

## FINAL EXAMINATION

TRIAL ADVOCACY - FALL SEMESTER, 1995  
MANLEY F. BROWN - ADJUNCT PROFESSOR

### INSTRUCTIONS:

The trial book which you have already submitted to me will constitute a possible 60 points toward your potential final grade of 99 points in this course. This examination will be graded on the basis of a possible 39 points, making a perfect score for the course, 99. The questions are not designed to be deceptive in nature, but do require cautious and studious consideration prior to the writing of your answer. Assume that all trial situations outlined in the examination are in a Georgia Superior Court.

(1)

You are counsel for the defendant in a personal injury action. Your office is in downtown Macon, Bibb County, Georgia, 25 miles from Jeffersonville, the county seat of Twiggs County, Georgia, where the plaintiff resides. You desire to take the plaintiff's deposition and ask his attorney if he will bring him to your office in Macon for that purpose. You also request that he bring some medical bills about which you wish to examine him. His attorney refuses and tells you that his client "will never come to Macon and that if you want to see the medical bills, you will have to go to Twiggs County."

- (a) Can you compel the plaintiff's attendance at a deposition in your office? Explain.
  
- (b) Can you compel the plaintiff to produce the records for you at your office? Explain.

(2)

You are counsel for the plaintiff in a contract action. At the trial of the case, you call as your first witness the person who was the managing agent for the defendant's company at the time the contract was negotiated. The witness is not a party to the action. Defense counsel objects to you calling the witness for cross-examination, stating that the defendant just fired him a few minutes before he was called to testify. You suspect (but do not know for sure) that the witness was fired because the defendant had learned that you were about to call him (the witness) for cross-examination.

- (a) How would you respond to the objection?
  
- (b) How should the trial judge rule on the objection? Explain.

(3)

**Briefly Explain the Following:**

- (a) The difference between a request for production and a request for admission.
  
- (b) The rationale underlying an "offer of proof":

(4)

**Briefly Define:**

- (a) Golden Rule Argument:
  
- (b) Business Records Statute:
  
- (c) Evidentiary effect of a prior inconsistent statement: