

INTRODUCTION

First written on Ice Age caves, the human word dates back close to 15,000 years.¹ Over time, the written word moved from cave walls to printed “scholarship.” In one understanding of the term, scholarship emerged once literary works became a central component of formal education, requiring teachers to explain and interpret assigned texts for their students.² One of the earliest recorded examples of this interpretive practice is attributed to Theagenes of Rhegium in the late sixth century BCE.³ For their part, legal trials also existed for millennia.⁴ Public trials in particular can be traced back at least to the Norman Conquest of England in 1066.⁵ Together, these parallel traditions—scholarship’s commitment to interpreting texts and advocacy’s role in persuading audiences—converge in modern legal education, where the analysis of law and the art of litigation are inextricably linked. It is this connection that is explored in this Symposium on Advocacy and Litigation.

Accordingly, we are pleased to present this symposium in Volume 76 of the *Syracuse Law Review*. Before turning to the articles, a few introductory points are warranted.

First, although the brief historical account above begins with formal trials, this symposium is not limited to trial advocacy alone. Rather, it adopts a broader focus on what might be described as “advocacy and litigation.” This framing reflects not only trial work, but the full range of advocacy skills that define modern litigation practice.

While trial advocacy remains vitally important, most criminal cases are resolved through plea agreements,⁶ and settlements are even

1. See Sam Walters, *Ancient Humans’ First Written Words Are 20,000 Years Old*, DISCOVER (Jan. 18, 2023, 9:00 AM), <https://www.discovermagazine.com/ancient-humans-first-written-words-are-20-000-years-old-44505> (on file with Syracuse Law Review).

2. See *id.*

3. See *id.*

4. See *Trial by Jury: “Inherent and Invaluable”*, W. VA. ASS’N FOR JUST., <https://www.wvaj.org/?pg=HistoryTrial-byJury#:~:text=By%20the%20late%20800s%2C%20under,of%20the%20modern%20jury%20system> (on file with Syracuse Law Review) (describing early forms of trial by jury beginning around 2000 B.C.) (last visited Mar. 24, 2025).

5. See *Legal History: Origins of the Public Trial*, 35 IND. L.J. 251, 251 (1960).

6. See *Padilla v. Kentucky*, 559 U.S. 356, 372 (2010) (noting that “[p]leas account for nearly 95% of all criminal convictions.”).

more prevalent in civil litigation.⁷ As a result, the effective modern litigator must be a comprehensive advocate—one capable of drawing on a diverse set of skills, including trial technique, persuasive writing, motion practice, and, of course, negotiation and mediation.

The contributions in this symposium therefore examine advocacy and litigation as a dynamic and multifaceted field, reflecting the realities of contemporary legal practice.

Construing advocacy and litigation broadly, we identified three principal categories in which these topics arise: (1) pedagogical approaches to advocacy instruction; (2) efforts to advance and refine our understanding of effective real-world advocacy; and (3) the intersection of legal doctrine with advocacy and litigation. The Volume features outstanding contributions in each of these areas, collectively reflecting both the depth and breadth of modern advocacy scholarship.

When law reviews publish scholarship, they necessarily write for multiple audiences. In this context, the audience for advocacy and litigation is particularly broad. The articles in this Volume will be of interest to those who teach trial advocacy and seek to incorporate new techniques and innovative approaches in both the classroom and competition settings; to practicing litigators striving to advocate more effectively for their clients; and to those who interpret the law from the bench or shape it through legislation.

Ultimately, as one scholar has observed, academic writing seeks “to push knowledge to places it has not been before.”⁸ This Symposium Edition of the *Syracuse Law Review* on Advocacy and Litigation aspires to do just that—making a meaningful contribution to the field from pedagogical, skill-based, and doctrinal perspectives.

In this regard, I would like to express my deep appreciation to the Editor-in-Chief, Julia Copperwheat, and the Lead Articles Editor, James Doar, for their tireless efforts in bringing this Volume together, and to the contributing authors for their exceptional scholarship.

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7. See ROBERT P. MOSTELLER ET AL., MCCORMICK ON EVIDENCE 10 (8th ed. 2020) (“In the vast majority of instances, the case settles without going to trial; in 2002 only 1.8% of the civil cases filed in federal court were disposed of by trial, and the percentage was even lower in many states.”).

8. Goldburn P. Maynard Jr., *Killing the Motivation of the Minority Law Professor*, 107 MINN. L. REV. 245, 253 (2022).