SYLLABUS

Jury Trials in America:
Understanding and Practicing Before a Pure Form Democracy

University of Virginia School of Law, Spring 2007
Room SL 284
Judge Gregory E. Mize (Ret.)

The seminar will examine:
- The history of the jury and perceptions of its role
- Jury selection processes
- Factors affecting juror performance during the trial
- Jury management challenges such as increasing juror comprehension in complex litigation and juror privacy
- Current policy debates concerning the jury.

Those aspiring to a career in litigation should find the seminar helpful in readying for future engagements with a jury. For all, the forthcoming weeks should result in learning how this cornerstone of democracy currently works and about the dynamic efforts occurring across the country to cause its renovation.

Class Materials

The Syllabus lists the reading assignments for each class. Some assignments may be modified during the semester. These are the primary texts for the seminar.

- Jeffrey Abramson, We the Jury: The Jury System and the Ideal of Democracy
- D. Graham Burnett, A Trial by Jury

As shown below, reading assignments also include court opinions and law review articles. Some reading assignments will be distributed as handouts during the course of the semester. On occasion, a problem or short writing assignment will be given prior to an upcoming class in order to prime the discussions for that class.

Weekly Topics

Class 1. Introduction to the American Jury [January 23]

Abramson, Introduction and Chapter 1

IN-CLASS EXERCISE: SELF-KNOWLEDGE QUIZ
Class 2. Rounding Up Representative & Willing Jurors [January 30]

Abramson, Chapter 3

Duren v. Missouri, 439 U.S. 357 (1979)

ABA Principles for Juries & Jury Trials, Principles 2 & 10 only [pp. 7-14,51-63]


TAKE-HOME: ADDRESSING DISPARITIES


A. Statutory and rule framework
B. Juror qualification
C. Selection mechanisms
D. For-cause strikes
E. Peremptory strikes & the Batson problem

ABA Principles for Juries & Jury Trials, Principles 5 and 11 only

TAKE-HOME: JUDGE/LAWYER INTERVIEWS

Class 4. Jury Selection – Part Two [February 13]

A. Permissible and impermissible selection methods
B. Strategies and techniques in selecting jurors

Abramson, Chapter 4.

ABA Principles for Juries and Jury Trials, Principle 11 only


Class 5. Jury Selection – Part Three [February 20]

Burnett, A Trial By Jury, pp, 1-76 only

IN-CLASS EXERCISE: SELECTING A JURY
Class 6. Jury Selection Wrap-up; Jury Comprehension and Performance  [February 27]

Diamond, Rose & Murphy, Jurors’ Unanswered Questions, COURT REV. (Spring 2004) at 20
ABA Principles for Juries and Jury Trials, Principles 6, 12 & 13 only

[March 6 – No Class – Spring Break]

Class 7. Closing Arguments and Final Instructions – A Vital Link  [March 13]

May, "What Do We Do Now?": Helping Juries Apply The Instructions, 28 Loyola L.A. L. Rev. 869 (April 1995)
ABA Principles for Juries and Jury Trials, Principle 14 only
Tiersma, Jury Instructions in the New Millenium, COURT. REV. (Summer 1999) at 28
TAKE-HOME: PLAIN ENGLISH JURY INSTRUCTIONS

Class 8. Jury Deliberations  [March 20]

Burnett, A Trial by Jury, pp, 79-183
Abramson, Chapter 5
ABA Principles for juries and Jury Trials, Principles 4, 14 to 16 only
IN-CLASS: CBS Special Report: Into the Jury Room (April 1997)

Class 9. The Civil Jury – Part One  [March 27]

The Vanishing Civil Jury Trial?

Class 10. The Civil Jury – Part Two  [April 3]

ABA Principles for Juries and Jury Trials, Principles 3 & 8 only
Class 11. The Criminal Jury – Part One  

Abramson, Chapter 2  

Class 12. The Criminal Jury – Part Two  

A. Hung Juries  
B. Jury Sentencing  
C. Capital Cases  

Abramson, Chapter 6  

Class 13. The Future of Trials by Jury  

A. Juror Privacy  
B. Increasing Citizen Participation in Jury Service  
C. Lawyer Leadership – from the ABA to you.

ABA Principles for Juries and Jury Trials, *Principles 7, 18 & 19*  
Hannaford, Safeguarding juror privacy: a new framework for court policies and procedures, 85 JUDICATURE 18-25 (July-Aug. ’01)  

**Grading Criteria**

Final grades will be based on: (1) class participation [10%]; (2) pre-class written assignments [10%]; (3) jury trial observation and reporting [20%]; (4) the final exam [60%].

**Pre-class Assignments**  
Class preparation assignments consist of short exercises that are intended to provide an opportunity to apply analytical skills to actual problems in jury management and policymaking and to integrate legal theory, current practice, and personal views on selected issues. Grading for these assignments will be based on (1) how well the student demonstrates understanding of the related reading assignment and class discussion, and (2) how well the student supports his or her conclusions. While content is most important, consistent format, grammar and organization count!
All take-home assignments are due at the beginning of the class (4:30 p.m.) following the date the assignment was distributed. Details about these assignments will be provided at the time of distribution. Lateness will affect grading. Students are expected to work independently on these assignments.

**Jury Trial Observation and Reporting**

Students are required to observe a jury trial and write a summary thereof at any time prior to the last regularly scheduled class. The jury trial can be either civil or criminal. I will facilitate opportunities in Charlottesville and Albemarle County. However, the observed jury trial can be held in any state or federal court within the United States. To receive credit, a student must observe at least three hours of the beginning of a trial. This should comprise a combination of: the jury selection process, opening statements, and direct and cross-examination of at least one trial witnesses. Conversely, a student can earn this credit by observing at least three hours of the latter portion of a trial. This should comprise a combination of: direct and cross of at least one witness, closing arguments, and jury instructions. The written summary should identify the case name, where the trial was held (court and location), the type of case (e.g., assault & battery, medical malpractice, auto tort), and the trial outcome. The summary should also convey the student’s insights and reactions to various aspects of the trial (e.g., scope and adequacy of questions during jury selection, coherence of trial testimony and jury instructions, general treatment of jurors by the judge and attorneys). The student should relate these observations to the material covered during the semester. Again, the summaries must be submitted no later than 4:30 p.m. on April 24.

**Class Participation**

The class participation portion of the grade will be based on attendance, preparation for class and active contribution to class discussions. One's contribution to class discussion is an important part of the learning process, and our success this semester depends on you as much as it does on me. Therefore, physical presence in the classroom is a necessary, but not sufficient, condition to earn a satisfactory participation grade. For regularly scheduled classes, I will permit one excused absence during the semester. I will evaluate class participation as follows:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Description</th>
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<tbody>
<tr>
<td>A</td>
<td><strong>Outstanding contributor</strong>, always present and on time for class, thoroughly prepared, interacts effectively with others during class discussions, comments are substantive and contribute original insights.</td>
</tr>
<tr>
<td>B</td>
<td><strong>Satisfactory</strong>, generally present and on time for class, prepared, understands class materials, comments are generally on-target, but may be a reiteration of points previously made by the instructor or other students.</td>
</tr>
<tr>
<td>C</td>
<td><strong>Barely here</strong>, often absent or late for class, preparation weak, comments lack specificity or may be off-track or not constructive.</td>
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<tr>
<td>D/F</td>
<td><strong>Unsatisfactory</strong>, frequently absent from or late for class without justification, unprepared to participate in class, comments are disruptive to class discussions, inappropriate interaction with other students.</td>
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Office Hours

I plan to travel and remain in Charlottesville from mid-afternoon each Tuesday until early afternoon on the next day. I trust the Law School will provide space for me to meet with students. Please call or e-mail ahead of time to work out logistics.

Contact information:

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