

**TRIAL ADVOCACY**  
**PROFESSOR WILLIE BEN DAW, III**

**RULES FOR BENCH TRIALS**

1. Each student will participate in a Bench Trial using the problem of *State v. Delaney*. The Bench Trial is a full trial, with Opening Statement, Direct and Cross Examination of witnesses, and a Closing Argument.
2. The Bench Trials will be tried before a faculty adjunct sitting as a Judge in a District Court for the State of Texas. The Texas Rules of Evidence will apply.
3. You will be paired with a co-counsel. Your co-counsel will be assigned. Do not ask to be paired with a specific classmate. You are expected to work with and cooperate with your co-counsel in preparing for and trying the case.
4. The co-counsel pairings and room assignments will be distributed at a later date.
5. You will be representing the same side that you represent in your Small Group sessions.
6. Each counsel will serve as the witness for his or her co-counsel. Do not bring others to serve as a witness.
7. Each side **must** call the following witnesses:

Prosecution:

Detective Alex Lowrey  
Val Cavaretta

Defendant:

Marty Pafko  
Ardell Delaney

8. Each counsel will conduct a direct examination and cross examination. One member of each trial pairing will deliver the opening statement and the other member will deliver the closing argument. The "all object" rule is suspended for the Bench Trial. Only the counsel examining or cross examining a witness may object during the examination of that witness by opposing counsel.
9. We will not yet have covered in class the topics of how to prepare and deliver opening statements and closing arguments. Nonetheless, the experience of preparing and delivering each is beneficial, even without having any class coverage of these topics. It is imperative that if you are giving the opening statement, that you read Chapter 4 of Mauet, Trial Techniques and Trials, ninth edition. If you are giving the Closing Argument, it is imperative that you read Chapter 9 of Mauet, Trial Techniques and Trials, ninth edition.
10. We will announce the exact time of the trial at a later date.

11. Time limits are as follows:

Opening Statements	7 minutes per side
Prosecution's Case (including cross examination of Defendant's witnesses)	60 minutes
Defendant's Case (including cross examination of Prosecution's witnesses)	60 minutes
Closing Arguments	10 minutes per side
Critique	15+ minutes

**TIME LIMITS WILL BE STRICTLY ENFORCED**

12. All exhibits should be pre-marked and exchanged with opposing counsel. No pretrial conference will be held. Foundation and admissibility of exhibits may be stipulated, but each counsel is required to lay the foundation for at least one exhibit.
13. Since this is a bench trial, no motions in limine will be heard. However, any objection may be raised during the course of the trial. The judge, in his or her discretion, may deduct the time spent on arguing objections from the allotted time of the party raising the objection if the number of objections or the time spent arguing is excessive.
14. Courtroom attire is required.
15. No grades will be given. However, as with every exercise, your professionalism will be evaluated. If you are not prepared, or do not give a serious effort (the absence will be apparent from the observations of actual trial attorneys), the professionalism portion of your final grade will be reduced. No grades are given for this part in an effort to reduce the stress of doing a graded trial. It is designed as an opportunity for you to practice your trial skills without concerns about grading.
16. Although no verdict will be rendered, a critique will follow the conclusion of the trial.