

# **TRIAL PRACTICE**

Spring 2025

Vermont Law and Graduate School  
Professor Barbara A. Masterson (she/her/hers)  
Email: bmasterson@vermontlaw.edu

Class Meetings: Wednesday 5:45-8:00 p.m., Oakes 109

Office Hours: Available both in person and virtually.

*In-person:* Wednesdays, 3:30 pm – 5:30 pm.

*Virtually:* I will make myself available for virtual appointments. Reach out via email to request a virtual meeting time for weekdays not earlier than 9:00 am and not later than 4:30 pm. In your message, please include a few times that you are available.

## **COURSE DESCRIPTION & LEARNING OBJECTIVES**

The purpose of this course is to build the foundational skills you will need to try a bench trial and a jury trial in a courtroom setting. This course will focus exclusively on those skills. There are three course objectives: 1) to achieve mastery of basic trial skills, including case analysis, opening statement, closing argument, direct and cross examinations, objections, and the admission of various types of physical and testimonial evidence; 2) to try two cases in an actual adversarial courtroom setting; and 3) to develop confidence in public speaking, courtroom procedures, and the use of physical evidence.

## **REQUIRED MATERIALS**

Trial Techniques and Trials by Thomas Mauet and Stephen Easton, (12th Ed.),  
Published by Aspen Publishing, Inc.

Case Files:

*State v. Diamond*, NITA (6th Ed.)

*State v. Peyton*, NITA (3rd Ed.)

Note: We will use the *Diamond* case file in class. We will use the *Peyton* case (criminal) for your Final Trials.

## **Suggested Outside Resources:**

Evidentiary Foundations, by E. Imwinkelreid

Cross Examination: Science and Techniques, by Larry Pozner and Roger Dodd

Winning at Persuasion for Lawyers, by Shane Read

## **IMPORTANT DATES**

Saturday, April 5, 2024 – 8:30 am – 2:00 pm – High School Mock Trials

Saturday, April 19, 2025, 9:00 am – 4:00 pm – FINAL TRIALS

## **GRADING**

There is no final exam. Your grade will be determined as follows:

1. 30% - in-class exercises, participation, preparation, engagement, miscellaneous assignments
2. 20% - bench trial
3. 50% - Final Trial

## **DRESS CODE (really)**

You are required to wear courtroom appropriate attire for the Final Trials and the High School Mock Trials. For our weekly class sessions, courtroom attire is not required.

## **CLASSROOM ENVIRONMENT, EXPECTATIONS, AND VALUES**

Creating an Accountable Space

- (1) I hope to have lively class discussions in which everyone will *listen* to each other's opinions with *civility and respect*. That does not mean that everyone must agree with everyone else. My expectation is simply that everyone will treat one another with common courtesy and professional integrity as you discuss the material. It also means that when you disagree with one another, you will do so in a professional manner.

- (2) All members of the VLGS community, including professors, are expected to treat each other with respect. I want to promote an environment that avoids “othering” anyone based on identity. Words/remarks or actions that show bias or prejudice based on age, disability, ethnicity, gender, national origin, native language, race, religion, sex, sexual orientation, or socioeconomic status, will not be tolerated. I also want us to be able to engage in honest discourse. If you have any concerns about anything said or done in class, by me or by one of your colleagues, I encourage you to talk to me about your concerns.
- (3) In my prior life as a federal prosecutor, I specialized in prosecuting child exploitation cases. Therefore, many of my war stories/real life examples may include material from those types of cases. I will endeavor not to be unnecessarily detailed, of course. Please let me know by private email or conversation if this material will be difficult for you. I do not need to know why.
- (4) Be open to new ideas. Our environment should foster growth and learning.
- (5) It is okay to admit not knowing or understanding something. It is safe to make a mistake. This is true for everyone in class, including your professor. All class members should strive to create and maintain that feeling for all other class members. Do not expect perfection from yourself or your classmates.
- (6) Be willing and unafraid to express yourself: including your thoughts, opinions, or any concerns.
- (7) Come to class prepared and engaged! Preparation, active discussion, and earnest participation is very important!

Please consult and abide by the Vermont Law and Graduate School’s Better Community Statement (which can be found in the [student handbook](#) and is reprinted here):

As members of the Vermont Law and Graduate School (VLGS) community, we choose to be a part of an academic community that is dedicated to principles that foster integrity, civility, and justice.

As citizens of a broad and pluralist society, we encourage those of all cultures, orientations, and backgrounds to educate and respect one another in a safe environment.

- We respect the dignity of all persons and assume the best about them.

- We challenge and reject all forms of bigotry while striving to learn from each other's differences.
- We celebrate our differences while appreciating our similarities.
- We value an inclusive environment that is accepting of each other's physical, cognitive, social, and professional differences.
- We respect the rights of each and every member of the community, regardless of race, ethnicity, national origin, religion, age, gender, sexual orientation or lifestyle, medical condition, or socio-economic status.
- We realize that our common interests exceed our individual differences.

As members of the Vermont Law and Graduate School community, we affirm our rights to freedom of expression and association, and the belief that they must be exercised responsibly. The spirit of building a better community is best served when the ideals of integrity, civility, and justice are expressed and debated with tolerance, understanding, appreciation, and good will.

## **CLASS ATTENDANCE POLICY**

**Class attendance is mandatory.** The nature of this class demands in-person participation. Vermont Law and Graduate School Academic Regulation II.A provides that a student will receive a grade of F-Wd if they are absent from 20% of regularly scheduled classes. The Academic Regulations permit individual professors to set a higher requirement (but not a lower requirement). **For this class, you will receive a grade of F-Wd if you are absent from more than three (3) regularly scheduled classes.**

Please arrive on time for all classes. I will start without you, but I will not lock you out.

Pursuant to Vermont Law and Graduate School's attendance policy, I am required to record class attendance. **I have no authority to excuse any absence or to allow more absences than the Attendance Policy allows.** Students are responsible for monitoring their own compliance with the attendance policy. For more information, please speak directly with the Registrar's Office.

If additional absences are due to a health issue or some other extraordinary circumstance beyond your control, contact the Vice Dean for Students, Joseph Brennan, as a withdrawal or medical leave may be appropriate.

On occasion, we may need to have class virtually on Teams due to inclement weather or other unforeseen circumstances. I ask that you all commit to full participation in a virtual forum as well if this situation arises.

## **ACCOMMODATIONS FOR DISABILITIES**

Vermont Law and Graduate School encourages students with disabilities, visible or hidden, to seek appropriate accommodations. If you have a disability and would like to request an accommodation, please review the Vermont Law and Graduate School Disability Policy at:

<https://www.vermontlaw.edu/community/students/academic-success/accommodations>

On that webpage, there is also an on-line form to complete and upload your supporting documentation. If you have questions, please contact Dean Brennan. Please note that requests made within two weeks of a midterm or a final examination may not be granted in time. Please make your request as soon as possible.

## **SYLLABUS AND CLASS ASSIGNMENTS**

The reading and problems to prepare for each class are listed below. You are expected to complete the reading and assignment listed for each class in preparation for that class. For example, you must read Mauet, chapters 1, 2, and 11, before our first class on January 15 to be prepared for that class.

### **Week 1 – January 15, 2025**

Introductory Class / What Happens in a Trial / Trial Notebook

#### **Reading:**

Mauet, chapters 1, 2, and 11

Start *State v. Diamond* case file

Prepare:

A list of three things you want to learn from this class and submit to me (print it out; don't email it to me). Keep a copy for yourself as a final assignment in the class will be your write-up of how well you feel you accomplished your goals.

**Week 2 – January 22, 2025**

Preparing Trial Notebook / Intro to Direct Exam

Reading:

Mauet, chapter 5 (direct examination)  
Finish *State v. Diamond* case file

Prepare:

Start case analysis for *Diamond* and begin preparation of two trial notebooks – one as the prosecutor and the other as defense counsel.

**Week 3 – January 29, 2025**

Direct Exam Practice / Intro to Cross Exam

Reading:

Mauet, chapter 6 (cross examination)

Prepare:

Direct exams for: Sgt Benbrook, Beth/Brian Kelly

**Week 4 – February 5, 2025**

Cross Exam Practice / Intro to Opening Statements

Reading:

Mauet, chapter 4 (opening statement)

Prepare:

Cross exam of: Sgt Benbrook, Beth/Brian Kelly

**Week 5 – February 12, 2025**

Opening Statement Practice / Intro to Closing Argument

Reading:

Mauet, chapter 9 (closing argument)

Prepare:

Opening Statement for *State v. Diamond* (Prosecution and Defense Roles to be assigned)

**Week 6 – February 19, 2025**

Closing Argument Practice / Intro to Objections / Bench Trial prep

Reading:

Mauet, chapter 10 (objections), 12.1-12.5 (bench trial issues)

Prepare:

Closing Argument for *State v. Diamond* (Prosecution and Defense Roles to be assigned)

**Week 7 – February 26, 2025**

Bench trials – *State v. Diamond*

Reading:

None

Prepare:

Opening Statement, direct of one witness, cross of one witness, closing argument

Trial teams and roles to be assigned

**March 5, 2025**

No class – enjoy your break!

**Week 8 – March 12, 2025**

Bench Trials review / Exhibits and Demonstrative Evidence / Assignment of Final Trials Teams

Reading:

Mauet, chapter 7 (exhibits)

Prepare:

Group A: (practical exercises to be provided)

Group B: (practical exercises to be provided)

**Week 9 – March 19, 2025**

Experts

Reading:

Mauet, chapter 8 (experts)

Review *State v. Diamond* case file

Prepare:

Direct and Cross of Dr. Jamie Pierce

**Week 10 – March 26, 2025**

Direct and Cross Practice

Reading:

None

Prepare:

Group A: Direct Examination of Eric/Estelle Mason; Cross Examination of Jeanne/John Madden

Group B: Cross Examination of Eric/Estelle Mason; Direct Examination of Jeanne/John Madden

**Week 11 – April 2, 2025**

The Defendant as Witness!

Reading:

None



Prepare:

Direct and Cross of John Diamond

**Week 12 – April 9, 2025**

Jury Selection / Rebuttal Closing Argument / Final Trials Prep

Reading:

Mauet, chapter 3 (jury selection)

Prepare:

Final Trial Materials with Trial Partner

**Week 13 – April 16, 2025**

Final Trials Prep / Review Outstanding Materials

Reading:

None

Prepare:

Final Trial Materials with Trial Partner

**FINAL TRIAL: Saturday, April 19, 2025** - 9:00 a.m. – 4:00 p.m.

**Week 14 – April 23, 2025**

Discussion and Feedback on Final Trials / Time to Complete Class/Teacher Evaluation

Reading:

None

Prepare:

None