

# Syllabus

Advanced Advocacy - 2024

Winter 2024

**Faculty of Law**



**University  
of Manitoba**

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## COURSE DETAILS

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<b>Course Title &amp; Number:</b>	Advanced Advocacy - 2024
<b>Number of Credit Hours:</b>	3.0
<b>Class Times &amp; Days of Week:</b>	Thursdays from 6:00 p.m. to 9:00 p.m.
<b>Location for classes:</b>	First class will take place at Robson Hall with subsequent classes convening at the Law Courts Building, 408 York Avenue, Winnipeg

### Instructor Contact Information

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**Instructors:** Justice Michael Thomson ([mthomson@judicom.ca](mailto:mthomson@judicom.ca))  
 Jessica A. Schofield ([jschofield@tmlawyers.com](mailto:jschofield@tmlawyers.com))

**Jessica Schofield** is a partner at the Winnipeg law firm Taylor McCaffrey LLP, and practices family law. She was called to the Bar in 2012, and has extensive family law experience, having conducted scores of trials and motions. Jessica is currently on the Executive of the Manitoba Bar Association and is the co-Chair of the Family Law Section. As well, she is a member of the Statutory Rules Committee of the Court of King's Bench. Jessica has also been actively involved in various education seminars and conferences offered by the Manitoba Bar Association and the Law Society of Manitoba.

**Justice Michael Thomson** practiced law with the firm of Wolch Pinx Tapper Scurfield (now Tapper Cuddy LLP) for 20 years, until his appointment as a judge to the Court of King's Bench (Family Division) in 2007. While a lawyer, he acted as litigation counsel appearing before all levels of court in civil, family, administrative, and criminal law cases, representing individual, institutional and corporate clients.

### Course Description

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The course will combine three distinct learning features:

1. Case Presentation - with a focus on family/civil cases, we will discuss how to prepare for hearing. We will build upon the second year foundational courses in evidence and advocacy.
2. Advanced Advocacy Instruction – there will be instruction and discussion regarding fundamental principles of advocacy. The focus will be on family/civil advocacy, but the knowledge and skills acquired will be of benefit to all forms of and venues for advocacy.
3. Advanced Skill Development – students will be called upon to do exercises based upon the advocacy instruction discussed above, with a focus on preparation and presentation of a case, by way of interim motion and by trial.

It is emphasized that these features will not simply be pursued sequentially; there will be overlap and “circling back” throughout.

## Course Goals and Learning Objectives

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The course is ultimately intended to help students learn how to conduct a motion and a trial in a family/civil case.

The instructors have designed case scenarios, which contain factual/legal issues intended to assist in the development of skills necessary for good advocacy.

The course will be primarily delivered at the Law Courts Building in Winnipeg. This is intended to allow students to experience, and become familiar with, the courtroom environment.

The course will run from 6:00 p.m. until 9:00 p.m. on Thursdays. Part of the course will be delivered by lectures and/or demonstrations. Most will involve student advocacy simulations.

It is hoped that classes will progress promptly to “hands on” simulations to encourage first a level of comfort, and then confidence, in presenting a case to a judge in a courtroom, including the examination and cross-examination of witnesses, and the making of submissions, on evidentiary issues and in closing argument.

## Teaching Method

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The course will be taught in three-hour sessions – as time-tabled; however, flexibility may be required to accommodate advocacy simulations. The course revolves around students learning by “doing”. It can be anticipated that students will be called upon to engage in five to six simulations and a trial. Instructors will provide feedback. Comments are designed to point to both strengths and weaknesses. Students are expected to be reasonably prepared, in which case it will be a positive experience.

It is understood that there will be some unavoidable duplication, since students are working from the same material. Accordingly, we may ask students to focus on only one aspect of the material prepared for a discrete case scenario. Students ought not to be concerned if instructors focus on only two minutes of a 10 minute simulation. There will be no adverse grading result. The approach is designed to allow the group to discuss what would happen in an actual trial, to discuss the many and diverse ways to effectively advocate a position for a client, and to avoid certain pitfalls and risks. The key is to be able to learn to analyze a case and determine what ought to be conveyed to the judge, and how to do so effectively.

The first classes will be comprised of lectures on advocacy, then demonstrations of basic techniques. Those include: dealing with evidentiary issues, marking an exhibit, creating a record, impeaching a witness, refreshing the memory of a witness, using an examination for discovery transcript, using previously deposed affidavits; and, will highlight the critical differences between conduct of a direct and cross-examination.

There will then be a series of assignments and simulations.

**Attendance in class is mandatory. If you are unable to attend a class, it is your responsibility to fill out the self-declaration form and submit it to the Associate Dean ([associatedeanjd@umanitoba.ca](mailto:associatedeanjd@umanitoba.ca)).<sup>1</sup> The Associate Dean’s office will advise your instructors of your absence.**

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<sup>1</sup> Link to Self declaration form(s): <https://law.robsonhall.com/juris-doctor-program-resources/forms/>

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### Textbook, Readings, and Course Materials

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There is no required textbook. Students may, if they choose, access a variety of publications on the subject of courtroom advocacy available at Robson Hall, including “An Advocacy Primer, 4<sup>th</sup> Edition” by Lee Stuesser.

Students will be provided with a number of case scenarios for the simulations.

The motion simulations will be circulated. There will be three case scenarios. For each scenario, two students will be assigned the role of counsel to the moving party and two will be assigned the role of counsel to the responding party.

The trial simulations will use these case scenarios. Students will also be provided with additional materials to prepare for the exercises and for use in the simulations, including witness statements, statutory provisions and case law, excerpts from experts’ reports and from examination for discovery transcripts, etc.

The simulations will involve the making of an opening statement, direct examination and cross-examination of witnesses, submissions on evidentiary issues, and closing submissions/argument.

The class will be broken down into groups for each exercise, with half the class acting for the petitioner/plaintiff and half for the respondent/defendant. Where an examination is taking place, students will be assigned to play the role of a witness.

In the recent past, the advanced advocacy course was designed and delivered with a sole focus on criminal cases involving juries. As this is a newly-designed advanced advocacy program for family/civil cases which has not been presented previously, the instructors anticipate the need for some degree of flexibility and adjustment.

With a shift in perspective to the family/civil proceedings, there will be a necessity for additional focus on those critically important elements of the expansive litigation process pertaining to the drafting of pleadings, documentary discovery and examinations for discovery, with due attention paid to the Court of King’s Bench Rules. There will also be the requirement to develop a very basic familiarity with governing legislation and substantive law in relation to the subjects of the best interests of children, domestic violence in family proceedings, and support and property issues.

Still, the emphasis and purpose of the course is to develop and hone your advocacy skills, in a supportive but challenging environment.

A schedule of classes is attached; it ought to be emphasized that the description of each is subject to alteration, as circumstances unfold.

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### Expectations

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We will treat you with respect and would appreciate the same courtesy in return. See [Respectful Work and Learning Environment Policy](#).

#### **Necessity:**

Students will collaborate in both the individual and group work involved in this particular program.

**Class Communication:**

You are required to obtain and use your University of Manitoba email account for all communication between yourself and the university. All communication must comply with the Electronic Communication with Student Policy:

[http://umanitoba.ca/admin/governance/governing\\_documents/community/electronic\\_communication\\_with\\_students\\_policy.html](http://umanitoba.ca/admin/governance/governing_documents/community/electronic_communication_with_students_policy.html).

**Academic Integrity:**

Each student in this course is expected to abide by the University of Manitoba [Academic Integrity principles](#). Always remember to reference the work of others that you have used. Also be advised that you are required to complete your assignments independently unless otherwise specified. If you are encouraged to work in a team, ensure that your project complies with the academic integrity regulations.

**Recording Class Lectures:**

Given the ease of audio and video recording and the tendency of some students to post the class lecture to the internet, the instructor should give some consideration as to whether or not they are comfortable with being recorded. A statement about copyright should be included here. Please note: if you are an UMFA member, you own your course content and, thus, the copyright to all your courses. If you are a sessional instructor, the university owns the course content and the copyright to the course.

*Example:* No audio or video recording of lectures or presentations is allowed in any format, openly or surreptitiously, in whole or in part without permission. Course materials (both paper and digital) are for the participant's private study and research.

**Student Accessibility Services:**

The University of Manitoba is committed to providing an accessible academic community. [Students Accessibility Services \(SAS\)](#) offers academic accommodation supports and services such as note-taking, interpreting, assistive technology and exam accommodations. Students who have, or think they may have, a disability (e.g. mental illness, learning, medical, hearing, injury-related, visual) are invited to contact SAS to arrange a confidential consultation.

Student Accessibility Services

520 University Centre

Phone: (204) 474-7423

Email: [Student\\_accessibility@umanitoba.ca](mailto:Student_accessibility@umanitoba.ca)

## Using Copyrighted Material

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Please respect copyright. We will use copyrighted content in this course. We have ensured that the content we use is appropriately acknowledged and is copied in accordance with copyright laws and university guidelines. Copyrighted works, including those created by us, are made available for private study and research and must not be distributed in any format without permission. Do not upload copyrighted works to a learning management system (such as UM Learn), or any website, **unless** an exception to the *Copyright Act* applies or written permission has been confirmed. For more information, see the University's Copyright Office website at <http://umanitoba.ca/copyright/> or contact [um\\_copyright@umanitoba.ca](mailto:um_copyright@umanitoba.ca).

### Course Technology

This will be left to the discretion of individual students. The instructors have no particular expectations.

## CLASS SCHEDULE AND COURSE EVALUATION

### Class Schedule

Date	Class
January 11	Introduction to course/over-view of courtroom advocacy
January 18	Deeper discussion of presenting your case to a judge and demonstrations of basic techniques
January 25	Student simulations and feedback: submissions on a motion
February 1*	Student simulations and feedback: direct examination of witnesses
February 8	TBA
February 15*	Student simulations and feedback: cross-examinations of witnesses
February 22	Reading week: no class
February 29	Lecture: presenting/arguing a motion on affidavit evidence
March 7*	Student simulations and feedback: presenting/arguing a motion on affidavit evidence
March 14	Student trials: Trial #1
March 21	Student trials: Trial #2
March 28	Student trials: Trial #3
April 4	Wrap up
April 11	Wrap up (if needed)

\*There may be video recording of student simulations for review/comment.

### Course Evaluation

This is a graded three-credit course. The evaluation will be based on the following components:

- 50% class participation and simulations
- 20% motion argument
- 30% full trial

### Voluntary Withdrawal

Students are directed to refer to the Registrar's Office website. Instructors will always be willing to discuss student's progress and strategies for improvement prior to the withdrawal date.

## UNIVERSITY SUPPORT OFFICES & POLICIES

### Writing and Learning Support

The Academic Learning Centre (ALC) offers services that may be helpful to you throughout your academic program. Through the ALC, you can meet with a learning specialist to discuss concerns such as

time management, learning strategies, and test-taking strategies. The ALC also offers peer supported study groups called Supplemental Instruction (SI) for certain courses that students have typically found difficult. In these study groups, students have opportunities to ask questions, compare notes, discuss content, solve practice problems, and develop new study strategies in a group-learning format.

You can also meet one-to-one with a writing tutor who can give you feedback at any stage of the writing process, whether you are just beginning to work on a written assignment or already have a draft. If you are interested in meeting with a writing tutor, reserve your appointment two to three days in advance of the time you would like to meet. Also, plan to meet with a writing tutor a few days before your paper is due so that you have time to work with the tutor's feedback.

These Academic Learning Centre services are free for U of M students. For more information, please visit the Academic Learning Centre website at: <http://umanitoba.ca/student/academiclearning/>

You can also contact the Academic Learning Centre by calling 204-480-1481 or by visiting 205 Tier Building.

**For 24/7 mental health support, contact the Mobile Crisis Service at 204-940-1781.**

#### **Student Counselling Centre**

Contact SCC if you are concerned about any aspect of your mental health, including anxiety, stress, or depression, or for help with relationships or other life concerns. SCC offers crisis services as well as individual, couple, and group counselling. *Student Counselling Centre:*

<http://umanitoba.ca/student/counselling/index.html>

474 University Centre or S207 Medical Services  
(204) 474-8592

#### **Student Support Case Management**

Contact the Student Support Case Management team if you are concerned about yourself or another student and don't know where to turn. SSCM helps connect students with on and off campus resources, provides safety planning, and offers other supports, including consultation, educational workshops, and referral to the STATIS threat assessment team.

*Student Support Intake Assistant* <http://umanitoba.ca/student/case-manager/index.html>

520 University Centre  
(204) 474-7423

#### **University Health Service**

Contact UHS for any medical concerns, including mental health problems. UHS offers a full range of medical services to students, including psychiatric consultation.

*University Health Service* <http://umanitoba.ca/student/health/>

104 University Centre, Fort Garry Campus  
(204) 474-8411 (Business hours or after hours/urgent calls)

#### **Health and Wellness**

Contact our Health and Wellness Educator if you are interested in [peer support from Healthy U](#) or information on a broad range of health topics, including physical and mental health concerns, alcohol and substance use harms, and sexual assault.



Health and Wellness Educator <https://umanitoba.ca/student/health-wellness/welcome-about.html>  
[britt.harvey@umanitoba.ca](mailto:britt.harvey@umanitoba.ca)

### Live Well @ UofM

For comprehensive information about the full range of health and wellness resources available on campus, visit the Live Well @ UofM site:

<http://umanitoba.ca/student/livewell/index.html>

### Your rights and responsibilities

As a student of the University of Manitoba you have rights and responsibilities. It is important for you to know what you can expect from the University as a student and to understand what the University expects from you. Become familiar with the policies and procedures of the University and the regulations that are specific to your faculty, college or school.

The [Academic Calendar](http://umanitoba.ca/student/records/academiccalendar.html) <http://umanitoba.ca/student/records/academiccalendar.html> is one important source of information. View the sections *University Policies and Procedures* and *General Academic Regulations*.

While all of the information contained in this section is important, the following information is highlighted.

- If you have questions about your grades, talk to your instructor. There is a process for term work and final **grade appeals**. Note that you have the right to access your final examination scripts. See the Registrar's Office website for more information including appeal deadline dates and the appeal form <http://umanitoba.ca/registrar/>
- You are expected to view the General Academic Regulation section within the Academic Calendar and specifically read the **Academic Integrity** regulation. Consult the course syllabus or ask your instructor for additional information about demonstrating academic integrity in your academic work. Visit the Academic Integrity Site for tools and support <http://umanitoba.ca/academicintegrity/> View the **Student Academic Misconduct** procedure for more information.
- The University is committed to a respectful work and learning environment. You have the right to be treated with respect and you are expected conduct yourself in an appropriate respectful manner. Policies governing behavior include the:

### Respectful Work and Learning Environment

[http://umanitoba.ca/admin/governance/governing\\_documents/community/230.html](http://umanitoba.ca/admin/governance/governing_documents/community/230.html)

### Student Discipline

[http://umanitoba.ca/admin/governance/governing\\_documents/students/student\\_discipline.html](http://umanitoba.ca/admin/governance/governing_documents/students/student_discipline.html)  
and,

### Violent or Threatening Behaviour

[http://umanitoba.ca/admin/governance/governing\\_documents/community/669.html](http://umanitoba.ca/admin/governance/governing_documents/community/669.html)

- If you experience **Sexual Assault** or know a member of the University community who has, it is important to know there is a policy that provides information about the supports available to those who disclose and outlines a process for reporting. The **Sexual Assault** policy may be found at: [http://umanitoba.ca/admin/governance/governing\\_documents/community/230.html](http://umanitoba.ca/admin/governance/governing_documents/community/230.html) More information and resources can be found by reviewing the Sexual Assault site <http://umanitoba.ca/student/sexual-assault/>
- For information about rights and responsibilities regarding **Intellectual Property** view the policy [https://umanitoba.ca/governance/sites/governance/files/2021-06/Intellectual\\_Property\\_Policy\\_-\\_2013\\_10\\_01\\_RF.pdf](https://umanitoba.ca/governance/sites/governance/files/2021-06/Intellectual_Property_Policy_-_2013_10_01_RF.pdf)

For information on regulations that are specific to your academic program, read the section in the Academic Calendar and on the respective faculty/college/school web site <http://umanitoba.ca/faculties/>

Contact an **Academic Advisor** within our faculty/college or school for questions about your academic program and regulations <http://umanitoba.ca/academic-advisors/>

### **Student Advocacy**

Contact Student Advocacy if you want to know more about your rights and responsibilities as a student, have questions about policies and procedures, and/or want support in dealing with academic or discipline concerns.

<http://umanitoba.ca/student/advocacy/>  
520 University Centre  
204 474 7423  
[student\\_advocacy@umanitoba.ca](mailto:student_advocacy@umanitoba.ca)