

TRIAL PRACTICE CLINIC

Syllabus

December 17, 2010

Lawrence McDonough, J.D.
Visiting Professor of Law
Hamline University School of Law
1536 Hewitt Avenue, Room 213W
St. Paul, MN 55104
651-523-2472
651-398-8053 Cell
Fax 651-523-2400
mcdon056@umn.edu

Office Hours

Available before or after class period and also available by appointment. Regular hours to be set soon.

Course Time:

Monday, 2:00-3:50 pm, Room 6

Computers

Students need to become comfortable with computers for creating and editing documents, and the email system for receiving and sending messages to clinic faculty and student directors.

Trial Practice Clinic Website

We will use the Trial Practice Clinic website, <http://hamlinetpc.homestead.com> .

Policy on Disabilities

A student with a disability which affects his/her participation in the course may notify the instructors if he/she wishes to have special accommodations to the instructional format, examination format, etc. considered. The instructors may refer the student to Assistant Dean of Students for assistance with these accommodations.

Late Registrations

If you are not on the class list, you must see the Registrar for admission to the class.

Required Textbooks

Thomas A. Mauet, Trial Techniques, Eighth Edition

Other reading materials are available on line with links on the class schedule, posted at <http://hamlinetpc.homestead.com/> .

Handouts

Handouts will be provided in some of the classes. If you are not going to be in class, please arrange with another student to get handouts for you. Because the instructors do not have office space on campus, it is difficult for instructors to carry handouts each week for multiple classes.

Cell Phones and Pagers

Please put cell phone and pagers on vibration or silent mode. Please do not answer phones or pagers during class. If you need to make other arrangements, talk with the professors.

Attendance and Participation

Regular attendance is critical in the Trial Practice Clinic. We are operating as a small law firm and you will benefit from the opportunity to discuss your case theory and moot court final arguments and other portions of upcoming trials in class. Attendance will be taken in each class by passing around the attendance sheet. Due to the importance of class attendance in case development 2 absences will be considered excessive. Class participation is taken into account in grading.

Laptop Policy

Laptops may be used in class to take notes and to look up statutes or class materials. Use of laptops for anything other than class work is not permitted. This is an interactive class requiring your complete attention and participation.

Testing and Grading

The Trial Practice Clinic is a three-credit course with no final examination. Students will be expected to spend a minimum of 70 hours working on client cases in addition to class time and class preparation time. Although students work in teams, they are graded individually based on their individual efforts and contributions to the client representation. Grading is discussed in more detail below.

Statement of Goals and Objectives

- A. Central Objective: The Trial Practice Clinic combines the experience of representing clients under close supervision with the opportunity for careful reflection characteristic of an academic setting. The clinic is intended to provide a foundation for the continuing acquisition and honing of the skills necessary to be a competent practicing attorney. The case types chosen are Housing Court involving evictions and habitability issues, which provide students with litigation experience.
- B. Sub-objectives. The Trial Practice Clinic has four major sub-objectives. They are as follows:
 - 1. Students will learn and use a systematic approach to lawyering. There are many approaches to effective lawyering and this clinic will expose students to one such system. In this system, students will be expected to:
 - a. Maintain their case files in an organized fashion, in accordance with the case file organizational plan of the clinic.
 - b. Keep accurate and complete narrative and time records of all activities undertaken in the

case.

- c. Make regular use of the clinic "tickler" system.
 - d. Be punctual and reliable in their dealings with clients, other attorneys, supervisors, courts and administrative agencies. (Telephone messages should be returned promptly. Clients should be kept informed on a regular basis of the progress or lack thereof on their cases. Deadlines and promises should be strictly adhered to.)
 - e. Prepare the following case management documents for each of their cases:
 - i. A written interview summary describing each meeting with the client or potential witness.
 - ii. A proposed weekly tickler for each case which will be discussed at the weekly meeting with the supervisor.
 - iii. A trial notebook for each case with direct exam, cross exam, brief, and closing argument.
 - iv. A closing or transfer letter to the client. The purpose of this letter is to say goodbye to the client and summarize the student's actions over the past semester.
2. Students will learn to use critical observation of self and others as a tool for continuing learning and skill development. Most of a lawyer's learning--particularly in the area of practical skills--takes place after the student has left law school. In order to decrease one's own ineffective practices and to replicate effective techniques, it is important for the student to develop both the habit and the ability to observe him or herself and other attorneys in a careful manner.
 3. Students will learn to make productive use of supportive resources available to them, in particular, suggestions by teammates and other class members and advice and supervision from their supervising attorney.
 4. Students will represent their clients competently, effectively zealously, and ethically.
 - a. Students will attempt energetically and tenaciously to achieve their client's objectives.
 - b. Students will learn to translate the real problems of their clients into manageable legal categories, do efficient and thorough legal research on those problems.
 - c. Students will improve their pre-trial and trial skills (e.g., interviewing clients and witnesses, preparing and responding to discovery, marshaling evidence, preparing witnesses, delivering opening and closing oral arguments, examining and cross-examining witnesses, making and responding to objections, etc.).
 - d. Students will learn to develop a coherent theory of the case, which combines the facts and applicable law into a coordinated approach to the case designed to persuade the decision-maker.

- e. Students will analyze their obligations under the Code of Professional Responsibility and their own systems of values.
- f. Students will learn to communicate cross-culturally in an accurate and sensitive manner. Students will learn how to interview through an interpreter.

C. Evaluation of students in the clinic will take five forms:

1. Informal, oral evaluation by the supervisor of the student's performance contemporaneously with, or immediately after the performance;
2. Some written critiques of the student's performance and written work;
3. Completion by student of formal self-evaluation forms at the mid-point and semester's end;
4. Completion by supervisor of an evaluation form at semester's end; and
5. Assignment of a letter grade. The letter grade will be determined based on the student's performance in each of the four major sub-objectives described above using the attached evaluation form. Class participation is taken into account in grading.

WEEK	<p style="text-align: center;">TRIAL PRACTICE CLINIC CLASS SCHEDULE PROFESSOR McDONOUGH MONDAY CLASSES AND PREPARATION, 2:00-3:50 PM, ROOM 6</p>
1	<p style="text-align: center;">January 24</p> <p style="text-align: center;">Syllabus and Schedule</p> <p style="text-align: center;"><i>During the first three weeks of class, visit Housing Court once, at 8:45 and 10:30 am. Monday and Wednesday through Friday, Hennepin County Government Center C-300, 300 South 6th Street, Minneapolis</i></p>
2	<p style="text-align: center;">January 31</p> <p style="text-align: center;">Introduction and Overview of Landlord and Tenant Law</p> <p style="text-align: center;">Tenants' Rights in Minnesota</p> <p style="text-align: center;">Expungements</p> <p style="text-align: center;">McDonough, <i>Residential Unlawful Detainer and Eviction Defense</i>, Chapter VIII, Section E.5</p> <p style="text-align: center;">Expungement Forms</p> <p style="text-align: center;">Evictions</p> <p style="text-align: center;">McDonough, <i>Residential Unlawful Detainer and Eviction Defense</i>, Table of Contents, Introduction, Form A1</p> <p style="text-align: center;"><i>During the first three weeks of class, visit Housing Court once, at 8:45 and 10:30 am. Monday and Wednesday through Friday, Hennepin County Government Center C-300, 300 South 6th Street, Minneapolis</i></p>

WEEK	<p style="text-align: center;">TRIAL PRACTICE CLINIC CLASS SCHEDULE PROFESSOR McDONOUGH MONDAY CLASSES AND PREPARATION, 2:00-3:50 PM, ROOM 6</p>
3	<p style="text-align: center;">February 7</p> <p style="text-align: center;">Evictions Interview Simulation</p> <p style="text-align: center;">McDonough, <i>Residential Unlawful Detainer and Eviction Defense</i>, Table of Contents, Introduction, Form A1</p> <p style="text-align: center;">Handout</p> <p style="text-align: center;"><i>During the first three weeks of class, visit Housing Court once, at 8:45 and 10:30 am. Monday and Wednesday through Friday, Hennepin County Government Center C-300, 300 South 6th Street, Minneapolis</i></p>
4	<p style="text-align: center;">February 14</p> <p style="text-align: center;">Motion Practice and Arraignments</p> <p style="text-align: center;">Motion Practice Handout</p>
5	<p style="text-align: center;">February 21</p> <p style="text-align: center;">Expungement Moot Court: Practice Your Argument If You Have a Hearing this Week</p>

WEEK	<p style="text-align: center;">TRIAL PRACTICE CLINIC CLASS SCHEDULE PROFESSOR McDONOUGH MONDAY CLASSES AND PREPARATION, 2:00-3:50 PM, ROOM 6</p>
5	<p style="text-align: center;">February 28</p> <p style="text-align: center;">Expungement Hearings Recap</p> <p style="text-align: center;">Letters to Tenant Screening Agencies</p> <hr/> <p style="text-align: center;">Tenant's Right to Habitable Housing, Possession and Quiet Enjoyment</p> <p style="text-align: center;">Minnesota Residential Tenants' Remedies, Table and Forms</p> <p style="text-align: center;">Representing Clients in Pro Bono Housing Repair Cases</p>
6	<p style="text-align: center;">March 7</p> <p style="text-align: center;">No Class</p>
7	<p style="text-align: center;">March 14</p> <p style="text-align: center;">Eviction and Repair Case Arraignment Hearing Simulation</p> <p style="text-align: center;">Public and Subsidized Housing Evictions</p> <p style="text-align: center;">McDonough, <i>Residential Unlawful Detainer Defense</i>, I.G; VI.D.11, E.1.h, E.10.d, E.12, F.4, F.10, G.4.a., G.10, G.16.d-e; Answer Form A3-8</p>

WEEK	<p style="text-align: center;">TRIAL PRACTICE CLINIC CLASS SCHEDULE PROFESSOR McDONOUGH MONDAY CLASSES AND PREPARATION, 2:00-3:50 PM, ROOM 6</p>
8	<p style="text-align: center;">March 21</p> <p style="text-align: center;">Judge Review of Housing Court Referee Decisions</p> <p style="text-align: center;">Representing Tenants in Housing Court Judge Reviews</p>
9	<p style="text-align: center;">March 28</p> <p style="text-align: center;">Judge Review of Housing Court Referee Decisions</p> <p style="text-align: center;">Representing Tenants in Housing Court Judge Reviews</p>
10	<p style="text-align: center;">April 4</p> <p style="text-align: center;">Trial Practice</p> <p style="text-align: center;">Thomas A. Mauet, Trial Techniques, Eighth Edition (in the book store) Direct and Cross Examination, Evidence</p> <p style="text-align: center;">Trial Practice Handout</p>

WEEK	<p style="text-align: center;">TRIAL PRACTICE CLINIC CLASS SCHEDULE PROFESSOR McDONOUGH MONDAY CLASSES AND PREPARATION, 2:00-3:50 PM, ROOM 6</p>
11	<p style="text-align: center;">April 11</p> <p style="text-align: center;">Trial Practice Simulation</p> <p style="text-align: center;">Thomas A. Mauet, Trial Techniques, Eighth Edition direct and cross examination, evidence</p> <p style="text-align: center;">Trial Practice Simulation Handout</p>
12	<p style="text-align: center;">April 18</p> <p style="text-align: center;">Cases</p>
13	<p style="text-align: center;">April 25</p> <p style="text-align: center;">Cases</p>
14	<p style="text-align: center;">May 2</p> <p style="text-align: center;">Last Class Class Party Go Home!</p>