

RULES FOR FINAL TRIALS

1. Your final trial will be to a jury trial (with in person jurors) using the case file of Flinders Aluminum v. Mismo Insurance Company. It will take place in an assigned courtroom at the Harris County Civil Courthouse, 201 Caroline.
2. As soon as courtrooms have been assigned, you will be given an opportunity to visit the courtroom to see how it is arranged, make sure you know how to use the equipment, etc. During this visit, you should make note of available parking lots, the location of Security inside the Courthouse, the floor on which your courtroom is located, and other logistics so you can explain everything to your witnesses so they can arrive for your trial on time.
3. There will be whiteboards in the courtrooms, but you should not plan on using them as they may already be in use for actual trials. Instead, if you have planned on using something like a whiteboard with a witness, you should invest in an easel, pad and markers. Talk with opposing counsel to see if this cost can be shared.
4. The trials will start promptly at 8:30 a.m. You must be in the courtroom ready to begin no later than 8:00 a.m. Typically, trials last until about 12:30 – 1:00 p.m. including jury deliberations and post-trial critiques. There will be no lunch break. The evening Trial Advocacy classes will also be trying their cases at the same time. Allow yourself and your witnesses extra time to park and go through Security. Trial will start on time even if all counsel are not present.
5. The Texas Rules of Evidence will apply.
6. If you have a trial partner, you should coordinate with your co-counsel in preparing and trying your case. You should agree on a hook, theme and a strategy for presenting your entire case. If you cannot agree, contact your faculty so the disagreement can be resolved with their assistance prior to trial.
7. You will be representing the same party you have already been representing in the Flinders Aluminum v. Mismo Insurance Company classroom exercises.
8. You must arrange for your own witnesses. Your teammate will not serve as your own witnesses as they did in the Bench Trials. Prepare your witnesses for their direct examination and anticipated cross. Stick to the facts in the case materials. Tell them about the rulings in the motions in limine (made at the Pretrial Conference the week before trial) and instruct them not to violate them. (If possible, try to get witnesses that match the gender of your witness to enhance their credibility with the jury. This is not a requirement.) Explain parking and building logistics to your witnesses.
9. You are required to call the following witnesses in the order of your choice.

Finders

Arthur Jackson
Sonia Peterson
David Pinkus

Mismo

Marie Williams
John Anderson
Donald Olsen

You may call additional witnesses (Matthew Korn or Janice Jackson) either in person or by deposition. If you plan to call additional witnesses by deposition, you must first convert the testimony you want to

present, which is currently in paragraph form in their case file depositions, into a question answer format with page/line designations (like the Pinkus deposition) and provide those designations to opposing counsel before the deadline set by your faculty. Reading the testimony in paragraph form is not permitted.

10. Which party presents its case first will be decided at the pretrial conference, provided Mismo files at its option, a motion to realign the parties. If Flinders presents its case first, it has the option of calling its expert either (1) in Flinders' case in chief or (2) as a rebuttal witness after Defendant rests its case in chief, provided that no later than the pretrial conference, Flinders' counsel informs opposing counsel of the option they have chosen. In the event no notice is given to Mismo's counsel, then by default, Flinders will present all of its witnesses, including the expert, in its case in chief. If Mismo presents its case first, it must present all of its evidence, followed by Flinders presenting all of its case. In that event, there will be no rebuttal by Mismo.

11. For each team consisting of two attorneys, each counsel is required to do the following:

- Conduct voir dire on at least one issue, not to exceed five minutes.
- Conduct a direct examination of at least one lay witness.
- Conduct a cross examination of at least one lay witness.
- Conduct either a direct examination of your expert or a cross examination of the opposing party's expert.
- Lay the foundation for the admission of at least one exhibit.
- Give either an opening or closing argument.

12. Time Limits: Time limits will be enforced. Going over your time limits may prevent you from presenting your entire your case. You are responsible for keeping track of your time. Each side will have a total of 108 minutes to present its case. Here are suggested time limits:

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| • Voir Dire | 10 minutes (per side) maximum |
| • Opening Statement | 8 minutes (per side) maximum |
| • Plaintiff's Case (including cross examination of Defense witnesses and objections) | 80 minutes |
| • Defendant's Case (including cross examination of Plaintiff's witnesses and objections) | 80 minutes |
| • Closing Arguments | 10 minutes (per side) maximum |
| (Party entitled to rebuttal may reserve 1 of the 10 minutes for rebuttal (upon request)). | |

13. Courtroom attire is required.

14. PRETRIAL CONFERENCE

There will be a pretrial conference during the last week of class. No later than the deadline set by your faculty, you must accomplish the following:

- Exchange written witness lists, exhibit lists, deposition designations (if any) and motions in limine and any motion with respect to the order of trial, with proposed orders. Example forms for deposition designations and motions in limine and orders will be provided. After this exchange and before the pretrial conference, confer with opposing counsel on exhibits and motions. Then put all agreements concerning the admissibility of exhibits and any stipulations, including agreements on matters raised in motions in limine and order of trial, into writing signed by one or more counsel for each side. Before the pretrial conference, pre-mark agreed exhibits.

- If you receive deposition designations for the first time from opposing counsel, you will be given an opportunity to designate your own deposition testimony from that deposition as long as you convert it to a question/answer format with page/line designations and provide it to opposing counsel as soon as possible, but in no event no later than the deadline set by your faculty (prior to the pretrial conference).
- Note that Exhibits 19-23 are admissible as business or public records and do not require a sponsoring witness to lay a foundation. If the parties wish to use any of these exhibits, they should be on their exhibit list and included in the written agreement. You are allowed to use only exhibits numbered 1 – 37 listed on pages vii and viii in the case file. There are other exhibits on pages 113 – 135 in the case file which may not be used during the trial. Of course, if you create a new exhibit with a witness at trial, you can offer that exhibit into evidence, provided the proper foundation is laid.
- Pretrial Conference - All counsel must attend. You will provide three copies of any signed agreements and argue any unresolved issues, including issues regarding order of trial and motions in limine. You are not required to have a motion in limine, but if you do, it must be in writing accompanied by an order. Bring three copies of that order. (Forms will be provided in early November.) You should not prepare written briefs in support of or in opposition to any motion in limine, but you should be prepared to argue your points. You should be able to make arguments based on the evidentiary rules you have been provided and no additional research is required or expected. You will receive a preliminary ruling on the disputed limine issues at the pretrial conference. Remember that your judge at trial may reverse any of these rulings after the evidentiary portion of the trial starts depending on how the issues may be raised and argued. For any other motions, bring three copies of the proposed order.

15. TRIAL

- Pre-mark all exhibits.
 - Bring enough copies of your exhibits for use with the witness and for the Court (the judge will expect to be handed a copy of any exhibit used).
16. You will be allowed to observe the jury deliberations as long as you remain silent and cause no distractions. The judge will determine how long the jury deliberates and will encourage them to render a verdict if possible. Whether your side wins or loses the trial does not factor into your final grade. Each participant will be graded based on his/her individual performance.
17. You will receive a brief critique and an opportunity to ask your judge questions after the jury has been excused.

Good luck and have fun!