

88

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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63

December 26, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Your Excellency and Members of the Council:

REQUESTED ACTION

Authorize the Department of Justice to conduct a two and one-half-day 2024 Advanced Trial Techniques Training to be held January 24, 2024 to January 26, 2024 at the New Hampshire Department of Justice in Concord, New Hampshire at a cost not to exceed \$4,043, effective upon Governor and Executive Council approval through February 28, 2024. 100% Agency Income.

Funding is available as follows:

02-20-20-200510-26110000, Consumer Protection	<u>SFY 2024</u>
233-500781, Training-Litigation	\$4,043

EXPLANATION

The Department of Justice (DOJ) is committed to providing high-quality, low-cost training opportunities to New Hampshire state and local government attorneys. The National Association of Attorneys General will provide instructors for the 2024 Trial Techniques Training. This program will provide advanced, in-classroom sessions on the elements of the trial process.

The DOJ will be providing the training space for this training. In an effort to maximize the time allotted for instruction, the Department will be providing students with lunch and refreshments throughout the day. In A Pinch Café and Bakery will provide food for the duration of the training. For cost-efficiency, DOJ may also purchase light refreshments for mid-morning and mid-afternoon portions of the event.

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Page 2 of 3

The training agenda and costs are detailed in the attached documentation. This includes food and other training related expenses.

Please let me know if you have any questions concerning this request. Your consideration is greatly appreciated.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'J. Formella', is written over a faint, illegible watermark or background text.

John M. Formella
Attorney General

#4322318

BUDGET	
Description	Cost
Estimated Coffee-Beverage Service:	\$675
Estimated Lunch-Refreshment Cost by In-A-Pinch:	\$3,093
Estimated Paper Goods Provided by In-A-Pinch:	\$150
Light refreshments provided by the Department of Justice:	\$125
Total:	\$4,043



NATIONAL
ASSOCIATION OF
ATTORNEYS GENERAL

**NAAG ADVANCED TRIAL TECHNIQUES:
WITNESS PREPARATION, JURY SELECTION, AND EXPERT WITNESSES
January 24-26, 2024**

Program Agenda

About This Program

This intensive, learn-by-doing skills program teaches attorneys different aspects of advanced trial practice through a series of presentations and performances across a three-day live session. Topics include case theory development, witness preparation, jury selection, and presenting and cross-examining lay and expert witnesses.

Participants will prepare, present, and cross-examine witnesses in a mock setting. During these learn-by-doing performances, your goal in each workshop is to perform in-depth questioning or argument regarding a specific area, rather than briefly covering multiple topics. *Prior to the live session, participants will need to complete on-demand lessons, review the case file, and prepare their performances for the live session.*

Each participant has been designated as counsel for either the Government or Respondent Gigi Backus. Participants may be asked to serve as each other's witnesses during workshops. For example, each Government counsel may need to play Evelyn Lewis, and each Respondent's counsel may need to play Gigi Backus.

Learning Objectives

This program will teach you to:

- Develop your case globally, guided by a clear case theory and compelling themes.
- Recognize strategies for selecting and eliminating jurors based on your case theory.
- Understand best practices for preparing witnesses to testify.
- Present and cross-examine witnesses, including expert witnesses, using a goal-oriented approach in support of your case theory.

Preparation is critical!

For this training program to be effective for you and your fellow participants, before the live session you must complete the on-demand lesson and prepare for your performances. And since the program depends on your participation, it is critical that you attend the entire program.

Materials

Participants will receive the *In the Matter of Shepard* case file. Participants will also have access to on-demand lessons and other resources.

A word about NAAG

The National Association of Attorneys General is the nonpartisan national forum providing collaboration, insight, and expertise to empower and champion America's attorneys general. To further our mission, we have designed this program to be engaging and empowering, and to bring out the best in the attorneys who have dedicated themselves to public service.

General Instructions for All Witness Examinations

Instructions for playing the witness:

- Act how you would expect the witness to act. Consider where your loyalties lie.
- If a question calls for information not included in the case file, answer the question as you would expect the witness to answer. You may invent information consistent with the facts in the case file, but do not invent facts that are gratuitously self-serving. And do not contradict the facts in the case file.
- Don't be a stone wall, but don't be a doormat. Please don't be *completely* obstructionist because it can detract from the learning process. However, don't capitulate, either. Stick to your guns!

Instructions for opposing counsel:

- During each performance, **all** opposing counsel not playing the witness shall object where appropriate.

WEDNESDAY, JANUARY 24, 2024

8:15 am – 9:00 am <u>ALL TIMES ARE EASTERN TIME</u>	Participant Sign-In
9:00 am – 9:30 am	Welcome and Overview of Live Session
9:30 am – 9:40 am	Break
9:40 am – 10:40 am	<p style="text-align: center;">Case Theory Strategy Discussion</p> <p>This is a forum for you to share ideas and strategize about your case with your fellow counsel. Participants will present their work from the Case Theory and Themes on-demand lesson:</p> <ul style="list-style-type: none"> • Identify the legal elements you (or the opposing party) must prove. Which elements are likely to be most important? What decisions about legal theory should you consider? • Answer this question persuasively in one or two sentences: "What's this case about?" • Identify compelling words or phrases to characterize the following witnesses, their behavior, or their motivations: <ul style="list-style-type: none"> ○ Gigi Backus ○ Evelyn Lewis ○ Dr. Pinot ○ Dr. Shiraz • Identify three conclusions that you want the jury to reach. For each conclusion: <ul style="list-style-type: none"> ○ List at least three facts that support the conclusion. ○ Anticipate what opposing counsel will argue in response to the conclusion. ○ List at least two facts opposing counsel may rely on to challenge your conclusion.
10:40 am – 10:55 am	Break
10:55 am – 12:10 pm	Presentation: Jury Selection
12:10 pm – 1:25 pm	Lunch
1:25 pm – 2:25 pm	Presentation: Witness Preparation
2:25 pm – 2:40 pm	Break
2:40 pm – 3:55 pm	Presentation: Examination of Experts
3:45 pm – 4:05 pm	Break (complete survey)
4:05 pm – 4:20 pm	Wrap-Up Session

THURSDAY, JANUARY 25, 2024

8:15 am – 9:00 am <u>ALL TIMES ARE EASTERN TIME</u>	Participant Sign-In
9:00 am – 10:00 am	Exercise: Jury Selection (Respondent participants only) In this exercise, you will practice identifying issues to explore and questions to ask in voir dire based on different case vignettes and sample jury questionnaires.
9:00 am – 10:00 am	Performance: Witness Preparation (Government participants only) 9 minutes for performance; 3 minutes for feedback In this performance exercise, you will prepare witness Evelyn Lewis to testify. You may assume you have previously interviewed the witness, worked with them during the investigative and pre-trial phases of the case, and have spoken preliminarily with them in anticipation of this preparation session. You should: 1) confirm the witness’s memory and account of relevant information, 2) explain the process of witness examination, 3) address their concerns, and 4) conduct a mock examination exercise with the witness (time allowing).
10:00 am – 10:15 am	Break

10:15 am – 11:15 am	<p align="center">Exercise: Jury Selection (Government participants only)</p> <p>In this exercise, you will practice identifying issues to explore and questions to ask in voir dire based on different case vignettes and sample jury questionnaires.</p>
10:15 am – 11:15 am	<p align="center">Performance: Witness Preparation (Respondent participants only)</p> <p>9 minutes for performance; 3 minutes for feedback</p> <p>In this performance exercise, you will prepare witness Gigi Backus to testify.</p> <p>You may assume you have previously interviewed the witness, worked with them during the investigative and pre-trial phases of the case, and have spoken preliminarily with them in anticipation of this preparation session.</p> <p>You should: 1) confirm the witness’s memory and account of relevant information, 2) explain the process of witness examination, 3) address their concerns, and 4) conduct a mock examination exercise with the witness (time allowing).</p>
11:15 pm – 12:40 pm	<p align="center">Lunch / prepare for afternoon performances</p>
12:40 pm – 2:10 pm	<p align="center">Performance: Direct and Cross Exam of Evelyn Lewis (SESSION #1A; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p>Government: Each Government counsel will conduct a portion of a direct examination of Evelyn Lewis on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Respondent: Each Respondent’s counsel will conduct a portion of a cross-examination of Evelyn Lewis on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>
12:40 pm – 2:10 pm	<p align="center">Performance: Direct and Cross Exam of Dr. Pinot</p>

	<p>(SESSION #1B; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p><u>NOTE: Faculty will play the witness</u></p> <p>Government: Each Government counsel will conduct a portion of a direct examination of Dr. Pinot on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Respondent: Each Respondent’s counsel will conduct a portion of a cross-examination of Dr. Pinot on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>
2:10 pm – 2:25 pm	Break
2:25 pm – 3:55 pm	<p>Performance: Direct and Cross Exam of Evelyn Lewis (SESSION #2A; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p>Government: Each Government counsel will conduct a portion of a direct examination of Evelyn Lewis on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Respondent: Each Respondent’s counsel will conduct a portion of a cross-examination of Evelyn Lewis on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>
2:25 pm – 3:55 pm	<p>Performance: Direct and Cross Exam of Dr. Pinot (SESSION #2B; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p><u>NOTE: Faculty will play the witness</u></p> <p>Government: Each Government counsel will conduct a portion of a direct examination of Dr. Pinot on topic areas of your choosing. The examination</p>

	<p>will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Respondent: Each Respondent’s counsel will conduct a portion of a cross-examination of Dr. Pinot on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>
3:55 pm – 4:15 pm	Break (complete survey)
4:15 pm – 4:30 pm	Wrap-Up Session

FRIDAY, JANUARY 26, 2024

7:45 am – 8:30 am ALL TIMES ARE EASTERN TIME	Participant Sign-In (WE START EARLY TODAY!)
8:30 am – 10:00 am	<p>Performance: Direct and Cross Exam of Gigi Backus (SESSION #1A; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p>Respondent: Each Respondent’s counsel will conduct a portion of a direct examination of Gigi Backus on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Government: Each Government counsel will conduct a portion of a cross-examination of Gigi Backus on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>

8:30 am – 10:00 am	<p align="center">Performance: Direct and Cross Exam of Dr. Shiraz (SESSION #1B; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p><u>NOTE: Faculty will play the witness</u></p> <p>Respondent: Each Respondent’s counsel will conduct a portion of a direct examination of Dr. Shiraz on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Government: Each Government counsel will conduct a portion of a cross-examination of Dr. Shiraz on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>
10:00 am – 10:15 am	Break
10:15 am – 11:45 am	<p align="center">Performance: Direct and Cross Exam of Gigi Backus (SESSION #2A; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p>Respondent: Each Respondent’s counsel will conduct a portion of a direct examination of Gigi Backus on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Government: Each Government counsel will conduct a portion of a cross-examination of Gigi Backus on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>
10:15 am – 11:45 am	<p align="center">Performance: Direct and Cross Exam of Dr. Shiraz (SESSION #2B; see breakout assignments for your session)</p> <p>11 minutes for direct and redirect exam, 4 minutes for feedback; 8 minutes for cross-exam, 4 minutes for feedback</p> <p><u>NOTE: Faculty will play the witness</u></p>

	<p>Respondent: Each Respondent’s counsel will conduct a portion of a direct examination of Dr. Shiraz on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You must use an exhibit during your examination.</p> <p>Government: Each Government counsel will conduct a portion of a cross-examination of Dr. Shiraz on topic areas of your choosing. The examination will fully examine a topic that supports your theory of the case before moving on to another topic. You may assume that a full direct examination of the witness has occurred.</p> <p>Participants should object (where appropriate) during opposing counsel’s examination.</p>
11:45 am – 12:05 pm	Break (complete surveys)
12:05 pm – 12:40 pm	Debrief Discussion and Closing Remarks