

HAMLIN UNIVERSITY SCHOOL OF LAW

TRIAL PRACTICE CLINIC

Fall 2008

Syllabus and Policies

Clinic Professor and Clinic Director

Angela McCaffrey

I. Required, Recommended and Supplemental Readings.

Required:

1. Peter Murray, Basic Trial Advocacy
2. TWEN - course website
Students must enroll and provide an e-mail address. The address is:
<http://lawschool.westlaw.com/twen/default.asp>. Please go to TWEN for the first class assignment
3. Minnesota Unemployment Insurance Law 2008 (copy will be provided to you)
4. Supplemental materials to be made available on a periodic basis

Recommended Reading:

Two additional trial advocacy books are on reserve and available for your use in preparing for trial.

1. Thomas A. Mauet, Trial Techniques.
2. James W. McElhaney, Trial Notebook.

II. Office Hours and Contact Information.

I will set weekly appointments for each team to review your casework. These meeting times will depend upon your schedule. In addition, you may call me at **(651)523-2889** or e-mail me at **amccaffrey@hamline.edu** to set additional appointments. Please feel free to stop by my office any time.

III. 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.

IV. 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.

V. 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 in section VI.

VI. 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 unemployment compensation hearings, 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 in Section B, using the attached evaluation form. Class participation is taken into account in grading.

TRIAL PRACTICE CLINIC
Evaluation Form

Student: _____

Date: _____

Supervisor: _____

A. USES A SYSTEMATIC APPROACH TO LAWYERING (20% of grade)

Clinic Standard

Keeps accurate, timely, and comprehensive narrative and time records of all activities undertaken in cases; organizes client files in systematic fashion appropriate to the case; revises and use clinic tickler system on a weekly basis to track work; is always punctual and reliable in dealings with clients, other attorneys, supervisors, courts and administrative agencies; checks mail box daily and promptly returns telephone messages; regularly informs clients of the progress or lack thereof on their cases; adheres strictly to deadlines and promises.

Rating

1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

B. USES CRITICAL OBSERVATION OF SELF AND OTHERS AS A TOOL FOR CONTINUING LEARNING AND SKILL DEVELOPMENT (15% of grade).

Clinic Standard

Actively and consistently observes own performance and positively accepts feedback from others; sets objectives for critique of each lawyering task undertaken; systematically evaluates performance and strives to improve future performances in light of self-evaluation and supervisor, teammate and class critique; actively and productively observes and critiques teammate and classmates.

Rating

1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

C. MAKES PRODUCTIVE USE OF AVAILABLE SUPPORT RESOURCES, INCLUDING CLASSROOM EXPERIENCES, SUPERVISION FROM SUPERVISING ATTORNEY AND INPUT FROM TEAMMATES AND OTHER CLASS MEMBERS (15% of grade)

Clinic Standard

Thoughtfully and competently prepares class assignments and participates actively in class sessions; prepares for and punctually attend weekly case review meetings with supervisor and teammate; engages supervising attorney and teammate in constructive discussion about cases; follows through on decisions made with or instructions given by supervising attorney; timely seek additional help from supervising attorney and/or teammate when encountering difficulties meeting client/clinic objectives.

Rating

1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

D. REPRESENTS CLIENTS COMPETENTLY, EFFECTIVELY, ZEALOUSLY, AND ETHICALLY (50% of grade).

1. Interviewing: Develops interview plans and objectives in advance; does sufficient advance legal research to answer anticipated client questions; uses active listening and empathetic responses to develop client trust; does advance research and prepares adequately for cross-cultural interviews; follows suggestions for interviewing effectively through interpreters; consistently obtains relevant facts and ascertains client objectives in interviews of reasonable length.

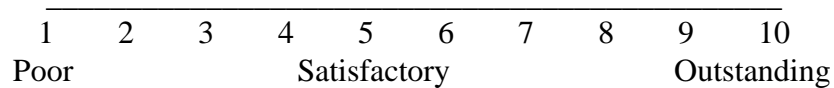
Rating

1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

2. Client counseling: Consistently develops rapport with clients and works to attain a high level of trust that allows client to freely share facts and objectives; works hard to see the factual situation from the clients' point of view putting aside personal bias; communicates effectively with clients of different class, gender, race, and cultural backgrounds; explains the applicable law, potential legal theories, and alternative strategies using words appropriate for the clients' level of understanding; actively involves clients in strategic decisions and chooses strategies that meet clients' actual needs.

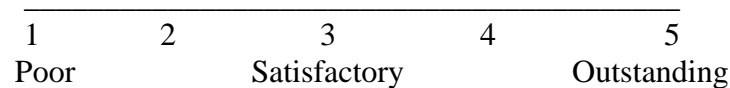
Rating



(Place "x" to indicate position on continuum)

3. Legal research and legal theory development: Identifies all legal issues relevant to clients' problems; completes and memorialize all legal research necessary to advise clients of their rights; develops theories of the case that are creative, take into account the clients' interests and the audience (decision-maker), and result in maximum persuasiveness.

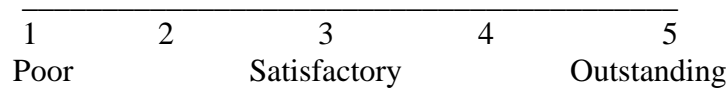
Rating



(Place "x" to indicate position on continuum)

4. Written product: Initial drafts and final versions of all correspondence, inter- and intra-office memos, and pleadings and briefs, reflect thorough preparation, are thoughtfully planned with overall theory of the case in mind, and are skillfully executed so as to contribute maximally to the persuasiveness of the case; transfer and/or closing memo guidelines strictly followed giving new students and supervisor a comprehensive view of work completed and strategic plan for next six (6) months; transfer or close-out letter to clients accurately summarizes work performed, adequately reassures clients of continued representation (if case remains open), and clearly delineates unfinished tasks for clients to complete (if any).

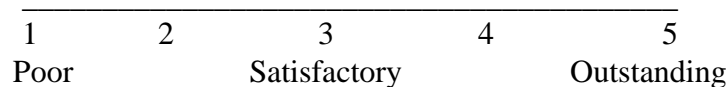
Rating



(Place "x" to indicate position on continuum)

5. Oral advocacy and hearing preparation: Trial notebook prepared for each appearance; preparation completed sufficiently in advance of hearing to timely allow for moot court and preparation of all witnesses; oral argument reflects thorough preparation, is thoughtfully planned with overall theory of the case in mind, and skillfully executed so as to contribute maximally to the persuasiveness of the case.

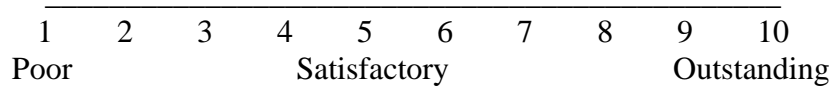
Rating



(Place "x" to indicate position on continuum)

6. Zealousness of Representation: Uses creativity, resourcefulness, perseverance, initiative, follow-through and hard work in attempt to achieve clients' objectives; without prompting from supervising attorney, takes those extra steps which may be necessary to overcome initial obstacles and problems which prevent or hinder the accomplishment of clients' objectives.

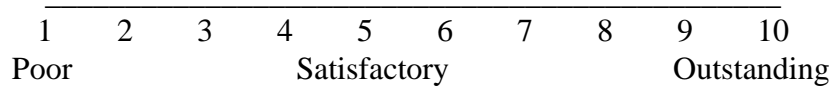
Rating



(Place "x" to indicate position on continuum)

7. Professional Responsibility and Ethics: Regularly acts in a manner consistent with the Code of Professional Responsibility; recognizes situations which present close questions, either under the Code or under personal values, and actively and explicitly resolves those questions without prompting from supervisor; always extremely sensitive to client confidentiality, especially handling of client files and phone calls in clinic office and public settings; always vigilant to identify potential conflicts of interests and take responsibility to actively resolve them.

Rating



(Place "x" to indicate position on continuum)

Hours worked to date: _____

TRIAL PRACTICE CLINIC

Course Syllabus

Fall 2008

Class 1	August 20	Clinic Goals and Evaluation Methods.
Class 2	August 27	Professional Responsibility. Hypothetical Questions.
Class 3	September 3	Overview of Minnesota Economic Security Law – Statutes and Regulations.
Class 4	September 10	Overview of Minnesota Economic Security Law – Cases.
Class 5	September 17	Components of Client Interview.
Class 6	September 24	Developing a Winning Theory.
Class 7	October 1	Formulating Direct Exams, Making the Record. Rules of Evidence for Unemployment Compensation hearings.
Class 8	October 8	Developing Closing Arguments.
Class 9	October 15	Developing Cross Examination.
Class 10	October 22	Interviewing through Interpreters. Mid-Term Self Evaluation – Make individual appointments with Professor McCaffrey.
Class 11	October 29	Billing Clients. Lawyers as Counselor.
Class 12	November 5	Exploring How Culture, Race and Gender Differences Affect the Attorney/Client Relationship. Confronting Bias in Representation. Review Minnesota Supreme Court Task Force Reports on Gender and Racial Bias in the Courts.
Class 13	November 12	Pro Bono Obligations Debate.
Class 14	November 19	Case wrap up. Case Management Systems. Stress Management.