



The Advocacy Institute Is Pleased to Announce

PROGRAM ANNOUNCEMENT

BASIC PROSECUTORS' COURSE (PHASE III-B) TRIAL ADVOCACY SKILLS PROGRAM

January 27-30, 2015

8:30 a.m. to 5:00 p.m.¹

Richard J. Hughes Justice Complex

6th Floor Point Meeting Area – Attorney General's Library

25 Market Street

Trenton, New Jersey

Program Summary

This intensive 4-day trial advocacy program combines presentations and learn-by-doing workshops, culminating in a mock trial on the last day. The presentations, which will be by experienced assistant prosecutors and deputy attorneys general, will cover direct examination, cross-examination, persuasive use of exhibits, case theory, opening statements and closing arguments. The participants, in turn, will perform in a series of learn-by-doing workshops, in which they will incorporate what they learned from the presentations and others in dealing with discrete phases of the trial process. All participants then will "try" their case in a mock trial on the last day of the program.

Who Should Attend?

This program is intended for new assistant prosecutors and Division of Criminal Justice deputies, attendance for which has been determined by each office.

Who Is the Faculty?

The faculty consists of experienced assistant prosecutors, Division of Criminal Justice deputy and assistant attorneys general and other experienced litigators who have extensive expertise in the subject matter on which they are presenting.

¹ End times will vary during the week, but, in no instance, will go beyond 5:00 p.m.

CLE Credit

NJ CLE Credit: This program has been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for 23.4 hours of total CLE credit. Of these, 0.0 qualifies as hours of credit for ethics/professionalism, and 23.4 qualify as hours of credit toward certification in civil trial law and criminal trial law. Moreover, certain of these presentations may qualify to satisfy the attendees' newly admitted attorney obligations.

NY CLE Credit: 23 substantive credits (pursuant to the approved jurisdiction policy).

PA CLE Credit: 19.5 substantive credits (\$30.00 mandatory registration fee required).

How Do I Register?

State Employees

Most State employees are able to register for this course by going to <http://reg.dcj.lps.state.nj.us/login.aspx?portalid=2> and creating an AGAI Course Registration account. To do so, your computer **must** be attached to the government's Garden State Network. Upon opening the AGAI Course Registration System home page, you will see the Create Account link in the Login Box. Click on it and create your account, which will include you selecting a user name and password. Once you create your account, you can access the AGAI Course Registration System at <http://reg.dcj.lps.state.nj.us/login.aspx?portalid=2> to register for future courses or to manage your account. Please retain your user name and password for your records.

Non-State Employees or State Employees not Connected to the Garden State Network

If you are not a State employee, or are otherwise unable to access the AGAI Course Registration System through the Garden State Network, kindly email the Advocacy Institute at: AdvocacyInstitute@lps.state.nj.us for an authorization code to allow you access to the AGAI Course Registration System through the My New Jersey portal. **Setting up your account through the portal is a two-step process, the details of which are set forth in the next two paragraphs.**

Once you receive the portal authorization code you will be prompted to go to the My New Jersey portal at <http://www.state.nj.us/> and create a portal account. This is Step 1 of the process, which you need only do once.

Upon setting up your portal account, you need to set up your AGAI Course Registration System account. This is Step 2. To do so, log on to the My New Jersey Portal <http://www.state.nj.us/>. Upon opening the AGAI Course Registration System home page, you will see the Create Account link in the Login Box. Click on it and create your account, which will include you selecting a new user name and password. Once you create your account, you can access the AGAI Course Registration System at <http://reg.dcj.lps.state.nj.us/login.aspx?portalid=2> to register for future courses or to manage your account. Please retain your user name and password for your records.



TRIAL ADVOCACY TRAINING JANUARY 27-30, 2015

Program Schedule

Introduction

This intensive four-day advocacy program is intended to enhance the participants' trial skills in a constructive and positive learning environment facilitated by experienced attorneys serving as faculty. While the program will challenge participants to perform at their best, the program's primary goal is to afford participants the opportunity to build upon the skills they have, take what they learn and apply it during their subsequent performances, and to finish the program with a better understanding of how to persuasively and professionally further their clients' interests at trial.

The program will contain a mix of topical presentations on various aspects of trial practice and "learn-by-doing" workshops. The emphasis in the workshops will be on participant performance of various trial skills followed by constructive faculty critique. Each participant's performance will be critiqued by two faculty members during each workshop. **Starting on Day 1, certain workshops will be video recorded.** In these instances, each participant will also participate in a one-on-one review of his or her performance with a third faculty member. The program will conclude with a "trial," for which the participants will be paired in trial teams.

For purposes of this program, each participant has been designated as either an "A" or a "B". The A's will represent the State and the B's will represent defendant Joseph O'Neill throughout the program. Participants will remain an "A" or "B" as designated throughout the program. We will follow the State evidence and procedural rules during the program.

The program is very intensive. There is not much preparation time available during the program. **Before arriving at the program, participants should become thoroughly familiar with the materials and prepare for each workshop before it begins.** We recommend that participants review Steven Lubet, *Modern Trial Advocacy* (4th ed. 2009); Thomas A. Mauet, *Trial Techniques* (8th ed. 2010); or similar text, to help prepare for the program.

During the program, each participant will be assigned to examine a witness. Participants should also prepare to play their side's witnesses as well. Playing a witness is part of the program. We believe that you will find it to be a valuable learning experience. Witness roles must be realistic; participants should attempt to the best of their ability to portray the actual

personality of the witness.

We have every confidence that all participants will find this to be an instructive, challenging and rewarding program.

TUESDAY, JANUARY 27, 2015

Welcome; *Opening Statements* Presentation; Case Theory Workshop; Opening Statements Workshop; *Fundamentals of Direct Examination* Presentation; Direct Examination Workshop

This morning will begin with the presentation: *Opening Statements*, which is intended to help participants develop and persuasively present their opening statements to juries.

Following the presentation will be the Case Theory Workshop. The A's will meet as a group with their faculty facilitator, and the B's will meet separately as a group with their faculty facilitator. For purposes of this workshop, participants should be prepared to work with each other on developing a unified case theory for their side. Case theory operates on three levels: legal theory, factual theory, and persuasive theme. Legal theory is why, as a matter of law, your client should prevail. Factual theory is a construction of the facts of the case that explains what really happened and why: it includes an analysis of the "good" and "bad" facts in the case and how they can be harmonized in a way that is favorable to your side's case and unfavorable to the other side. Persuasive theme is a way of presenting the case to make the jury want to find in favor of your client. Once you have determined your unified case theory the rest of your case planning should evolve from it.

The second morning workshop will allow each participant to present his or her opening statement. The statement should contain all three elements of the participant's unified case theory (*i.e.*, legal, factual and persuasive). Among the areas participants should focus on are: capturing the jury's attention at the outset; previewing the evidence that will be introduced to support your unified case theory and undermine the other side's; and making the presentation as a whole persuasive in convincing the jury to later find in favor of your side. Faculty critiques will focus on whether the statement is persuasive in capturing the jury's attention and setting the scene for an effective presentation of the evidence.

The afternoon will begin with the presentation: *The Fundamentals of Direct Examination*, which is intended to provide participants with a basic overview of the effective methods of direct examination, and to help participants develop a technically sound and persuasive approach for their examinations during this program.

The final session of the day is the Direct Examination Workshop. This workshop will allow each participant to practice his or her skills as they relate to four topic areas within the *State v. O'Neill* case file. The A's will examine Mary Wilson and the B's will examine Catherine Hoover.

- 8:30 a.m. - 9:00 a.m. Faculty Meeting & Participant Registration
- 9:00 a.m. - 9:15 a.m. **Welcome & Introductory Remarks**
- 9:15 a.m. - 10:15 a.m. **Presentation: *Opening Statements***
 Presenter: Assistant Attorney General Daniel Dryzga
- 10:15 a.m. - 10:30 a.m. **Break**
- 10:30 a.m. - 11:30 a.m. **Workshop: Case Theory** (This session will not be recorded)
 For the purposes of this workshop, A's will meet as a group with their faculty facilitator, and B's will meet separately as a group with their faculty facilitator. Each participant should be prepared to discuss and develop a unified case theory for your side.
- Faculty Leader A's: Assistant Attorney General Anthony Zarrillo
 Faculty Leader B's: Assistant Attorney General Christine Hoffman
- 11:30 a.m. - 11:45 a.m. **Break**
- 11:45 a.m. - 1:15 p.m. **Workshop: Opening Statements** (This session will be recorded)
 Each participant will deliver his or her opening statement. The statement should contain all three elements of the participant's unified case theory (*i.e.*, legal, factual and persuasive). Among the areas participants should focus on are: capturing the jury's attention at the outset; previewing the evidence that will be introduced to support your unified case theory and undermine the other side's; and making the presentation as a whole persuasive in convincing the jury to later find in favor of your side.
- 1:15 p.m. - 2:15 p.m. **Lunch**
- 2:15 p.m. - 3:15 p.m. **Presentation: *The Fundamentals of Direct Examination***
 Presenter: Assistant Prosecutor Linda Childs
- 3:15 p.m. - 3:30 p.m. **Break**
- 3:30 p.m. - 5:00 p.m. **Workshop: Direct examination of *either* Mary Wilson (A's) *or* Catherine Hoover (B's)** (This session will be recorded)

A's should conduct a direct examination of Mary Wilson, which should be consistent with the legal, factual, and persuasive theories of their case. A's should focus their examination of Mary Wilson on the following:

(a) her personal history, including her late husband's tenure as a judge and her relationship with Helen O'Neill;

(b) her knowledge of the relationship between the Defendant and Helen O'Neill up to the night of the shooting, and her relationship with the Defendant during this period;

(c) what happened on the day Helen O'Neill was shot up to the shooting itself;

(d) the events of September 10, one year prior; and

(e) any other relevant area of inquiry.

B's should conduct a direct examination of Catherine Hoover, which should be consistent with the legal, factual, and persuasive theories of their case. B's should focus their examination of Catherine Hoover on the following:

(a) her personal history, including her criminal record;

(b) her relationship with Joseph O'Neill, including her knowledge of the Defendant's relationship with Helen O'Neill and his relationship with Mary Wilson prior to July one year prior;

(c) her relationship with Joseph O'Neill after he returned as a boarder in July one year prior until September 10, one year prior, including her knowledge of the Defendant's relationship with Helen O'Neill and his relationship with Mary Wilson during this period;

(d) the events of September 10, one year prior; and

(e) any other relevant area of inquiry.

WEDNESDAY, JANUARY 28, 2015

Introduction of Exhibits Workshop; Direct Examination Workshop; *Cross Examination Techniques* Presentation; Cross Examination Workshop

The morning's first workshop is designed to provide participants with the opportunity to develop legal foundations for various exhibits to later use the exhibits in examining witnesses. With regard to each exhibit, participants should be able to show the purpose for which the exhibit would be introduced at trial and lay a legal foundation - showing through questioning why the judge should allow the exhibit in evidence. **Faculty will serve as witnesses for this workshop.** Faculty critiques will focus on the technically-proper way for introducing and using exhibits.

The day will continue with another direct examination workshop. This workshop will allow each participant to further practice their skills as they relate to topic areas within the *State v. O'Neill* case file. The A's will examine Frank Novak and the B's will examine Joseph O'Neill.

The afternoon begins with the presentation: *Cross-Examination and Impeachment Techniques*, which is intended to help facilitate the cross examination of the remaining witnesses, including helping each participant develop effective impeachment techniques.

The day concludes with a workshop on Cross Examination. This workshop will allow participants to develop their skills in cross examination. Each participant may assume that a full direct examination was previously conducted. The A's will cross examine Catherine Hoover and the B's will cross examine Mary Wilson. All participants should focus on asking leading questions as part of a proper cross examination. Topics to address are those covered in the previous Direct Examination workshops.

8:30 a.m. - 9:00 a.m. Faculty Meeting

9:00 a.m. - 10:15 a.m. **Workshop:** Using Exhibits (This session will not be recorded)
Each participant should prepare to introduce designated exhibits from the *State v. O'Neill* case file. Each participant may choose the witnesses through whose testimony he or she will seek to introduce the exhibits. Each participant will also be able to choose whether to introduce and use the exhibits on direct examination or cross-examination of the witnesses.

10:15 a.m. - 10:30 a.m. **Break**

10:30 a.m. - 12:00 p.m. **Workshop:** Direct Examination of *either* Frank Novak (A's) *or* Joseph O'Neill (B's) (This session will be recorded)

Each A will conduct a direct examination of Frank Novak. Although each A should be prepared to do a full direct examination of Frank Novak, he or she will examine the witness on only one of the following topic areas, and should restrict his or her examination to that topic area:

- (a) his personal background, including his work history and training and what he was doing on September 10, one year prior, up to receiving the radio dispatch concerning the shooting of Helen Wilson O'Neill;
- (b) what he observed upon arriving at the Wilson residence at 1751 Madison Street, and his what he did and observed until he left the scene with his partner to find the Defendant;
- (c) what he did upon leaving the scene, and what occurred while he and his partner were at Catherine Hoover's residence at 800 Fillmore Avenue;
- (d) what happened after he and his partner left 800 Fillmore Street with the Defendant; and
- (e) any other relevant area of inquiry.

Each B will conduct a direct examination of Joseph O'Neill. Although each B should be prepared to do a full direct examination of Joseph O'Neill, he or she will examine the witness on only one of the following topic areas, and should restrict his or her examination to that topic area:

- (a) his personal background, including his relationship with Mary Wilson and Helen O'Neill prior to November 15, two years prior;
- (b) his relationship with Helen O'Neill and Mary Wilson from November 15, two years prior, until their break up in July one year prior;
- (c) his relationship with Helen O'Neill and Mary Wilson between July one year prior and September 9, one year prior;

- (d) the events of September 10, one year prior; and
- (e) any other relevant area of inquiry.

12:00 p.m. - 1:00 p.m.	Lunch
1:00 p.m. - 2:15 p.m.	Presentation: <i>Cross Examination Techniques</i> Presenter: Assistant Attorney General Daniel Dryzga
2:15 p.m. - 2:30 p.m.	Break
2:30: p.m. - 3:45 p.m.	Workshop: Cross Examination of <i>either</i> Catherine Hoover (A's) <i>or</i> Mary Wilson (B's) (This session <u>will</u> be recorded)
	Each A will conduct cross examination of Catherine Hoover. Each A will cross examine Catherine Hoover on topic areas of his or her choosing and may assume that a full direct examination of the witness has previously occurred.
	Each B will conduct cross examination of Mary Wilson. Each B will cross examine Mary Wilson on topic areas of his or her choosing and may assume that a full direct examination of the witness has previously occurred.
3:45 p.m. - 4:00 p.m.	Trial Overview and Assignments Session (All meet together)

THURSDAY, JANUARY 29, 2015

Cross Examination Workshop; *Closing Argument* Presentation; *Closing Argument* Workshop; Trial Strategy Workshop

The day begins with another Cross Examination workshop. This workshop will allow participants to develop their skills in cross examination. Each participant may assume that a full direct examination was conducted. The A's will cross examine Joseph O'Neill and the B's will cross examine Frank Novak. All participants should continue to focus on asking leading questions as part of a proper cross examination. Topics to address are those covered in the previous Direct Examination workshops.

The next presentation will focus on *Closing Arguments*. This presentation is intended to help participants develop and persuasively present their closing arguments.

The next workshop will focus on each participant presenting his or her closing argument. The argument should contain all three elements of the participant's unified case theory (*i.e.*, legal, factual and persuasive). Among the areas participants should focus on are: relating the closing argument to the opening statement; capturing the jury's attention at the outset; explaining how the facts elicited on direct and cross-examination support your unified case theory and undermine the other side's, including any inferences and conclusions you want the jury to make; addressing the applicable law as appropriate; and making the presentation as a whole persuasive to convince the jury to find in favor of your side. Faculty critiques will focus on whether the statement is persuasive in capturing the jury's attention and summarizing the testimony and other evidence as it relates to the participant's legal theory and theme.

The final workshop will involve the trial strategy session. Participants will meet with faculty advisers to help them develop a strategy to use in their trials. Participants should be prepared to address, their case theory, anticipated testimony of their witnesses, cross examination goals, evidentiary issues and other anticipated procedural and substantive issues.

8:30 a.m. - 9:00 a.m. Faculty Meeting

9:00 a.m. - 10:15 a.m. **Workshop:** Cross Examination (This session will be recorded)

A's will conduct a cross examination of Joseph O'Neill. Each participant may assume that a full direct examination was previously conducted.

B's will conduct a cross examination of Frank Novak. Each participant may assume that a full direct examination was previously conducted.

10:15 a.m. - 10:30 a.m. **Break**

10:30 a.m. - 11:45 a.m. **Presentation:** *Closing Arguments*
Presenter: Assistant Attorney General Anthony Zarrillo

11:45 a.m. - 1:15 p.m. **Lunch & Trial Preparation with Partner**

1:15 p.m. - 2:45 p.m. **Workshop:** Closing Arguments (This session will be recorded)

Each participant will present his or her closing argument. The argument should contain all three elements of the participant's unified case theory (*i.e.*, legal factual and persuasive). Among the areas participants should focus are: relating the closing argument to the opening statement; capturing the jury's attention at the

outset; explaining how the facts elicited on direct and cross-examination support the your unified case theory and undermine the other side's, including any inferences and conclusions you want the jury to make; addressing the applicable law as appropriate; and making the presentation as a whole persuasive to convince the jury to find in favor of your side.

2:45 p.m. - 3:00 p.m. **Break**

3:00 p.m. - 4:00 p.m. **Workshop: Trial Strategy**

Participants will meet with faculty advisers to help them develop a strategy to use in their trials. Participants should be prepared to address, their case theory, the anticipated testimony of their witnesses, cross examination goals, evidentiary issues and other anticipated procedural and substantive issues.

FRIDAY, JANUARY 30, 2015

Trials, Critiques, Brief Wrap-Up Session

Today will be devoted primarily to the trials. Participants should review the applicable “court rules” below before the trial. Following the trial will be a critique session in which the faculty member serving as the trial judge will offer his or her comments concerning each participant’s performance during the trial.

The day will conclude with a brief Wrap-up Session.

Morning Trials

9:00 a.m. – 11:45 a.m. Trials
11:45 a.m. – 12:15 p.m. Faculty Critique
12:15 p.m. – 12:45 p.m. Wrap up

Afternoon Trials

1:15 p.m. – 4:00 p.m. Trials
4:00 p.m. – 4:30 p.m. Faculty Critique
4:30 p.m. – 5:00 p.m. Wrap up

RULES OF COURT FOR FULL TRIALS

1. Work load for the trial should be divided so that each lawyer conducts an opening statement *or* a closing argument, and each lawyer conducts one direct examination and one cross-examination.
2. The witnesses will be Mary Wilson and Frank Novak for the State and Catherine Hoover and Joseph O'Neill for the Defense. Each trial team may call its witnesses in the order of its choosing.
3. **Trial partners will play each other's witnesses.**
4. Time limits for the trials are as follows:

Preliminary matters. (Stipulations, *in-limine* motions etc.) 15 minutes total time, both parties

- a. Opening Statements (State then Defendant) - 10 minutes per party
- b. Witnesses

For the State:	Mary Wilson	15 minutes Direct; 7.5 minutes Cross
	Frank Novak	15 minutes Direct; 7.7 minutes Cross
For the		
Defense:	Catherine Hoover	15 minutes Direct; 7.5 minutes Cross
	Joseph O'Neill	15 minutes Direct; 7.5 minutes Cross
- c. Closing Arguments (Defendant then State) - 15 minutes per party