Advocacy and Litigation: Pedagogy, Practice, and Doctrine

2025 Syracuse Law Review Symposium
Dineen Hall Room 340
950 Irving Ave, Syracuse, NY 13244

Sunday, October 19th

9:00am **Breakfast and Registration**

9:30am **Opening Address and Welcome Remarks**

9:45am **Panel 1: Pedagogical Approaches to Advocacy**

Veronica J. Finkelstein
Associate Professor of Law - Wilmington University School of Law

Christine P. Bartholomew
Vice Dean for Academic Affairs and Professor of Law - University at Buffalo School of Law

Jennifer Scharf, *Director of Trial Advocacy Program and Adjunct Faculty Member - University at Buffalo School of Law*

10:30 am **Panel 2: Advancing and Refining Effective Real-World Advocacy**

Gary S. Gildin, *Dean Emeritus, Professor of Law, and Honorable G. Thomas and Anne G. Miller Chair in Advocacy - Dickinson School of Law of the Pennsylvania State University*

Tony Ghiotto, *Teaching Associate Professor of Law, Director of the Kimball R. and Karen Gatsis Anderson Center for Advocacy and Professionalism, and Director of Trial Advocacy – University of Illinois College of Law*

Alexandria Serra, J.D., MBA, *Advocacy Teaching Fellow - University of Missouri–Kansas City School of Law*

Michael D. Murray, *Spears Gilbert Associate Professor of Law - University of Kentucky, J. David Rosenberg College of Law*

12:00pm **Lunch**

1:00pm **Panel 3: The Intersection of Legal Doctrine and Advocacy and Litigation**

Brandon Draper, *Assistant Professor of Law - Texas Southern University Thurgood Marshall School of Law*

Laura Rose, *Heidepriem Trial Advocacy Fellow and Associate Professor - University of South Dakota School of Law*

Ramona C. Albin, *Associate Professor of Law - Cumberland School of Law at Samford University*

2:15pm **Panel 4: Virtual Panel**

Jules Epstein, *Edward D. Ohlbaum Professor of Law and Director of Advocacy Programs - Temple University Beasly School of Law*

Marian Braccia, *Director, LLM in Trial Advocacy Program & Practice Professor of Law - Temple University James E. Beasley School of Law*

Christopher W. Behan, *Professor of Law - Southern Illinois University Simmons Law School*

Laura Frase, *Assistant Professor of Law - UNT Dallas College of Law*

3:30pm **Closing Remarks**

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Thank you for attending!

Summaries of Forthcoming Articles in Volume 76 of the *Syracuse Law Review*

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Panel 1 Authors:

Veronica J. Finkelstein
Associate Professor of Law
Wilmington University School of Law

Crafting Captivating Cases: Teaching Law Students to Use Evidence Narratively

As successful litigators know, winning at trial requires more than an unemotional, clinical presentation of evidence. Judges and jurors are human beings—and human beings are persuaded by storytelling. For this reason, storytelling techniques are frequently taught in law school trial advocacy courses. Yet as any litigator knows, trial advocacy skills are not all it takes to prevail at trial. A litigator must also be well-versed in the applicable rules of evidence. If trials are stories, then the rules of evidence set guidelines for those stories. Understanding how the evidence rules can be used to tell a story at trial better prepares law students to become effective litigators upon graduation.

Christine P. Bartholomew (Vice Dean for Student Achievement, Co-Director of the Advocacy Institute) & **Jennifer Scharf** (Vice Dean for Career Services; Co-Director of the Advocacy Institute; Director of Trial Advocacy)
University at Buffalo School of Law

Beyond the Podium: The Pedagogical Value of Written Motions in Limine in Trial Advocacy Competitions

While trial advocacy programs provide valuable courtroom training, they typically omit a critical component of modern litigation: pretrial written motions in limine. This essay argues that integrating these motions into law school curricula would better prepare students by bridging the gap between theoretical evidence instruction and real-world practice. Currently, most programs focus on oral evidentiary practice through objections, failing to reflect actual litigation where written motions in limine serve as essential strategic tools. Incorporating these motions offers four pedagogical benefits: enhanced strategic thinking through intensive issue analysis, exposure to judicial discretion, development of specialized persuasive writing skills, and improved oral advocacy through deeper analytical reasoning. The essay provides practical implementation guidance for both classroom settings and competitions. Reformed programs requiring both written and oral advocacy components would produce more well-rounded attorneys better prepared for modern trial practice.

Panel 2 Authors:

Gary S. Gildin
Professor of Law and G. Thomas and Ane G. Miller Chair in Advocacy
Penn State Dickinson Law

Neuro-Advocacy: Harmonizing Persuasion with the Operation of the Brain

The most significant contemporary advance in effective courtroom advocacy has emerged from what on the surface is an unlikely source: neuroscience. Revolutionary advances in technology allow us for the first time to see how the human brain makes decisions. The findings are wholly inconsistent with how the trial process presupposes the finder of fact will perceive and use information delivered by lawyers and witnesses. Consequently, lawyers seeking to persuade jurors (and judges) must reframe their advocacy to align with what we have learned about how the minds of these decision-makers will receive testimony and argument and use these inputs to reach their verdict.

This article first will summarize the two signature features of the brain's decision-making: 1) instantaneous, autonomous, and sub-conscious prediction based on comparing new inputs to past life experience, and 2) the integrated and dominant role of emotion. The article then will propose the most important tactics lawyers must execute at each stage of the trial—opening statement, direct examination, cross-examination, and closing argument-- to make their advocacy neuro-congruent.

Anthony Ghiotto
Teaching Associate Professor/Director of Anderson Center for Advocacy and Professionalism
University of Illinois College of Law

Queering Trial Advocacy

History and current experiences strongly suggest that female advocates and advocates of color continue to face discrimination, judgment, and heightened expectations in the courtroom. These advocates are incentivized to conform to traditional standards of white, cisgender, heteronormative models of advocacy out of fear that any representation of their identity would negatively harm or impact their clients. But what about queer advocates whose outward appearance is inherently tied to their gender identity? Can and should queer individuals present as their queerselves in the courtroom? Or, must queer advocates adhere to traditional gender appearance roles? And if so, what gender role do they chose? Finally, what does such debate tell us about representation for queer witnesses, queer victims, queer jury members and queer defendants? Will their mere presence in the courtroom be distracting? Will judges and juries afford them less weight and deference because of their queer gender representation? This article explores these questions and concludes with recommendations for both legal education and the profession that will allow for queer representation and advocacy in the courtroom.

Alexandria Serra
Advocacy Teaching Fellow
University of Missouri–Kansas City School of Law

Stacking the Deck: AI, Jury Selection, and the New Batson Problem

This article examines how generative artificial intelligence (GenAI) is quietly reshaping jury selection practices and creating unprecedented constitutional challenges. It argues that AI-driven jury selection tools, while promising efficiency and objectivity, actually embed and amplify systemic biases in ways that the traditional Batson doctrine cannot detect or remedy. The article demonstrates how large language models reproduce discriminatory patterns without explicit intent, making algorithmic bias legally invisible under current constitutional frameworks. Through empirical analysis of AI bias research and examination of commercial jury selection platforms, the article reveals how these tools can facilitate discrimination based on protected characteristics while providing facially neutral justifications. It concludes with a call for prescriptive regulatory safeguards, advocating for objective standards beyond Batson's intent-based framework and proposing ethical guidelines for attorneys using GenAI in voir dire.

Michael D. Murray
University Research Professor and Spears Gilbert Professor of Law
University of Kentucky, J. David Rosenberg College of Law

Real-Time AI Advocacy—Deploying Multimodal Generative and Agentic AI in Litigation

The convergence of two pillars of modern artificial intelligence technology—multimodal generative AI and agentic AI—creates unprecedented opportunities to enhance pre-trial preparation and courtroom advocacy. This article will discuss multimodal AI or agentic applications for law that are here and now in July 2025, AI applications that are right around the corner, and lastly, AI applications and their science fiction references that are more futuristic but increasingly within reach because of the pace of development of multimodal LLM and agentic AI applications. However, this transformative potential is matched by the magnitude of the disruption it brings. The integration of such powerful and autonomous technologies into the highly structured and tradition-bound U.S. legal system introduces formidable challenges to established legal practice and evidentiary frameworks, demanding a thorough re-examination of the role of attorneys, how evidence is authenticated, how reliability of legal sources and legal analysis is assessed, and how the integrity of the justice system is preserved in an age of intelligent machines.

Panel 3 Authors:

Brandon Marc Draper
Assistant Professor of Law
Thurgood Marshall School of Law

Trials and Travel Ban Tribulations

This Article discusses the intersection of President Trump's Travel Bans, the virtual criminal jury trials brought on by the COVID-19 pandemic, and the unique aspect of the Travel Bans on criminal jury rights. Through two hypothetical situations involving witnesses forced to testify virtually from Iran from the Travel Ban, the Article discusses how such trials largely comply with the accused's Sixth Amendment rights. However, the Article is forced to conclude that it is impossible to comply with the testimonial oath requirement of a trial, and as such, these trials should be dismissed.

Laura Anne Rose
Associate Professor of Law & Heidepriem Trial Advocacy Fellow
University of South Dakota Knudson School of Law

The Right to Trial by Jury: The Greatest Human Rights Contribution of United States

This article argues that the rights enshrined in the Fifth, Sixth, and Seventh Amendments of the United States Constitution are our nation's ever evolving gift to the national and international protection of human rights, and attorneys must have the courage to ensure their existence for generations to come.

Ramona Albin
Associate Professor of Law
Cumberland School of Law, Samford University

The Persistence of Rape Mythology

This article interrogates the admission of sexual pattern evidence in the United States, United Kingdom, and Canada. It compares extant rape shield laws and judicial and legislative responses to persistent sexual stereotypes impacting fair adjudication in sexual assault cases.

Panel 4 Authors:

Jules Epstein
Edward D. Ohlbaum Endowed Term Professor
Director of Advocacy Programs
Temple University Beasley School of Law

Let Us Now Not Praise "My Cousin Vinny"

The film "My Cousin Vinny" was released thirty-three years ago on March 13, 1992. To say it has legendary status may be to damn it with faint praise. But something is wrong with that acclaim. It is too easily forgotten that the case in the film is a capital [death penalty] prosecution in a pro-death penalty state before an adamantly pro-execution jury. And it is replete with bad lawyering, unethical conduct, and hurtful stereotypes. So rather than sing its praises, this article takes a critical and disparaging look at what remains an iconic courtroom film.

Marian Grace Braccia
Practice Professor of Law & Director, LL.M. in Trial Advocacy Program
Temple University Beasley School of Law

Between Evidence and Erasure: The Case for Recognizing Perpetrator Identification as a Component of Treatment Under PA Rule of Evidence 803(4) in Cases of Intimate Partner Violence

Federal Rule of Evidence 803(4) provides an exception to the hearsay rule, allowing out-of-court statements to be admitted for their truth when made for the purpose of medical diagnosis or treatment. However, courts have traditionally excluded statements identifying the perpetrator of an injury under the rationale that such information is irrelevant to the course of medical care. While many jurisdictions have carved out exceptions to this rule in cases of child sexual abuse, far fewer have done so in cases of intimate partner violence (IPV). This paper argues that courts should uniformly recognize an exception under Rule 803(4) for IPV cases, permitting the admission of statements that identify the perpetrator.

Christopher W. Behan
Professor of Law
Southern Illinois Simmons Law School

Building Cross-Cultural Trial Advocacy Skills Through Structured Mentoring and Co-Mentoring: A Case Study with Global Implications

This article analyzes the role of structured mentoring and co-mentoring in preparing advocacy competition teams in a cross-cultural environment to build experiential legal skills and enhance students' cultural competency. The article uses a unique mock trial competition in Mombasa, Kenya, in which students from Southern Illinois University Simmons Law School and the University of Nairobi were paired together on hybrid teams to try a criminal case using Kenyan substantive law and criminal procedure. Each hybrid team was assigned an experienced Kenyan attorney as a coach/mentor. As the legal landscape becomes increasingly globalized, such collaborative initiatives offer a promising model for preparing the next generation of lawyers to navigate complex, cross-border challenges with skill and sensitivity.

Laura A. Frase
Assistant Professor
University of North Texas at Dallas College of Law

Impasse as an Opening: Reframing Negotiation Barrier into a Pathway for Insight and Learning

Negotiation impasse is viewed as a failure - something to break or to avoid or as a reason to give up. Conversely, cognitive science and learning theory holds that impasse is a necessary step that facilitates creativity and new insight. This article proposes that negotiation theory should embrace the lens of cognitive science and reimagine impasse as an entry point to illumination and learning. Graham Wallas' four stages of creative thought, developed almost 100 years ago, serve as an elegant formula for negotiators to use to generate creativity in impasse. But there is a twist. To gain insight, one must suspend active problem-solving in impasse. That suspension becomes the pathway toward creating innovative solutions.