

TRIAL ADVOCACY

REPRESENTATIVE TABLE OF CONTENTS
FOR A TRIAL NOTEBOOK¹

1. Introduction - Nature of the case (Civil/Criminal) - Main Issues - Burden of Proof
2. Personnel - Investigators, Clerks, Witnesses, Doctors, Police Officers, etc.
3. Jury Questionnaires
4. Motions in Limine
5. Voir Dire (Method of Challenges)
6. Opening Statement
7. Opponent's Opening Statement
8. Witness List
9. Order of Witnesses
10. Elements of Proof
11. Witness Proof
12. Document List/Litany for Authentication or Discovery Admitting Authentication (Index like pleadings).
13. Closing Argument
14. Pleadings
15. Exhibits
16. Jury Charges

TRIAL ADVOCACY

¹**** Examples of trial notebooks on Prof. Bailey's Reserve Shelf in the Law Library.

BOOKS:

1. Sonsteng, John O., THE TRIALBOOK: A TOTAL SYSTEM FOR THE PREPARATION AND PRESENTATION OF A CASE.

2. Volumes on Litigation, produced by the American Bar Association, section on Litigation; (published four times a year).

Comment: A must journal for any lawyer who intends to do trial work.

3. Making and Meeting Objections, by Robert A. Wenke, Judge of Superior Court.

Comment: Easy to read, short booklet on the common objections raised and heard in trial.

4. The Trial Lawyers Guide, Roland P. Klinge, J.D.

Comment: Can be secured through most law libraries through the Bar Association.

5. Trial Tactics and Methods, Keeton, Second Edition, Little Brown and Company.

Comment: Good-Excellent.

6. Morrill on Trial Diplomacy, Second Edition, Court Practice Institute, Chicago.

Comment: Excellent.

7. Various Volumes published by The Practical Lawyer.

Comment: Usually fair reading.

8. Advanced Criminal Trial Tactics, D. Jeffery Herschlerg, Joseph F. Keefe Co-Chairman, Practising Law Institute - (PLI), 1977, 810 Seventh Avenue, New York, N.Y. 10019 (212) 765-5700.

9. Prisoner's Rights, 1979, Alvin J. Brunstein, Phillip J. Hirschkop, Co-Chairman, Vol. Two, Produced by the Staff of the National Prison Project of American Civil Liberties Union Foundation, C4-4137/C6-4133, Practising Law Institute, New York City.

10. Attorney's Guide to Effective Discovery, Fechniopres-Walter Barthold, Prentice Hall-1975, Englewood Cliffs, N.J.
11. Civil Trial Manual, Robert McFigy, Ralph C. McCullough II, James L. Underwood, Reporters.
12. A Joint Project of the American College of Trial Lawyers, 1977 Supplement; The ALI-ABA Committee on Continuing Professional Education, 1977 Supplement, Library of Congress Catalog Number 73C 93157, 1977 American Law Institute, Release No. 2.
13. Successful Cross Examination Strategy, Noel C. Stevenson, Esq., Executive Reports Corporation, 5th Printing 1977, Library of Congress catalog, card No. 70-166046.

Comment: O.K.

14. Jury Selection in Criminal Trials, New Techniques and Concepts, Ann Fayan Ginger.

Comment: Good.

15. Goldstein Trial Technique, Second Edition, Godlstein and Lane, Vols. 1-3.
16. Federal Trial Handbook by Robert S. Hunter, 1974, The Lawyers Co-operating Publishing Co., Rochester, N.Y. 14603.
17. Examples of Trial Notebooks: On reserve shelf in library and in the clinic office.

FOLDERS - Closing Arguments - 2 copies.

COMMERCIAL VIDEOTAPES

A089 ART OF ADVOCACY SKILLS IN ACTION SERIES: OPENING STATEMENT.

A167 DEMO: JURY SELECTION IN A PERSONAL INJURY CASE.

A190 DEVELOPING TRIAL STRATEGY: PREPARING & TRYING A CUSTODY CASE.

A215 TRIAL DEMONSTRATION SERIES: FINAL ARGUMENT (CRIMINAL MURDER CASE).

A235 TRIAL TECHNIQUE SERIES: FINAL ARGUMENT IN A CRIMINAL CASE: CONSPIRACY - UNITED STATES V. PETERS.

A32 INTRODUCTION & USE OF EXHIBITS.

LOCALLY-MADE VIDEOTAPES

ABOTA TRIAL COMPETITION 1983 (1 Tape)

ABOTA TRIAL COMPETITION 1984 Tape 1, Tape 2, Tape 3

TRIAL ADVOCACY

KEY TO EACH EXERCISE

- (1) What we will do.
- (2) Why we will do it.
- (3) How we will do it.
- (4) When we will do it.
- (5) Whether "we" did it correctly.
- (6) Why I did it my way (submit written outline to judge after the exercise).

PLANNING FOR THE BIG TRIAL
EVIDENTIARY ISSUES TO CONSIDER

1. Credibility of witnesses (Impeachment)
 2. Burden of Proof - Elements in the Case
 3. Court Procedures - Lectern, etc.
 4. Authentication of Documents and Things (Laying a Foundation)
 5. Criminal case - Miranda - 4th & 6th Amendment (Confrontation Issues)
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1. Probative Nature Versus Prejudicial Impact
 2. Hearsay/ Exceptions/ Constitutional Issues
 3. Offers of Proof/ Making a Record

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**KEY FOR PREP SHEETS
(EXTRA POINTS)**

1. One page for Prep!
2. Name of student
3. Identify as Plaintiff (Prosecutor) or Defendant.
4. Identify the applicable stage of the proceeding (e.g., Opening Statement, Cross-Examination, etc.).
5. Explain in four (4) sentences or less your strategy for this particular proceeding.
6. Explain how this strategy helps your case.

TRIAL ADVOCACY

**ADDITIONAL* GROUND RULES FOR EACH OF THE
FIVE (5) CLASSROOM EXERCISES AND THE BIG TRIAL**

1. Be present.
2. Be on time.
3. Stay in character throughout the exercise.
4. Show the judge you have a “theory” (“strategy”) for your side of the case.
5. Protect your client at all times.
6. Consult with a professor (or a local attorney) before each exercise.
7. Submit your “Prep Sheet” to the judge immediately after your exercise.
8. Ask questions about your performance.

* See Trial Advocacy pp. 11-13 syllabus for the basic “ground rules.”