct the direct in this week's arbitration.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare an outline sufficient to try the arbitration. Do not write out your questions or arguments.

AND

WRITTEN CASE ANALYSIS: 5% of grade. Prepare and submit an individual detailed double-spaced case analysis not to exceed 4 pages. See *Learning Materials for the Practicum Series Exercises*, posted on Blackboard, **Written Objective A (Identifying and Analyzing Issues) in the PUDS and Brezenski and IATW Exercise**. This is the same assignment as your class six assignment only you prepare for the other side. In addition, since you had the benefit of practicing your opening/closing and direct/cross-examination, your analysis should be more thoughtful and complete.

WATCH/READ ASSIGNMENTS:

EATP and related chapters in Trialbook: Arbitration and Appendix F: Planning Guide and Checklist.

Arbitrations (PUDS and IATW and Exercise)

(Continued on next page)

WEEK 6: February 29, 2016 (continued)

Suggested Time Limits: (Attorneys may, of course, use the time any way they see fit.)

Each side has 65 minutes available and will be responsible for keeping track of its time. The arbitration may take less time, however, the time should not exceed 3 hours.

Arbitration - 3 Hours

Preliminary Discussion	10 minutes	
Plaintiff	65 minutes →	[Opening statement 5 min.]
Employer/PUDS		[Direct examination 30 min.]
		[Cross-examination 20 min.]
		[Final argument 10 min.]
Defendant	65 minutes →	[Opening statement 5 min.]
Employee/Brezenski		[Direct examination 30 min.]
		[Cross-examination 20 min.]
		[Final argument 10 min.]
Critique	30 minutes	

Employer/PUDS Opening	5 minutes
Employee/Brezenski Opening	5 minutes
Employer/PUDS Direct of A.M. Wexler	20 minutes
Employee/Brezenski Cross of A.M. Wexler	10 minutes
Employer/PUDS Direct of L.T. Marino	10 minutes
Employee/Brezenski Cross of L.T. Marino	10 minutes
Employee/Brezenski Direct of Brezenski	20 minutes
Employer/PUDS Cross of Brezenski	10 minutes
Employee/Brezenski Direct of Ashley Dover	10 minutes
Employer/PUDS Cross of Ashley Dover	10 minutes
Employee/Brezenski Final Argument	10 minutes
Employer/PUDS Final Argument	10 minutes
Critique	30 minutes

WEEK 7: March 7, 2016

Brainstorming & Deposition Workshop

Darngood v Landers and PUDS

No trial garb necessary.

ORAL ASSIGNMENT:

Refer to Oral Objectives A (Taking a Deposition) and B (Defending a Deposition) in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus.

Prepare to depose your witness for 15-20 minutes. You will play the witnesses for the side you represent and you will depose the witnesses for the other side.

- If you represent Darngood, prepare to take the deposition of Perry Reinhart and Mel Landers.
- If you represent Landers and PUDS, prepare to take the deposition of Helen Darngood and Cooper Earle.
- All - prepare to defend your client's interests.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare and submit an outline sufficient to conduct your deposition of both witnesses. Do not write out your deposition questions.

READING ASSIGNMENT:

Know the facts of *Darngood v Landers and PUDS Exercise*.

5:00 – 5:30 Case Theory/Brainstorming

5:30 – 7:55 Deposition Workshop

WEEK 8: March 14, 2016

Opening Statement – Video Review

Darngood v Landers and PUDS

ORAL ASSIGNMENT:

Refer to Oral Objective B (Opening Statement) in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus.

Prepare to perform your opening statement twice during this class. First there is a 2 minute drill which requires that you capsulize your persuasive theory of the case. This presentation will likely be the beginning of your full opening statement. Critique will focus on whether your theme for the case captures the trier's attention, and sets the scene for an effective presentation of the evidence.

After a short break, you will present an 8 minute portion of your opening statement. Critique will again focus on case theory, and will also provide commentary on non-argumentative persuasive statements, structure, style and delivery.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare and submit an outline sufficient to present your opening statement. Do not write out your opening statement.

SUGGESTED READING:

The Effective Deposition, Techniques and Strategies That Work

Practice Opening Statement

Opening statement - All prepare and present a 2 minute opening statement drill and an 8 minute portion of your opening statement. Participants will have two opportunities to perform.

WEEK 9: March 28, 2016

Impeachment and Exhibit Workshop

Darngood v Landers and PUDS

No trial garb necessary.

ORAL ASSIGNMENT:

Prepare to impeach the witnesses, lay the foundation and use the exhibits.

WRITTEN ASSIGNMENT:

None.

SUGGESTED READING:

TRIAL, Chapter 8 – Exhibits.

5:00 – 5:50 Impeachment Workshop. See Impeachment Exercise on page 22.

5:50 – 6:00 Break

6:00 – 7:55 Exhibit Workshop. Select and prepare the introduction of exhibits from the list on page 23.

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WEEK 9: March 28, 2016 (continued)

IMPEACHMENT EXERCISE

At trial the witnesses have testified to the following:

Helen Darngood

- I looked both ways before I stepped out on the street.
- At least three other people stepped out at the same time. One person was ahead of me.
- I saw the PUDS truck but it was on the other side of the intersection before I stepped off the curb.
- I had never shopped at The Earle bookstore.

Cooper Earle

- I was not tired at all and had had an easy day with more than enough staff.
- I had nothing to drink after work.
- I had never met Helen Darngood before the accident.
- I was not distracted before the accident and was paying close attention to the intersection before the truck entered it.
- There were at least three other person who left the curb with Ms. Darngood.

Perry Reinhart

- I saw Mel Landers at the party the entire time and Mel did not drink anything.
- Mel started to drink a beer and then said "I better not drink."
- Mel does not make jokes and did not joke at the party.
- I do not know Mel Landers well.

Mel Landers

- I never joke about drinking and driving.
- I have had only one traffic ticket.
- I did not drink at all at the party.
- I left the party early to be with my son.
- I looked at my speedometer just as I entered the intersection and I saw that I was driving 5 miles per hour.

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WEEK 9: March 28, 2016 (continued)**EXHIBIT EXERCISE**

<u>Exhibit</u>	<u>Name of Exhibit</u>	<u>Witnesses Available</u>
Exhibit #1	Picket Up Delivery Services Collective Bargaining Agreement	Landers, Reinhart
Exhibit #2	Picket Up Delivery Services Traffic Violation Policy, Special Rule: B(1)	Landers, Reinhart
Exhibit #3	Downtown Centerville Image–Looking North on 7 th Street from Grand Avenue	Darngood, Landers, Earle
Exhibit #4	Mussel Pot Purchased by Cooper Earle	Earle
Exhibit # 5	Picket Up Delivery Services Uniform	Landers, Reinhart, Earle, Homer Picket
Exhibit #6	Diagram With Picket Up Delivery Services Van	Earle, Landers
Exhibit #7	Diagram Without Picket Up Delivery Services Van	Earle, Landers
Exhibit #8	Stop Lights and Walk Signal	Darngood, Landers, Earle
Exhibit #9	Speed Calculation	Judicial Notice - Demonstrative evidence presented by attorneys
Exhibit # 10	Letter of Reprimand	Landers, Juliette Nelson-Picket

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WEEK 10: April 4, 2016

Direct/Cross-Examination – Split Screen Video Review

Darngood v Landers and PUDS

ORAL ASSIGNMENT:

Refer to Oral Objective C (Direct Examination) and Oral Objective D (Cross-Examination) in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus.

Trial Teams **MUST** decide trial assignments (who conducts the direct and cross of witnesses) and prepare for exercise.

Prepare to conduct this practice examination based on the trial assignments. Practice a key 8-10 minute part of your direct examination and a 5 minute part of your cross-examination. Students should prepare and know facts for two directs and two crosses but will only perform one of each.

- If you represent Darngood, prepare direct examination of Helen Darngood (liability only) and Cooper Earle, cross-examination of Perry Reinhart and Mel Landers
- If you represent Landers and PUDS, prepare direct examination of Perry Reinhart and Mel Landers, cross-examination of Helen Darngood (liability only) and Cooper Earle

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare and submit an outline sufficient to present your direct and cross. Do not write out your direct and cross.

SUGGESTED READING:

TRIAL, Chapter 7 – Direct Examination and Chapter 9 – Cross-Examination

Direct and Cross-Examination - Prepare to conduct this practice examination based on the trial assignments. Practice a key 8-10 minute part of your direct examination and a 5 minute part of your cross-examination. Students should prepare and know facts for two directs and two crosses but will only perform one of each.

WEEK 11: April 11, 2016

Closing Argument – YouTube Video Review

Darngood v Landers and PUDS

ORAL ASSIGNMENT:

Refer to Oral Objective E (Closing Argument) in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus.

Prepare to perform your closing argument twice during this class. First there is a 1 minute drill, which requires that you capsulize your persuasive theory of the case. This presentation will likely be the beginning of your full closing argument. Critique will focus on whether your theme for the case captures the trier's attention, and sets the scene for an effective presentation of the evidence.

After a short break, you will present a 7 minute portion of your closing argument. Critique will again focus on case theory, and will also provide commentary on non-argumentative persuasive statements, the potential use of visual aids to assist the presentation, structure, style and delivery.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare and submit an outline sufficient to present your closing argument. Do not write out your closing argument.

SUGGESTED READING:

TRIAL, Chapter 11 – Summation

Practice Closing Arguments - All prepare for and present a 1 minute closing argument drill and a 7 minute portion of your closing argument.

WEEK 12: April 18, 2016**Court Trial***Darngood v Landers and PUDS***ORAL ASSIGNMENT:**

Attorneys will act as the witness for their partners. One attorney will present the opening statement; the other attorney will present the closing argument. Each attorney will conduct a direct examination and a cross-examination.

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare an outline sufficient to make the presentation. Do not write out questions or arguments.

AND

WRITTEN CASE ANALYSIS: 5% of grade. Prepare and submit an individual detailed double-spaced case analysis not to exceed 4 pages. **Refer to Written Objective A (Identifying and Analyzing Issues)** in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus.

SUGGESTED READING:

None.

Suggested Time Limits: (Attorneys may, of course, use the time any way they see fit.)

Each side has 60 minutes available and will be responsible for keeping track of its time. The time should not exceed 3 hours.

Preliminary Discussion	10 minutes	
Plaintiff	60 minutes	[Opening statement 5 min.]
Defendant	60 minutes	[Direct examination 30 min.]
		[Cross-examination 15 min.]
Critique	30 minutes	[Final Argument 10 min.]

WEEK 13: April 25, 2016

Question Session, Pretrial Conf. & Jury Selection Briefing & Workshop

Darngood v Landers and PUDS

ORAL ASSIGNMENT:

5:00 – 5:45 p.m.

Pretrial Conference –Jennifer will schedule the judge and room for your pretrial conference and will email the schedule to you. Pretrial conferences should be used to clear up any evidentiary problems that might arise at trial, so that preparation for trial can be efficiently and effectively accomplished. Counsel should also seek to agree on the introduction of exhibits, where possible, and seek rulings on exhibits that are in controversy.

6:00 – 7:55

Jury Selection Briefing and Workshop

WRITTEN ASSIGNMENTS:

OUTLINE (individual work): prepare an outline sufficient to make the presentation.

AND

MEMORANDUM (individual work): 5% of grade. If any of your strategies have changed since the court trial, you must address this in memo format to Professor Sonsteng. If nothing has changed, or if you changed something significantly, state why in a memo and explain. Not to exceed four pages.

AND

WRITTEN CASE ANALYSIS for final jury trial (individual work): prepare a detailed double-spaced case analysis. **Refer to Written Objective A (Identifying and Analyzing Issues)** in the *Partial List of Learning Materials for the Practicum Series Exercises* at the back of this syllabus.

This is the same assignment as your class 13 assignment. However, since you had the benefit of performing your opening/closing and direct/cross-examination, your analysis should be more thoughtful and complete.

SUGGESTED READING:

None.

WEEK 14: April 28 and 29, 2016

WRITTEN: REFLECTIVE REPORT - DUE: 8 AM. Monday, May 3.

FULL DAY Final Trial

8:00 a.m. – 2:00 p.m.

Darngood v Landers and PUDS

ORAL ASSIGNMENT:

ALL STUDENTS MUST BE PREPARED TO PARTICIPATE IN THE FULL DAY FINAL TRIAL ON THURSDAY, APRIL 28 OR FRIDAY, APRIL 29.

ORAL ASSIGNMENT:

- Each trial requires approximately 5 ½ hours, with jurors arriving at 7:30 a.m., **pretrial discussion 8:00 a.m. - 8:10 a.m.** and the trial commencing with jury selection at 8:20 a.m. Trials will conclude by approximately 2:00 p.m.
- Each side must call assigned witnesses.
- Prepare the witness for direct, cross and redirect. Go over the direct examination with your witness, including questions and the answers. Familiarize the witness with trial procedures. Share all your information with the witness.
- The witness should portray the witness as realistically and normally as possible. The witness should refrain from emotional outbursts, unusual or tricky behavior.
- **WITNESSES:** Each side must call two witnesses and only two witnesses.
- The team member who presents the opening statement may not present the final argument. Each team member must conduct a direct and cross-examination. For each opposing witness, only one team member may object. However, each team member must be opposing counsel at least once.
- Each team will have 90 minutes available during the trial and will be responsible for keeping track of time. Objections and arguments will be counted against the team that is doing the speaking. The following schedule indicates how the 5 ½ hour block of time will be allocated. You may allocate the 90 minutes available to you for opening, witness examination, and summation however you want as long as you complete your opening and summation and all your direct and cross-examination within this time period.
- See directions in *Darngood v Landers and PUDS*.
- The judge will act as the court reporter and bailiff.

(Continued on next page)

WEEK 15: April 28 and 29, 2016 (continued)**ORAL ASSIGNMENT (continued):**

Pretrial discussion	10 minutes	
Judge's introduction	10 minutes	
Jury Selection (15 minutes per side)	30 minutes	
Plaintiff	90 minutes	→[Opening statement 10 min.]
Defendant	90 minutes	→[Direct examination 45 min.]
		→ [Cross-examination 20 min.]
		→ [Final argument 15 min.]
Judge's final instructions	10 minutes	
Jury deliberation (students watch in courtroom)	30 minutes	
Critique by jury	15 minutes	
Critique by judge	30 minutes	

- Prepare your own exhibits, whether real or demonstrative evidence. Schedule your overhead projector, easel, etc. with Multimedia in room 221 or 651-290-6373, as soon as possible. Equipment is limited and is reserved on a first-come, first serve basis.
- Work closely and cooperatively with co-counsel.
- Maintain an atmosphere of courtroom reality and decorum at all times. Dress appropriately for trial.
- The only issues are those that appear in the cases. Do not seek amendments or introduce other issues.
- The law as given in the case should apply.
- Any questions may be addressed to Professor John Sonsteng.

WRITTEN ASSIGNMENT**REFLECTIVE REPORT - DUE: 8 AM Monday, May 3, 2016**

Your 3-4 page Reflective Report may include a discussion on one or more of the following:

- ▶ An analysis of the development of your advocacy skills regarding the way you might have handled your exercise preparation or presentation better;
- ▶ An indication of how your skills and knowledge gained during the simulations may affect your professional work;
- ▶ A discussion on tactics, strategies or decisions adopted by you or other participants, how you dealt with these and what you might have done differently;
- ▶ An analysis of how your skills have changed and how this has been reflected in your work; and
- ▶ An analysis of how the course has affected your advocacy skills.

Partial List of Learning Materials for the Practicum Series Exercises

Oral and Written Learning Objectives

Oral Objective A (for your reference)

- Demonstrate effective advocacy skills in a trial / arbitration, including effective procedure and practice.
- Oral Objective A is achieved by:
 - preparing, practicing and presenting opening statements, direct examinations, cross-examinations and final argument
 - preparing witnesses and exhibits
 - representing the client at a prehearing conference
 - representing a client: opening statement and closing argument, direct examination and cross-examination of witnesses
 - developing a trial/arbitration notebook

Written Objective A – Identifying and Analyzing Issues

- Identify and analyze the legal issues involved in representing a client including:
 - the basic law involved in this exercise
 - the essential facts, the client's position, applicable law, initial research and supporting arguments, and the relevant rules and procedures involved in this exercise
- Provide a framework for analyzing the client's case, which includes:
 - a preliminary opinion as to the likelihood of success
- Written Objective A is achieved by:
 - **Four Page Limit**
 - writing a case analysis based on the procedural and substantive law provided in this exercise that demonstrates:
 - a clear and complete understanding of each party's theory of the case
 - a clear and complete understanding of themes for each party
 - an understanding of the elements necessary for each party to prevail at the trial
 - an understanding of the weakness and strength of each party's case
 - an understanding of appropriate remedies

Partial List of Learning Materials for the Practicum Series Exercises

Oral and Written Learning Objectives

Oral Objective B - Opening Statement

- Demonstrate an understanding of effective opening statement strategy and skills.
- Oral Objective B is achieved by:
 - preparing and presenting an opening statement which demonstrates:
 - effective organization and structure
 - effective storytelling
 - a clear explanation of the theory of the case
 - effective use of persuasive approaches and techniques
 - effective explanation of weaknesses in case
 - effective delivery and presentation
 - avoidance of objectionable and argumentative opening statement
 - demonstrating an understanding of personal strengths and weaknesses by clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Written Objective B - Opening Statement

- Demonstrate an understanding of effective opening statement strategy and skills.
- Written Objective B is achieved by:
 - [Three Page Limit]**
 - preparing a written analysis of the opening statement which demonstrates an understanding of the following:
 - the specific approach to the opening statement
 - how the opening fits the theory of the case
 - how the opening is consistent with the closing
 - the structure of the opening
 - [One Page Limit]**
 - demonstrating an understanding of personal strengths and weaknesses by clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Partial List of Learning Materials for the Practicum Series Exercises

Oral and Written Learning Objectives

Oral Objective C - Direct Examination

- Demonstrate an understanding of effective direct examination strategy and skills.
- Oral Objective C is achieved by:
 - preparing and presenting a direct examination which demonstrates:
 - a detailed story (for the portion of the examination conducted)
 - questions that solicit sufficient foundation and detail
 - an ability to deliver an interesting and persuasive story
 - simple, understandable questions
 - non-objectionable questions and responses
 - understanding evidentiary rules and purpose of objections
 - effective structure—examination conducted in a chronological or orderly fashion
 - effective pace and follow-up—listening and clarifying answers
 - appropriate demeanor and presence—eye contact, voice projection, facial expressions, gestures, physical posture and avoidance of distractions
 - clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Written Objective C - Direct Examination

- Demonstrate an understanding of effective direct examination strategy and skills.
- Written Objective C is achieved by:
 - [Three Page Limit]**
 - preparing a written analysis of the assigned direct examination which demonstrates the following:
 - the specific approach to this direct examination
 - how the direct examination fits the theory of the case
 - addressing the strengths and weaknesses of the witness
 - an effective structure of the direct examination
 - [One Page Limit]**
 - demonstrating an understanding of personal strengths and weaknesses by clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Partial List of Learning Materials for the Practicum Series Exercises

Oral and Written Learning Objectives

Oral Objective D - Cross-Examination

- Demonstrate an understanding of effective cross-examination strategy and skills.
- Oral Objective D is achieved by:
 - preparing and presenting a cross-examination which demonstrates:
 - effective leading questions
 - sufficient and appropriate details
 - questions and delivery that hold the interest of the fact finder
 - simple questions that are understandable
 - questions that are appropriate—not argumentative, not objectionable—understanding evidentiary rules, evidentiary objections, and understanding of objections
 - effective structure: thematic—chronological—orderly
 - effective follow-up, listening and clarifying answers
 - demeanor and presence—appropriate eye contact, voice projection, facial expressions, gestures, physical posture, and avoidance of distractions
 - demonstrating an understanding of personal strengths and weaknesses by clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Written Objective D - Cross-Examination

- Demonstrate an understanding of effective cross-examination strategy and skills.
- Written Objective D is achieved by:
 - [Three Page Limit]**
 - preparing a written analysis of the assigned cross-examination which demonstrates the following:
 - the specific approach to this cross-examination
 - how the cross-examination fits the theory of the case
 - addressing the strengths and weaknesses of the witness
 - an effective structure of the cross-examination
 - [One Page Limit]**
 - demonstrating an understanding of personal strengths and weaknesses by clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Partial List of Learning Materials for the Practicum Series Exercises

Oral and Written Learning Objectives

Oral Objective E - Closing Argument

- Demonstrate an understanding of effective closing argument strategy and skills.
- Oral Objective E is achieved by:
 - preparing and presenting a closing argument which demonstrates:
 - persuasiveness–effective presentation
 - interest–developed and maintained interest
 - organization–presentation well organized
 - balance–appropriate balance of facts, law, reasons
 - demeanor and presence–appropriate eye contact, voice projection, facial expressions, gestures, physical posture, and avoidance of distractions
 - avoidance of objectionable summation
 - demonstrating an understanding of personal strengths and weaknesses by clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Written Objective E - Closing Argument

- Demonstrate an understanding of effective closing argument strategy and skills.
- Written Objective E is achieved by:
 - [Three Page Limit]**
 - preparing a written analysis of the assigned closing argument which demonstrates the following:
 - the specific approach to the closing
 - how the closing fits the theory of the case
 - how the closing is consistent with the opening
 - an effective structure
 - how the evidence will be explained to the fact finder
 - the techniques to tell an interesting and compelling story
 - how to explain to the fact finder what the case is all about including theories, issues, claims, defenses, and positions
 - how to persuade the fact finders of the merits of the case
 - how to motivate the fact finder to want to render a favorable verdict
 - [One Page Limit]**
 - demonstrating an understanding of personal strengths and weaknesses by clearly articulating:
 - areas where attorney wants feedback
 - techniques that will be used
 - risks and experiments to be taken
 - personal strengths and weaknesses

Partial List of Learning Materials for the Practicum Series Exercises

Oral and Written Learning Objectives

Oral Objective A - Taking a Deposition

- Demonstrate effective deposition skills, including:
 - the ability to ask appropriate and sufficiently detailed questions with appropriate follow-up to obtain necessary information
 - the ability to control witness and guide the pace and scope of the deposition
- Oral Objective A is achieved by:
 - implementing a deposition plan
 - assessing the relevant issues of the case
 - evaluating the witness's ability to provide valuable information
 - engaging in fact finding by asking appropriate questions—either open or close ended
 - eliciting all necessary information, good or bad, from each deponent

Oral Objective B - Defending a Deposition

- Demonstrate effective client defense skills, including:
 - the ability to support and protect the witness during deposition
 - the ability to preserve and clarify the testimony produced during deposition
- Oral Objective B is achieved by:
 - providing emotional support for client through appropriate preparation and counseling
 - preserving the record through appropriate objections
 - protecting client's interests through clarification of testimony during cross-exam
 - ensuring adequate counseling through conferral during depositions

Written Objective A - Identifying and Analyzing Issues - Deposition

- Identify and analyze the legal and equitable issues inherent in this dispute between potential litigants, specifically demonstrating:
 - an understanding of a framework for evaluating the dispute
 - an understanding of legal principles
 - an understanding of state statutory law, local government ordinances and regulations, case law, and public policy concerns
 - the ability to identify and formulate a plan for resolving issues in a negotiation involving non-monetary interests
 - the ability to identify and formulate applicable legal issues and theories
 - the ability to identify the appropriate questions necessary to elicit information pertinent to the theory of the case
 - the techniques that will be used to achieve the goals of the deposition

CONTINUED ON NEXT PAGE

- Written Objective A is achieved by:
 - [Four page limit]**
 - writing a memorandum to a senior partner describing how you intend to approach the deposition, what you are going to try together from the witnesses, how you anticipate problems, and what you personally expect from your style and provide an analysis based on the facts and research of procedures, statutes, regulations, and case law, in the participant's jurisdiction that demonstrates:
 - the specific approach to the deposition
 - a clear and complete understanding of each party's theory of the case
 - a clear and complete understanding of the themes for each party
 - an understanding of the elements necessary for each party to prevail at the trial
 - an understanding of the weakness and strength of each party's case
 - an understanding of appropriate remedies

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