

TRIAL ADVOCACY FOR NON-LITIGATORS
FALL 2025

BENCH TRIAL RULES

Location: University of Houston Law Center

1. Each student will participate in a Bench Trial using the case file of *Flinders Aluminum Fabrication Corporation v. Mismo Fire Insurance Company*. Flinders will present its case first, followed by Mismo with no rebuttal allowed for Flinders. The Bench Trial will be conducted as follows:
 - One opening statement per side (brief statement (of what your side intends to prove).
 - Direct and Cross examination of the witnesses (at least one exhibit should be offered in every direct examination. Exhibits can be, but do not have to be, offered during cross examination.)
 - One closing argument per side (brief statement of what your side has proven).
2. The Bench Trial will be conducted by a faculty member sitting as a District Court Judge for the State of Texas. The Texas Rules of Evidence will apply.
3. If possible, you will be paired with co-counsel who you are expected to coordinate with in preparing and trying your case. You should agree on a strategy for presenting your entire case. It is recommended that in advance of trial, your team does a case analysis to determine the elements you need to prove, what facts you want to prove with each witness and which exhibits you want to have admitted.
4. You will represent the same party you have been representing in the classroom exercises.
5. You must call the following witnesses in the order of your choice:

<u>Counsel for Flinders Aluminum</u> Arthur Jackson Sonia Peterson	<u>Counsel for Mismo Insurance Company</u> Marie Williams John Anderson
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6. Each counsel will conduct a direct examination and cross examination. You will serve as your co-counsel's witness. For Flinders, one attorney must direct Jackson and cross Anderson. The other Flinders attorney will direct Peterson and cross Williams. For Mismo, one attorney must direct Williams and cross Peterson. The other Mismo attorney will direct Anderson and cross Jackson. One member for each side will deliver the opening statement and the other member will deliver the closing argument. Each opening and closing will last no more than 2 minutes. Do not spend a lot of time on preparing openings and closing arguments as these skills will be covered in class later. (If you want to read about openings and closing arguments, see Chapters 4 and 9 in *Mauet*.)

7. Time Limits: The entire trial can last no more than 2 hours including faculty critiques. Total time limits will be enforced. Going over your time limits may prevent you from completing the entirety of your case. Each side will have a total of 50 minutes to present their case. Here are suggested time limits:
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| • Opening Statement | 2 minutes per side |
| • Plaintiff's Case (including cross examination of Defense witnesses and objections) | 46 minutes |
| • Defendant's Case (including cross examination of Plaintiff's witnesses and objections) | 46 minutes |
| • Closing Arguments | 2 minutes per side |
| • Faculty Critique | 15 – 20 minutes |
8. Before the day of trial, you need to tell the other side which exhibits you plan to offer. If both sides are using the same exhibit, it only needs to be admitted once. Pre-mark all exhibits. You can stipulate with the other side as to the admissibility of exhibits which would not require laying a foundation as long as every counsel does at least one exhibit walk during their direct examination. If you agree to the admissibility of exhibits with your opposing counsel, you should tell the judge before trial starts which exhibits are agreed to and ask that those exhibits be "pre-admitted". Then during trial when you want to use the exhibit, tell the judge that you would like to show the witness (or show the judge) the exhibit "which has been pre-admitted".
9. The Bench Trials will not be graded. Their purpose is to give you the opportunity to practice your trial skills while seeing how the testimony of various witnesses along with exhibits can be put together to prove your case. Even though you will not be graded, as with every exercise, your professionalism will be evaluated. If you are not prepared or you do not make a serious effort to participate, the professionalism portion of your overall final grade may be affected.
10. No verdict will be given. You will receive a brief critique at the conclusion of the trial which will be aimed at helping you make adjustments with an eye to improving your performance at the final jury trial. If you want to get more detailed feedback on your performance or you have additional questions, you can contact the faculty member attending your trial who will give you an extended critique at a time convenient for both of you.

Good luck and have fun!