

The Forensic Expert in the Courtroom
MSFS 6910 -- Catalog # 32839
Masters of Science in Forensic Science
Fall 2008
Classroom: GC409

Date & Time: Mon. 5:00 – 7:00 p.m.

Instructor: Carl Franklin, Associate Professor
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Office Hour: M – F 1:30 to 2:30 p.m.

Discipline Specific Professors are used for the capstone project (see below description).

Course (Catalog) Description: This course examines the best practices in the areas of trial preparation, courtroom methods, testimony, evidence presentation, and ethical considerations within the justice system.

Additional Description: Information technology is an increasingly important factor in legal proceedings. In cases as large as the U.S. Government's antitrust suit against Microsoft Corporation to the smallest criminal case questions of evidence often arise. Issues of authenticity, application, and the ultimate question of proof routinely rely on the testimony of an expert. In order to be effective an expert witness needs much more than an understanding of their respective discipline, they also need competence in courtroom practices.

The classroom portion of the course focuses on courtroom methods and practices. Students will also work outside of class on an appropriate investigative/forensic assignment. The investigative/forensic assignment will be supervised by a professor in the respective discipline or area of emphasis. As students complete their external assignment they will work to prepare it for delivery in a courtroom simulation. Students are expected to prove competency in their respective area of emphasis. Students are also expected to demonstrate reasonable knowledge and ability to present evidence arising from the assignment.

Academic Integrity: Scholastic dishonesty will not be tolerated and will be prosecuted to the fullest extent. You are expected to have read and understood the current issue of the student handbook (published by Student Services) regarding student responsibilities and rights, and the intellectual property policy, for information about procedures and about what constitutes acceptable on-campus behavior.

ADA Statement: Students with medical, psychological, learning or other disabilities desiring academic adjustments, accommodations or auxiliary aids will need to contact the Southern Utah University Coordinator of Services for Students with Disabilities (SSD), in Room 206F of the Sharwan Smith Center or phone (435) 865-8022. SSD determines eligibility for and authorizes the provision of services.

Prerequisite: Completion of twenty (20) hours of graduate study or instructor permission.

Text: None – Students will review professional and academic articles and related materials. Reading list provided separately.

Reading Materials: Students are expected to have access to the Internet and be familiar with research methods common for legal and forensic services. In addition, students are to be assigned reading from select journals

and professional publications (list attached). Additional reading materials may be required within the particular discipline as part of the external investigative/forensic assignment.

Course Objectives/Learning Outcomes: This course has been designed to assist students in the following fashions:

1. Identify relevant evidentiary issues related to a practical investigative/forensic experience.
2. Analyze select evidence in relation to the student's emphasis with an emphasis on proof and proper courtroom procedure.
3. Explain the best practices for courtroom presentation and testimony.
4. Identify potential ethical issues and conflicts within both the specific emphasis/discipline and within the justice system.
5. Demonstrate critical thinking skills in evaluating evidence, its relation to an illegal act, and within the domain of courtroom practices.
6. Produce a representative sample of evidence which meets industry and legal standards.
7. Demonstrate effective methods for testimony and presentation of evidence.

Class Attendance and Accountability: This course will reflect the practices often encountered in the professional and courtroom setting. To that end the attendance policy and accountability of the individual student will mirror in many respects the expectations of the profession. Absences are only excused when the absence has a clearly defined (and supported) explanation.

Students are expected to be in class at the assigned time. The professor employs a combination of methods to reward attendance and measure accountability. This may include pop-quizzes, discussion questions, in class assignments, or other methods. Please review the following information on Planned and Unplanned Absences as well as the policy on makeup work.

Planned Absences: Students involved in approved activities may be excused from class; however, they are not excused from the work associated with class. Students who have planned absences (including athletes and scholars) must submit a written request for approval of the absence. This request ***should not*** be submitted directly to the professor but instead should be submitted to the graduate assistant assigned to this class or to department support staff in GC406. Obtain a copy of the Absence Approval form at the faculty members SUU webpage. Please do not send an email, leave a phone message, or otherwise ask for an excused absence without first submitting the Absence Approval form.

Unplanned Absences: Unplanned absences are evaluated on a case-by-case basis. If an unplanned absence occurs at the time of a scheduled exam or assignment then the student must submit an Absence Approval form as highlighted above. An unplanned absence will not be excused unless the form is completed with supporting evidence of need and eligibility for an excused absence.

Makeup work: The professor adopts the following policy for work in this class:

Scheduled Exams & Quizzes – Approved Absences – Students who submit an Absence Approval form in a timely fashion will be provided a scheduled time to makeup missed exams. The exams will be given in the CJ office located in GC406. Students should report to a CJ support worker to take the exam at the assigned time.

Scheduled Exams & Quizzes – Unapproved Absences – Makeup for scheduled exams is not generally allowed for unapproved absences.

Homework & Other Assignments – Students are given ample time to complete homework or outside assignments. Absence on the day an assignment is made is not an excuse for late work. As a rule most late assignments can be avoided by committing to and completing the assignments immediately after they are made. Due diligence in

completion prevents late assignments. Procrastination is not an excuse.

Distribution of Grades: A classroom distribution and return of papers, including exams, will be done in class only once. If you are not present at that time then you must contact the student assistant assigned to me to get your papers. Do NOT ask for your paper to be returned from me during class time. It is YOUR JOB to make arrangements to get the paper or grade from my graduate assistant or one of the department student support personnel.

Course Expectations: During this course students are required to produce a usable product related to their given discipline and area of emphasis. This product will be analyzed for quality and value as related to the investigative and forensic principles within the given discipline. The product will also be used to prepare and produce courtroom presentation. At the conclusion of the course the student is expected to present the product, and all relevant evidence, as part of the proof being offered during the course. All students will perform assignments in the courtroom. In many instances the student will demonstrate their knowledge under closed conditions using the model courtroom and under both direct and cross-examination by appropriate personnel. Students may be examined by practicing attorneys, judges, and other legal personnel knowledgeable and proficient in courtroom practices. The student will be evaluated for effectiveness of presentation and knowledge of both forensic and subject matter materials.

Final Report:

Students must produce a final report detailing their work within the course as well as the courtroom experience. It is believed that the courtroom experience is an invaluable tool in helping students to recognize not only the standards for courtroom presentation but also the potential risks and rewards in such a task. Ultimately the student's final report must provide a critical analysis of their own performance as well as an analysis of the project and its presentation in court.

Makeup work: No make up work will be allowed without prior authorization.

Policies on Late Assignments: The professor reserves the right to adjust a grade, including deduction of points or denial of grade altogether, for late assignments.

Grading: Final Grades are assigned according to the following schedule:

	A = 100 - 93%	A- = 92 – 90%
B+ = 89 - 87%	B = 86 – 83%	B- = 82 – 80%
C+ = 79 - 77%	C = 76 – 73%	C- = 72 – 70%
D+ = 69	D = 68	
F = 67% and below		

Grades for the capstone course will be set according to the following rubric:

Thirty-five percent (35%) of final grade – The supervised project and the production of usable evidence; includes preparation of material in a timely fashion for courtroom practice. Also includes related research or substantive material within the given discipline.

Thirty-five percent (35%) of final grade – Comprehensive exam covering courtroom practices and preparation of evidence for courtroom use. Administered during the week of finals.

Twenty percent (20%) of final grade – Courtroom presentation. Students are assigned a specific date to appear in the model court and present testimony under direct and cross-examination.

Ten percent (10%) of final grade – Written final report detailing the student experience, performance, and learning within the course.

As part of the grading process the respective faculty members in the discipline area and within the courtroom practices area will evaluate the materials produced by student under the best practices of both the discipline and the accepted use by experts within the field. The weight of the grade assigned to the courtroom presentation should not be lessened in anyway, and a significant part of this learning experience is the courtroom practicum. Students are encouraged to put their best effort into the practicum so that they may be evaluated in a light most favorable to the learning experience.

Attendance & Participation: Students are expected to attend and participate in appropriate assignments given to them by both the classroom faculty and their respective discipline faculty. Failure to meet the attendance or production requirements may jeopardize the final grade. The success of the capstone course relies on proactive participation by the student.

Extra or Co-Curricular Activities: None.

Bonus Points and Extra Credit: None.

Disclaimer: Information contained in this syllabus, other than that for grading and late assignments, may be subject to change with advance notice, as deemed appropriate by the instructor.

Course Schedule:

Week # Description:

- 1 Expert Witnesses and their community of interest – Students examine the roll of an expert within various disciplines as related to the ideals of proof. Examines the reasons a person may want to become an expert; the reluctant expert; the use of quasi-experts; the rolls of the parties in litigation; the duties and legal obligations of an expert
- 2 Training vs. Education – The concepts of training an expert for courtroom practice as compared to the traditional education within a given field; how the courts assess the difference; the use by both sides in a case.
- 3 The Art and Science of Testimony – The rolls of attorney-judge-jury and the expert; the methods of modern examination in court; Swimming with Sharks (working with trial attorneys); Questions and Questioning; Common tricks of semantics and word usage;
- 4 Testimony as a Tool Against the Expert – The use of transcripts, prior statements, writings, studies, and related materials; Impeachment; Use of Subpoena and discovery; Building and Tearing Down Integrity and Reputation
- 5 Playing Hide and Seek with Evidence – The use of data, statistics and other complex matter to hide findings; the Power of Numbers; Selection of Presentation Methods; Learning Styles as a concept of jury communication
- 6 Chance, Coincidence and Causation – Applying discipline specific proof models to the modern courtroom; Identifying and Analyzing the Opposition’s Claims; Attitude and Adjustment to Court Standards; How Pseudoscience changes the face of expert testimony
- 7 Ethical concerns for experts – Understanding the ethics of lawyers and judges; identifying established ethical standards; Applied Ethics in a Open Discipline; Understanding the Juries Expectations of Ethical Behavior; The Gates/Bando Distinction for Expert Qualifications

- 8 And the Oscar Goes to – Active, Proactive, and Entertaining Testimony
 - 9 Traditional Presentation Methods – “Show Me” Methods for Testimony; KISS Methods; Demonstrative Evidence; Creation and Analysis Issues in Real Evidence; Explaining concepts, theories, and intangible issues; Coordination of Testimony with presentation method
 - 10 Use of Technology in the Courtroom – Technology Enhanced Visual Exhibits; Computers Testimony; PowerPoint or PowerBore?; Complex Representations with Simplistic Approaches; Radiation Case Studies and the Focal Point Issue; Breadth of Depth of Presentation
 - 11 Demeanor and Credibility – Identifying Yourself as an Expert; Dress and Behavior Patterns for Courtroom Testimony; Adversary Approach to Testimony; Verbal and Non-Verbal Cues for the Expert; Use of Notes and Reports while testifying; The Use of Feedback Loops During Testimony
 - 12 Educating the Attorney – The methods and expectations of working with attorneys in case analysis, preparation, and presentation
 - 13 – 16 Students will present their case to the court.
- Final Exams – A comprehensive exam covering course material is given during finals week.