

Political Science 268/468 Practicum in Mock Trial I and IIA

FALL 2009 Syllabus

This syllabus is intended to meet all requirements for such documents as established by UWM and the UW System. Students are specifically referred to the website of the Secretary of the University which delineates policies related to academic and non-academic behavioral expectations as well as rights and responsibilities of those in the UWM community. The site is uwm.edu/Dept/SecU/SyllabusLinks.pdf.

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Accommodation: Both UWM and intercollegiate mock trial's governing body, the American Mock Trial Association, are leaders in the accommodation of students with needs. So long as you are an undergraduate who is able to compete throughout weekends (the only times these tournaments can be conducted), we will enable rather than disable you.

Why UWM has been among the Nation's leaders in intercollegiate mock trial programming: This year, UWM will be among the 41 colleges and universities from 16 States that have completed 20 seasons or more of intercollegiate mocking. The pioneer Panther Cubs litigated the landlord liability case of the 1986 Second National Intercollegiate Mock Trial Tournament. We are Wisconsin's only Charter Member of AMTA. UWM was one of the programs called "weird" when we joined a handful of others introducing invitational tournaments. UWM hosted the largest field in the inaugural year of AMTA regional qualifiers and then was the first to host an AMTA National outside of mocking's birthplace: Des Moines, Iowa. In 2000, UWM taught the nation that invitationals are essential to competitiveness setting the then record of 33 tournament trials in a season. We remain among several who have broadened the offering to include intercollegiate mediation competition and, in 2006, became one of only four institutions nationwide to field undergraduate teams in mock trial, mediation and moot court. In sum, no more than four intercollegiate mock trial programs, among the more than 500 AMTA has so far served, can claim a pedigree that UWM does not hold.

There are reasons why UWM has led. One reason is the combination of (1) I am the coach; (2) I am a UWM alumnus; (3) As a UWM undergraduate, I was served by my campus offering education in the competitive forum; (4) I enjoy competition and (5) I get a tad upset whenever my campus is referenced as anything but "the flagship" including stuff like the "mid-major" denigration. One vivid image that remains of my undergrad years is a prof who inappropriately filled his UWM lectures with constant references to his alma mater, Columbia University. My classmates were told for a semester that we were not "Columbia-material" and were "less than Ivy League." That UWM visitor kept

on his spiel until I generated a term paper that even he assessed as “Ivy-like!”

It does not matter to me whether the Panther Cubs are smeared by: (A) Badger tripe; (B) Golden Eagle Warrior (a/k/a GEW) tripe; (C) the chronically ill-informed writers for the *Milwaukee Journal Sentinel*; (D) Madisonians who administer the UW System reportedly envisioning UWM as the receptacle for admission candidates rejected by their selective “flagship;” See *MJS* 7/23/06 p.1 et seq.; (E) the wave of new arrival faculty always a gush with self-serving self-impressions of their past campuses; (F) the Panther Cubs who have been tortured by the endless litany and come to believe it. The only way to eradicate the smear is for we Panthers to prepare our Cubs and to discover the intellectually-based fora designed to permit all-comers to compete on equal ground and with essentially equal resources, to don one’s competitive attire and to see how quickly the flagships sink, the GEWs succumb to reality, the “Ivies” poison and “the majors” look mighty minor.

This course is a component of a UWM endeavor that starts and ends with the contention that the UWM education is second to none. **Your first assignment:** Repeat the words “the UWM education is second to none” as many times as you need until you have a wonderful chip on your shoulder, strut with the confidence of an educated man or woman and the words you have repeated to be the truth.

It is your instructor’s passionate view that his Great University exists to serve the whole of the masses. The Great University has the fortitude to admit for education all comers. That we address representatives of every component of the community and profess that there is no one unworthy of post-secondary education is our badge of honor. The Great University does not give a damn that high school teachers assess some of us as merely “average” or that profit-oriented creators of meaningless acronyms like ACT and SAT label minds yet fully developed with numbers. The issue for higher education is not with what one arrives but as what one is when he or she departs. I was extremely proud to read UWM’s website claim that my Great University has educated more Wisconsin citizens than any other institution.

Mock Trial for the UWM Student: The mission of UWM’s Mock Trial Teams, including these courses as a component of the Teams’ programming, is to hone each individual to his or her “total package.” That mission is part of the objective to win. Mock trial teams are comprised of six students. Winning mock trial teams have no weak links. So the strategy is to combine six “total packages.” Our experience has been that the sum of six “total packages” is stronger than its individual parts.

It is this coach’s responsibility to assess each student and to teach that student how to exploit strengths and overcome weaknesses. To meet that responsibility, the coach must open his student to the possibility of the student changing and improving. Your coach has accepted that responsibility, exercised in similar competitive fora, annually since 1971. For those willing to open, change and improve, this coach has delivered regardless of whether his wards have been Warriors, Panther debaters, Webbies, Baptist

Bulldogs, Highlanders, Panther mockers or Panther mediators or Panther mooters.

Essentially, it is the coach's duty to introduce the ethic of professionalism and to develop in his charges the arsenal available to form and execute professional strategy. The ethic of professionalism says nothing less than that the learned person is distinguished from the rest of the community in that the former is invested with the responsibility to ably serve others. The ethic of professionalism is inherent in all pursuits that follow higher education. The career selected does not matter. The doctor must professionally address the patient. The lawyer must professionally address the client. The teacher must professionally address the student. The minister must professionally address the flock. The governor must professionally address the constituent. The entrepreneur must professionally address those from whom he will profit. Thus, our exercise must always be a sober effort to build and reflect the competency demanded of the professional as well as the loyalty to others that comes with the territory.

Another of our objectives is to build experience that is otherwise not obtainable for years to come. The "mock" part says the experience is not inherently "real life" but it becomes more realistic as the participants mirror the "real life" actors they aspire to be. The mock trial community believes that it is better to learn to walk before you are going somewhere that counts for others. We can develop professional quality work product before others' lives and resources are on the line.

In this spirit, it is worthwhile for this instructor-coach to comment on whom, within the UWM student body, may gain by investing in the mock trial endeavor. I identify three distinct groups.

First, I believe that intercollegiate mocking has enormous value to new students. UWM serves "new students" who may either be traditional college freshmen or be "non-traditionals" who resume formal education after a period of interruption. Our many new students will find mock trial to be helpful in transitioning to the undergraduate curriculum. We early and often target learning skills that bolster the ability to meet a variety of academic challenges. "New students" are wise to grow in the team context.

Second, I am confident that mock trial is highly remedial in part because it is the very essence of individualized education. Reaching one's "total package" is not analogous to being the product of a Barbie doll factory. It is important not to take the idiosyncrasies out of the individual. But it is common that a new mocker arrives after semesters on this campus and without having been told how to change to improve academic standing.

The plain fact is that there are large numbers of institutions that expressly emphasize their provision of individualized education. UWM, while serving the masses, is not particularly good at affording its students individualized advice. That is a function that can best be achieved here through programs like the Freshmen Seminars, the Honors Program and intercollegiate mock trial. Your instructor is convinced that any student with

a 2.0 GPA after a year can be honed and changed to conclude undergraduate studies with a GPA more akin to a 3.5.

For those served with remedial attention, the undergrad experience should be looked at as no different than our federal government's intent in supporting the military academies. The Fed selects "a few good" men or women as "officer material." Those individuals grow becoming leaders. Similar growth should be enjoyed as one changes from being merely a student to being a scholar.

The third group, equally important, is comprised of those who have begun to build the competitive GPA they will need to pursue other competitive admissions and positions. This group perhaps suffers most by our Great University being dubbed only "a mid-major." That tag says that the 4.0 UWM graduate may not make the cut in some circles. There are lots and lots of 4.0 GPAs nationwide. Having done unquestionably superior work at UWM may not be enough alone to get where this student deserves to be.

Intercollegiate mock trial affords these students the rare opportunity to build their resume to include the head-to-head comparison with graduates of places where there's no "mid-" qualifying their "major." Admissions committees, particularly for law schools but for other graduate-professional study as well, can see that this UWM-grad-candidate-for-admission not only holds a competitive GPA but has prevailed in fair, scholarly competition with students from the nation's most respected institutions. Prospective employers may not know what attributes mockers develop but they know that the "All American" designation means that the applicant has completed a task at a very high level of quality.

The further one's GPA has moved from the 4.0, the greater the need for the opportunity to achieve in the competitive forum. The UWM candidate for law school may need no help if she has the 4.0 grade point and a perfect LSAT score. For anyone with less than either number added credibility may prove most useful.

This course requires students to participate in intercollegiate tournaments conducted on weekends and at often out-of-State sites. Students unwilling or unable to participate cannot complete the course requirements and may wish to enroll in other courses. Political Science 471 has at times been a course that addresses similar subject matter in the on-campus only environment.

Mandatory Meetings: There will be something more than 550 intercollegiate mock trial teams registered this season. We target our preparation so that UWM teams are among the 192 who survive regional qualifiers and advance to national events. That preparation schedule is necessarily rigorous. My maxim has long been "I cannot coach an empty chair."

The courses will meet in Bolton 80 on Monday and Thursday evenings from 7:55 to 9:10 P.M.. These meetings are insufficient to reach competitive form. So, we schedule

a Sunday meeting each weekend that we do not have representatives on the road. The Sunday meeting times in **the Fall Semester of 2009** are dictated by the time of any Sunday Packer game. Tentative Sunday schedule:

September 6	4 P.M.
September 13	TBD Pack plays Chicago at 7 P.M
September 20	4 P.M.
September 27	4 P.M.
October 4	TBD Pack plays on MNF.
October 11	TBD or Saint Louis U (Pack bye week)
October 18	4 P.M.
October 25	4 P.M. or Minnesota/Quincy
November 1	4 P.M.
November 8	4 P.M. or Mediation, Macalester
November 15	Illinois State
November 22	Lewis
November 29	TBD Pack plays Thursday
December 6	Saint Francis
December 13	TBA

These meetings are *not* optional. If they conflict with your schedule, you will be expected to indicate in advance that they need to be rescheduled. You will make the arrangement so that the squad can meet together at a different time and place. Those developing the habits of professionals can reasonably be expected to be on time and prepared to advance the progress of the squad. I am not interested in traveling to coach one or two and then add preparation times because the absent were absent.

It is very likely that the students will have to gather at other mutually determined times to work out components of the trials where students perform together. Those performing closing arguments will need to coordinate with their fellow attorneys. Attorneys must work with their witnesses. Virtually all of our performance requires teamwork.

As coach, I am not willing to dedicate additional time to compensate for empty chairs. As a seasoned coach, I have no tolerance to offer any longer for those who are never on time and are too impolite to announce in advance their need to reschedule. If I have students who are where I expect them to be when I expect them to be there, I will find a way to dedicate enough time for those students to achieve. But there has almost always been someone “too important” for common courtesy. I refuse to chase after such undergraduates.

NOTE: It is no one’s responsibility but your own to catch you up or to notify you when you are absent.

Materials: Each student will need a complete copy of the AMTA Case and a complete

copy of the Midlands Rules of Evidence. Both may be downloaded from AMTA's website: collegemocktrial.org. There are case changes periodically throughout the season. Students should check the website about once every two weeks to determine if additions or corrections have been released.

The user name and password have been or will be shared by the instructor when he receives a written promise to share the access codes with absolutely no else - not even a teammate.

It is useful to hold your preparations in a black, standard three-hole binder. I suggest that a silent binder be purchased. It is common to use legal pads in or out of pad covers rather than anything like a spiral notebook. (Professionals do not use spiral notebooks and **never** give another anything torn from one of those disasters. The idea is to attain a professional look rather than the look of any old undergraduate. **It is important to note that nothing may be brought into mock courtrooms that name any educational institution. AMTA treats stuff like the UWM spirals available in the Bookstore and school lapel pins or necklaces and letter jackets or apparel as "illegal identifiers."**

In order to perform as a mock attorney, AMTA's Rules require that business attire be worn. This means a vested or unvested business suit, dress shirt, tie and dress shoes or sport coat, dress slacks, dress shirt, tie and dress shoes for men. Women should wear conservative-styled outfits (no party dresses!) reflecting good taste. There is a difference between ladies business wear and any old pants suit. Simply as a guide, I have seen judges comment and deduct points for wearing a summer sport coat out of season, for skirts being too short, for clothing being unkempt, for hose not matching shoes, for shoes needing a polish. All of those are fair bases to deduct. So is the jewelry attending most body piercings!

I have also locked horns with one judge in particular and others more generally who seem to me to add requirements to the business attire rule. I believe one's apparel must be appropriate as a reflection of respect to the Court. With some 30 years of life in the courtroom, I reject a notion that "business wear" only equates with the garb and colors common in a nunnery. Fashion and distinction has its place in the trial courtroom. (I also consider it to be abysmal strategy for Brad Bloch to attempt to look like a Wall Street banker while arguing his case to his juries.)

For many students, the business wear requirement simply says "select from your existing wardrobe." But I know that UWM has students who have nothing that would comply with this AMTA rule. Some have one complying outfit but we compete in two- and three-day tournaments. I have two messages. If your wardrobe is limited simply because you prefer jeans and t-shirts, it is time to build the professional wardrobe.

My other message is that I am sympathetic to the student who is busting "it" just to afford the college education. (To get through law school, I worked three jobs and ate

sometimes what now seems a pretty disgusting diet. And I paid considerably less tuition years ago!) Inability to pay for suitable clothing is *not* a reason not to do mock trial nor a reason to limit your roles to being witnesses. It is a reason to report your need to me privately.

Tournament Policies:

1. Our program covers AMTA registration and entry fees, invitational entry fees and lodging. Transportation is the student's responsibility as is food and beverage not provided by the hotel or the tournament, business attire and trial paraphernalia..
2. Students will make an irreversible commitment to participate at specific tournaments. Our entries in those events must be made very early since the tournaments fill rapidly. If selected to participate, any commitment not kept will result in removal from the program. It is not the student's option ever to arrive at or depart from tournaments when he or she wishes.
3. Students will conduct themselves in a manner that never damages the images of UWM or our mock trial program. The necessary implications include:

A. I will report to and cooperate with law enforcement as to any possession or use of controlled substances, drug paraphernalia and underage drinking. Since all lodging provided by the program is paid for using my UWM travel card, I will consent to searches of any room.

B. The consumption of alcohol by other than minors has caused a great deal of disagreement within the AMTA community and within our program. In June, 2006, the AMTA Board adopted new initiatives that protect those programs that have long enforced no alcohol policies. Therefore:

1. During tournament days, there will be no consumption of alcohol - period. There will be, for instance, no "one for the road" in route to tournaments and no "beer with lunch" between trial rounds.

2. Hotel rooms on my UWM travel card will not be the site of "house parties" and/or "all nighters." I will apply a policy that is appropriate to our exercise in professionalism. Some tournament days end late in the evening (10 P.M. or later) and start early the next morning (8 or 8:30 A.M.). On those occasions, enjoy your one 12 oz. beer or one cocktail and go to bed! Your client deserves your full attention early in the morning.

We also see tournaments scheduled over three days that typically leave Saturday evening free. I see no problem with adults dedicating four hours to socializing as they like in those situations. Hit a club or a bar if you choose. Since you have a client needing your full attention early the next morning, I would think a return to

our hotel by midnight – give or take a half hour - is reasonable.

In any event, UWM mockers should seek from me for each tournament the latest time that our contingent will leave our hotel each morning. Expect that that hour will allow me to inspect all rooms on my UWM travel card while permitting this aging man his safe and slow transport to tournament sites.

C. As an attorney, it is a crime in some jurisdictions (including Wisconsin) for me to post bail for anyone but an immediate member of my family. Thus, the rule is “Coach never, ever posts bail.”

D. Some UWM students will need time and space to study at times when our tournament duties allow. I will protect their environment to be productive students.

4. At all times, that includes times at and in preparation for tournaments, students must both be sensitive so as not to harass others yet recognize what is not harassment. The development and execution of trial strategy is not always a stress-free exercise. If an issue matters, heated disagreement may or may not equate to harassment. For centuries, my profession has sought “collegiality” but has not been particularly good at achieving it.

Grading: There are four components of grades for the Practicum courses:

A. The “presumptive C” says that I will award a mocker who treats the endeavor as a student rather than as a professional an extraordinarily average grade. Students who arrive when they want, let every other affair of their life be their priority, procrastinate are “average at best.”

B. To complete the course, the student will perform in at least six tournament trials per semester and will complete the entire season that runs from Labor Day through the regional qualifier in February and national tournaments in March and/or April. The courses may be repeated in the Spring Semester so that the student is adequately rewarded for season-long scholarship.

Students enrolled in 268 or 468 this semester will complete their six tournament trials at two and only two tournaments: Lewis at Oak Brook and the University of Saint Francis.

It is important to understand, from the outset, that the student executes in these courses as a member of a team. Each team member invests. I will not let the investments of five students sour based on the whims of one team member who prematurely leaves the team. The unfortunate fact is that we must target for peak performance at the regional qualifier in February. There is not time to compensate for the loss of a team member between the time the Spring Semester begins and the qualifier.

Anyone unwilling to make the season-long commitment is directed to drop the course.

C. Quality of performance in tournament trials is easily assessed. Here, our students perform, are scored and critiqued standing side-by-side other undergraduates. Wins and distinctions tell us readily whether a given student is “superior,” “good,” “average,” etc. This component of the final grade takes into consideration the student’s level of experience and is limited to analysis of the six best trial performances. The more trials in which one participates, the greater the opportunity there is to erase a less than desired performance.

D. There will be a written final examination conducted the Thursday evening of final exam week.

Grading Philosophy: A significant reason that I sacrifice to coach others is that I desire to help them in reaching their true potential. Mocking demonstrates to some that they indeed have the tools to develop and execute professional strategies. One of UWM’s earliest mockers reported “I can’t believe I’m actually doing this. It’s so realistic.” The confidence he gained has served him and his family, now for decades, as an Assistant District Attorney.

I have been criticized for awarding grades that compare my students’ product with those of students of other courses. My students work harder and perform better. They deserve grades that further their life’s dreams.

I assume my mockers intend to apply to law schools while realizing that some have other pursuits in my mind. My assumption can only serve all of my students. I need plain reason to award grades inconsistent with the GPA that makes my students competitive as law school candidates.

Fall/Spring Semester Tentative Tournament Schedule:

It is very difficult to plan the tournament schedule since many invitationals have full fields even before UWM classes begin. There is a secret plan in the works so all of this is indeed quite tentative as to what exactly we will consider. These are possibilities:

October 9-11 Saint Louis U

October 23-25 Minnesota
October 24 Quincy (2 rounds only)

November 6-7 National Mediation *
November 6-8 Macalester Trials

November 13-15 Illinois State (**Two teams entered**)

November 21-22 Lewis U at Oak Brook (**Two teams entered**)

December 5 -6 Saint Francis (**Two teams entered**)

December 12-13 Regional Moot Court at Hamline *

January 16-17 Ohio Northern

January 23-24 Illinois

January 29-30 Loras Tri-State

If UWM does not qualify for a National, I will consider the John Marshall Two-Person in late April or May.

* Participation in National Mediation and in any moot court activity has never fulfilled requirements in either 268 or 468. Dates are listed here so that mockers do not commit to a mock trial event in conflict with mediation or moot court.

“MONEY-TOURNAMENT TIME” A great deal of Spring Semester programming is dependent upon our showing at the regional qualifier. Our first course meeting of the semester is the day before at least four qualifiers nationwide. We have essentially only one month to hone to our very best performance. I expect a “bend-over backwards” effort until our regional qualifier ends.

NOTE: Tournaments listed are tentative. The syllabus is prepared initially for each Fall Semester based on “traditional weekends” for some competitions and are, thereafter, modified as changes are posted on websites.