

APPENDIX C

Sample of Week Long In-Person Summer Advocacy Course

**Summer
Advanced
Advocacy:
Civil
Litigation**

**PROGRAM
SCHEDULE**

May 20-26

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

**Summer
2017**

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and Jennifer Miller

INTRODUCTION

METHOD OF INSTRUCTION

Welcome to Summer Advanced Advocacy: Civil Litigation! This course proposes that trial skills can best be learned by practice. The methods of instruction evolved from various teaching models developed by the National Institute for Trial Advocacy. The emphasis will be on “learning by doing” in simulated court room settings, constructive faculty critique, video review of participants’ performance, demonstrations/lectures and drills. To create a better working environment and a smaller participant ratio, the participants will be divided into separate groups and then further divided into teams of two for performance sessions.

This Program Schedule sets out when all participants and faculty will meet for demonstrations or lectures. You will also be given a separate Small Group Schedule that lists specific room assignments. Any mystery about this process will be cleared up by the Team Leaders.

You will be designated as either an A or B. The two letters represent the plaintiff or the defendant. A’s represent the Plaintiff (Darngood) and B’s represent the Defendants (Landers and PUDS).

MATERIALS

The materials required are *Darngood v. Landers and PUDS* Case File

PREPARATION

Before attending the program, it is absolutely essential that participants become thoroughly familiar with the *Darngood v. Landers and PUDS* Case File.

There are no required assignments from *Trial and The Effective Deposition*. It is for your reference and should be read as part of your preparation for the course. Reading selected portions of *Trial* and *The Effective Deposition* before the course begins will be of **great** help to you. Alternatively, reading the section about the skill on which we are focusing (or re-reading it) will exponentially increase your understanding of the issues involved.

DAILY DRESS CODE

Please wear what you would wear to trial.

SATURDAY, May 20, 2017

8:30 – 9:00 **Registration.**

9:00 – 9:30 **Introduction to the program.**

9:30 – 10:00 **Drills for focused learning.**

10:00 – 11:00 **Fact Analysis/Case Theory (Brainstorming)***

A's represent the Plaintiff (Darngood) and B's represent the Defendants (Landers and PUDS)**

* *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: legal, factual and persuasive theory defined as follows:*

1. *Legal theory is defined as why an appellate court should uphold a trial verdict that you receive from the jury;*
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, in equity, the 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 truisms taught by parents to their children.*

11:00 – 11:15 Break

11:15 – 12:30 **Final Argument - Preparation for Depositions.** This exercise is a three-minute drill of the beginning of your final argument which should capture attention and make a clear statement of your theory of the case. The argument should be based on the information you possess prior to the deposition.

12:30 – 1:30 Lunch

1:30 - 2:15 **Deposition Lecture/Discussion**

- Starting the deposition with a plan based on document review
- Effective use of exhibits
- The “funnel” approach
- Formation of questions
- Defending the deposition, including use of objections

READING ASSIGNMENT:

Review *The Effective Deposition, Techniques and Strategies that Work* for reference and planning.

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SATURDAY, May 20, 2017 (continued)

2:15 – 5:45 **Deposition Workshops**

ORAL ASSIGNMENT:

Depositions

A's (who represent Darngood) prepare to take the deposition of Perry Reinhart and Mel Landers.
B's (who represent Landers and PUDS) prepare to take the deposition of Helen Darngood and Cooper Earle.

A's and B's prepare to defend their client's interests.

See Oral Objectives A (taking a deposition) and B (defending a deposition) in the Darngood v Landers and PUDS Case File for reference and planning.

WRITTEN ASSIGNMENT:

Depositions

Prepare an outline sufficient to conduct the deposition. **DO NOT** write out the questions.

See Written Objective A (identifying and analyzing issues) in the Darngood v Landers and PUDS Case File for reference and planning.

Workshops #1 and #2 will focus on:

- Techniques for starting the deposition
- How to effectively handle preliminary matters
- Questioning on the background of the witness
- An introduction of the Funnel Approach

2:15 – 3:15 **Workshop #1 – Deposition and Critique**

A's will take the deposition of Perry Reinhart

B's, on behalf of Landers and PUDS, will defend client's interests

3:15 – 3:30 Break

3:30 – 4:30 **Workshop #2 – Deposition and Critique**

B's will take the deposition of Helen Darngood (liability only)

A's, on behalf of Darngood, will defend client's interests

4:30 – 5:30 **Technology Lecture** (Dianna Case)

5:30 Group meeting and end of day

SUNDAY, May 21, 2017

8:00 – 8:30	Faculty Meeting
8:30 – 9:00	General Meeting - Information Gathering and Using Exhibits
9:00 – 3:00	Workshops #3 and #4 concentrate on information gathering skills with an emphasis on: <ul style="list-style-type: none">• The mastery of short, clear questions• The Funnel Approach by means of topic, exhaustion, and closing• Effective and efficient use of exhibits• Using documents to guide the deposition• Authenticating documents• Gathering information/open questions• Topic exhaustion/follow-up questions• Theory testing/closed questions• Appropriate methods for utilizing exhibits
9:00 – 11:00	Workshop #3 A's will take the deposition of Mel Landers B's will defend client's interests At least one exhibit must be used as part of your questioning.
11:00 – 11:15	Break
11:15 – 12:15	The Ethical Advocate: Playing Hard, Playing Fair with Judge Kathleen Gearin
12:15 – 1:15	Lunch.
1:15 – 2:45	Workshop #4 – Deposition and Critique B's will take the deposition of Cooper Earle A's will defend client's interests At least one exhibit must be used as part of your questioning.
2:45 – 3:00	Break
3:00 – 4:00	Faculty panel discussion on ethical issues relating to conducting and defending depositions.
4:00 – 5:00	Lecture/Demonstration: Direct and Cross-Examination (John Sonsteng)
5:00	End of day

MONDAY, May 22, 2017

8:30 – 8:45 **Faculty Meeting**

8:45 – 9:00 **General Meeting**

ASSIGNMENT:

Read TrialBook for reference and planning. See online arbitration at <https://vimeo.com/channels/1061794>.

WRITTEN ASSIGNMENT:

Opening Statement

Prepare an outline sufficient to conduct your opening statement. DO NOT write out your opening statement.

ORAL ASSIGNMENT:

Opening Statement

We will begin with what we call the one-minute drill which requires that you capsuleize your persuasive theory of the case in a one-minute presentation that 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, we will follow with a presentation of a six minute portion of your opening statement. Critique will again focus on case theory, and will also provide commentary on non-argumentative persuasive statements, their structure and the potential use of visual aids to assist the presentation.

See Oral Objective B (opening statement) in the Darngood v Landers and PUDS Case File for reference and planning.

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MONDAY, May 22, 2017 (continued)

9:00 – 11:00 **Opening Statement**
A's prepare and present opening statement for Plaintiff
B's prepare and present opening statement for Defendant

11:00 – 11:15 Break

ORAL ASSIGNMENT:

Direct and Cross-Examination

- A's prepare direct examination of Helen Darngood (liability only) and Cooper Earle, cross-examination of Perry Reinhart and Mel Landers
- B's prepare direct examination of Perry Reinhart and Mel Landers, cross-examination of Helen Darngood (liability only) and Cooper Earle

See Oral Objective C (direct examination) in the Darngood v Landers and PUDS Case File for reference and planning.

See Oral Objective D (cross-examination) in the Darngood v Landers and PUDS Case File for reference and planning.

WRITTEN ASSIGNMENT:

Direct and Cross-Examination

Write a short outline sufficient to conduct your witness examinations. DO NOT write out the questions.

See Written Objective C (direct examination) in the Darngood v Landers and PUDS Case File for reference and planning.

See Written Objective D (cross-examination) in the Darngood v Landers and PUDS Case File for reference and planning.

11:15 – 12:30 **Prepare and present a key 7 to 8 minute part of Direct or Cross-Examination.**
A's - Plaintiff: Direct Examination of Helen Darngood (Liability)
B's - Defendant: Cross-Examination of Helen Darngood (Liability)

12:30 – 1:45 **Lunch**

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MONDAY, May 22, 2017 (continued)

- | | |
|-------------|---|
| 1:45 – 3:00 | Prepare and present a key 7 to 8 minute part of Direct or Cross-Examination
B's - Defendant: Direct Examination of Perry Reinhart
A's - Plaintiff: Cross-Examination of Perry Reinhart |
| 3:00 – 3:15 | Break |
| 3:15 – 4:45 | Prepare and present a key 10 to 12 minute part of Direct or Cross-Examination.
A's - Plaintiff: Direct Examination of Cooper Earle
B's - Defendant: Cross-Examination of Cooper Earle |
| 4:45 – 5:30 | Lecture/Demonstration: Foundation and Use of Exhibits. |
| 5:30 | End of day |

TUESDAY, May 23, 2017

9:30 – 10:00 **Faculty Meeting**

10:00 – 10:15 **General Meeting**

10:15 – 12:00 **Prepare and present a key 7 to 8 minute part of Direct or Cross-Examination.**

B's – Defendant: Direct Examination of Mel Landers

A's – Plaintiff: Cross-Examination of Mel Landers

12:00 – 1:00 **Lunch. Final preparation for exhibit exercise on your own.**

1:00 – 3:30

ORAL ASSIGNMENT:

Exhibit Workshop

All prepare to ask sufficient questions to introduce and use all the exhibits. All prepare to oppose the introduction of all exhibits.

WRITTEN ASSIGNMENT:

Prepare an outline sufficient to introduce and use exhibits. Note: **DO NOT** write out questions.

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TUESDAY, May 23, 2017 (continued)

<u>Exhibit #</u>	<u>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
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
3:30 – 3:45	Break	
3:45 – 4:45	Jury Selection Lecture/Demonstration: Effective Questioning and the Improper Removal of Jurors due to Race, Gender, etc. Batson v. Kentucky.	
4:45 – 5:30	Lecture/Demonstration: Final Argument and Impeachment Trial administrative matters	
5:30	End of day	

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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.

WEDNESDAY, May 24, 2017

8:30 – 9:00 **Faculty Meeting**

ASSIGNMENT:

Read TrialBook: Arbitration (on CD) for reference and planning.

ORAL ASSIGNMENT:

All participants prepare **final argument**.

Final argument exercise is a three-minute drill of the beginning of your final argument which should capture attention and make a clear statement of your theory of the case. After a brief break, participants will present an 8-minute portion of their final argument. Critique will focus on structure, formulation and tone of the argument as it is designed to draw appropriate inferences and conclusions from the facts as presented during the trial.

See Oral Objective E (final argument) in the Darngood v Landers and PUDS Exercise for reference and planning.

WRITTEN ASSIGNMENT:

DO NOT write out the final argument. Prepare an outline sufficient to present the argument.

See Written Objective E in the Darngood v Landers and PUDS Exercise for reference and planning.

9:00 – 11:00 **A's and B's prepare an 8-minute part of Final Argument.**

11:00 –11:15 Break

11:15 – 12:30 **Impeachment Workshop** (See page 10 for self-contained problem.)

WRITTEN ASSIGNMENT: None.

12:30 – 1:30 **Lunch.**

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WEDNESDAY, May 24, 2017 (continued)

ORAL ASSIGNMENT:

Prepare and conduct an arbitration. Each advocate must conduct a direct examination and a cross examination. One advocate for each team must give the opening statement, the other must give the final-argument.

Assume all parties have agreed that the case of Darngood v Landers and PUDS will be heard before an arbitrator in binding arbitration.

1:30 – 4:30 Arbitration – 3 hours

Each side has 60 minutes available and will be responsible for keeping track of its time.

Preliminary Discussion	10 minutes
Plaintiff	60 minutes → [Opening statement 5 min.]
Defendant	60 minutes → [Direct examination 30 min.]
Final Argument	10 minutes → [Cross-examination 15 min.]
Critique	30 minutes → [Final Argument 10 min.]
Breaks	20 minutes

4:30 – 6:30 Jury Selection Workshop

6:30 End of day—evenings free for trial preparation.

THURSDAY and FRIDAY, May 25 and 26, 2017

8:00 – 8:30 **Attorneys arrive for to clear up any pretrial issues.**

8:30 – 2:30 **Jury Trials**

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 as you like as long as you complete your opening and summation and all your direct and cross-examination within this time period.

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.]
Judge's final instructions	10 minutes	[Cross-examination 20 min.]
Jury deliberation	30 minutes	[Final argument 15 min.]
Critique by jury	15 minutes	
Critique by judge	30 minutes	
Breaks	15 minutes	

BREAKS

Breaks may be taken as attorneys or judges wish.

LUNCH

Lunch

FRIDAY, May 26, 2017

8:00 – 8:30 **Faculty Meeting**

8:30 – 2:30 **Jury Trials**

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THURSDAY and FRIDAY, May 25 and 26, 2017 (continued)

WITNESSES

- Attorneys who try the case on Thursday will be the witnesses on Friday.
- Attorneys who try the case on Friday will be the witnesses on Thursday.
- Due to time constraints, each side can only call 2 witnesses. They are as follows:
 - For the Plaintiff: Cooper Earle and Helen Darngood.
 - For the Defendant: Mel Landers and Perry Reinhart.
- The witnesses should portray the witness as realistically and normally as possible. The witness should refrain from emotional outbursts, unusual or tricky behavior.

EXHIBITS

- 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.

OPENING STATEMENT and FINAL ARGUMENT

- One attorney presents the opening statement and the other final argument.

DIRECT EXAMINATION and CROSS-EXAMINATION

- Direct examination and cross-examination:
 - For the Plaintiff: One member of the trial team conducts the direct examination of Cooper Earle and the cross-examination of Perry Reinhart. The other member conducts the direct examination of Helen Darngood and the cross-examination of Mel Landers.
 - For the Defendant: One member of the trial team conducts the direct examination of Mel Landers and cross-examination of Helen Darngood. The other member conducts the direct examination of Perry Reinhart and the cross-examination of Cooper Earle.

USE OF TECHNOLOGY

- Appropriate technology should be used.

USE OF DOCTOR'S STATEMENT

- The statement of the doctor is admissible without further foundation. It should be marked as an exhibit and entered into evidence during the pre-trial conference with the judge. The statement can be used in opening statements and final arguments.

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THURSDAY and FRIDAY, May 25 and 26, 2017 (continued)

DEPOSITIONS and STATEMENTS

- The use and introduction of depositions and statements of parties and witnesses are governed by the Rules of Evidence.

OTHER MATTERS

- The judge will act as the court reporter and bailiff.
- 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 case. Do not seek amendments or introduce other issues.
- The law as given in the case should apply.
- Questions may be addressed to Professor John Sonsteng.

WRITTEN ASSIGNMENT:

OUTLINE (individual work): prepare an outline sufficient to make the presentation.
See Specific Assignments and Written Objectives in the in the Darngood v Landers & PUDS Exercise.

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