This is an intensive short course that meets on a special schedule before regular classes begin.

EXPERT WITNESSES AT TRIAL

Course Number: LITG 7086
Call Number: 000121

Semester: Spring 2015
Professor: Martins
Credits: 1 classroom

Primary Basis for the Grade: Class participation; written exam; videotape of a 15 minute direct examination of an expert and a 15-minute Daubert examination of an expert, both submitted 10 days after the conclusion of class; letter grade

Prerequisites: Evidence and Civil Procedure (Trial Practice recommended, but not required)

Enrollment: Open

Meets Seminar Requirement? No
Meets Writing Requirement? No

Meets Client Counseling Requirement? No

Meeting Times: Monday through Thursday (1/12/15 – 1/15/15) from 4:00pm to 7:00pm and Friday, 1-16-15 from 9:00 am to noon.

Location: 100B

COURSE DESCRIPTION:

The course will address the use of expert witnesses at trial. It will include the following:

1) An examination of ethical rules governing compensating experts (Rule 3.4(b), Ohio Rules of Professional Conduct);
2) Whether an expert can be compelled to testify via subpoena;
3) An examination of the relevant rules governing expert testimony, including: A) Fed. R. Civ. P. 26(a)(2), 26(a)(3)(b), 26(e)(3); B) Fed. R. Crim. P. 16(a)(1)(F) and (G), 16(b)(1)(B) and (C), 16(c); C) Fed. R. Evid. 701-706, 803(3), 803(4), 803(6), 803(13), 1006; and; D) comparable Ohio and Kentucky evidence and procedure rules;
4) Preparation of experts for depositions and testifying at trial;
5) Daubert challenges;
6) Examination of experts at trial.

The first three components will be classroom discussions involving reading assignments, along with Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 592 (1993), Kumho Tire Co., Ltd. v. Carmichael, 526 U.S. 137, 152 (1999), and comparable Ohio and Kentucky cases adopting the Daubert analysis of expert testimony. The students will be given a written examination comprised of 20 questions requiring short answers. The exam will be given to the students before the first day of class. They will be required to answer the questions over the first two days of class and turn in the exam at the beginning of the third day of class. The exam will serve to focus their attention on the key issues discussed during the first two days of class (6 hours) where they will learn the essential "rules" of this aspect of litigation.
The remainder of the course (9 hours) will be devoted to practical exercises implementing the written material and covering the final three components, where the students will be given a fact scenario along with expert resumes and reports from a real case. The students will alternate between playing the expert, defending the expert, and examining the expert.

At the conclusion of the course, the students will be given 10 days to prepare and submit: (1) a 15-minute Daubert Examination of one of the experts; and, (2) a 15-minute Direct Examination of an expert (qualifications and expert opinion).

MEETING TIMES:

Please note that this is an intensive course that meets over a condensed time period. Students must attend every class session. Do not sign up for this class if you must miss one of these sessions. Students may take only one class that meets during the short course week.

Paul B. Martins is a graduate of Notre Dame University and the University of San Diego School of Law, where he excelled as both a published Law Review member and on the Moot Court Board. Upon graduation, he served several years in the United States Army Judge Advocate General’s (“JAG”) Corps as a prosecutor, criminal defense attorney, and legal advisor to the Deputy Assistant Secretary of the Army – Review Boards Agency. During his military service in the JAG Corps, Major Martins tried more than 100 cases.

Since entering private practice in 1987, Mr. Martins has specialized in complex civil litigation in the areas of civil rights, securities class actions, personal injury, and in representing whistleblowers in False Claims Act cases. He has co-counseled many False Claims Act cases with Mr. Helmer, including trying two to conclusion before juries.

Mr. Martins is also rated “av” by the Martindale Hubbell Law Directory and is listed in the latest edition of Best Lawyers in America, Top Lawyer, Annual Guide to Commercial Litigation, November 2011, as well as Top Attorneys in Ohio 2012.

Mr. Martins, a native of Hawaii, is a Master of the Bench and Executive Committee member of the Potter Stewart American Inn of Court and a designated mediator for the United States District Court for the Southern District of Ohio.

He was lead counsel representing the estate of Roger Owensby in a federal civil rights case which was won on summary judgment, affirmed by the 6th Circuit Court of Appeals and produced the largest police brutality settlement ever in the City of Cincinnati.

Last updated: 11-21-14   cd