

FINAL EXAMINATION

TRIAL ADVOCACY - FALL SEMESTER, 1999 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 plaintiff in a civil case. At the appropriate time at the beginning of the trial, the Court calls on you to make an opening statement to the jury. You fully outline your case and end by posing a rhetorical question and demand to the defendant: "Do you have one shred of evidence that refutes the plaintiff's claim of liability on your part? If you do, let's hear it."

Defense counsel immediately responds as follows: "Your Honor, the last statement by counsel for the plaintiff was pure argument and improper. Furthermore, I want this jury to know that we have a mountain of proof to refute the plaintiff's case and they will see what it is as the evidence is heard in this courtroom. That is all I have to say right now."

At the close of the plaintiff's case, defense counsel stands and begins making an opening statement to the jury.

- (a) Is this proper? Discuss any objection that could or should be made and whether it should be sustained or overruled.
- (b) Was defense counsel entitled to any relief from the Court at the time of the earlier complaint that plaintiff's counsel was presenting argument?

(2)

Please discuss the propriety and strategic advantages of a plaintiff calling the defendant as a witness in the plaintiff's case in chief and the consequences of failing to specify that the defendant is being called "for purposes of cross-examination"?

(3)

Discuss the potential use of a "request for admission" in the document authentication process.

(4)

Discuss Briefly:

- (a) Taking the witness on voir dire:
- (b) Offer of proof:
- (c) Certificate of no record: