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Katie Mulvaney
Providence Journal

Roger Williams University School of Law

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April 30, 2018

Litigation Academy Helps Lawyers Hone Skills

Young and old lawyers participate under the guidance of state and federal judges and seasoned practitioners; they also get a little assistance from some of the area's most talented professional actors, posing as witnesses.



Lawyer Jennifer Luzzi questions Charles Sweigart during a workshop session on the skill of admonishing a witness.

Image Credit: The Providence Journal/Sandor Bodo

April 30, 2018

Katie Mulvaney, Providence Journal Staff Writer and RWU Law MSL Student

PROVIDENCE, R.I. — Many, many steps lead up to a trial. Evidence is gathered. Documents are produced. Witnesses are interrogated.

The questioning of witnesses during depositions was the focus of a recent Litigation Academy in U.S. District Court. The program, now in its fourth year, is designed to help lawyers, young and old, hone their skills under the guidance of state and federal judges and seasoned practitioners.

All this with a little assistance from some of the area's most talented professional actors, posing as witnesses.

"It makes it so much more realistic," said Jordan Mickman, a staff attorney for the Rhode Island Center for Justice.

"It's clear that the actors have prepared as much as we've prepared," said Mickman, 32, who joined the nonprofit public interest law office in July and received a scholarship to attend the academy this spring.

"They really bring in that X factor," Jose Lopez, a solo practitioner in Massachusetts, agreed.

The program, novel in the nation for its use of professional actors drawn from Trinity Repertory Company and the Gamm Theatre, combines lectures by lawyers with decades of experience with workshops in which the students get to practice their craft. They then get feedback from judges, lawyers and the actors themselves in a supportive setting, without worrying about putting a client at risk.

Much of what they learned in the most recent academy was how to get out in front of potential pitfalls in court and how to lock in a key admission or nugget of information that will help them win their client's case.

"In a deposition, I'm your best friend," [RWU Law adjunct professor] Brooks Magratten said of his approach. Magratten co-chairs the program with [Roger Williams University School of Law professor Niki Kuckes](#).

"I've been at it for 30 years and it's still practice," Magratten said.

"You learn from your mistakes," Kuckes said. ...

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LISTEN: Interviews and audio from the Providence Journal

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The academy put on last week by the U.S. District Court, Roger Williams University School of Law and the local chapter of the Federal Bar Association literally walked students through taking a sworn deposition, from setting the ground rules to nailing down the most crucial information — a stage instructors referred to as a “bottom of the funnel” examination.

“I want the witness talking,” lawyer John S. Foley told participants in the first lecture of the three-day program. “You might get something you never expected.”

“To put the witness at ease, you might want to be more conversational, but that takes practice,” U.S. District Court Chief Judge William E. Smith coached during one workshop.

Lopez put his approach to the test last week.

“You want to ask short questions,” J. Richard Ratcliffe, of the Providence firm Ratcliffe Harten Galamaga, said.

“Yes, I understand,” Lopez said.

“Keep it simple,” Ratcliffe continued.

“Think about how it’s going to work at trial,” Judge Smith said. Ratcliffe, like the state and federal judges who participate, volunteered his time.

The program is modeled after the National Institute for Trial Advocacy training program, according to Smith, who began pondering ways to provide more access to legal training several years ago. With the help of Magratten, Kuckes and lawyer James Murphy, they decided to take advantage of the strengths in the local bar.

“We want this to be very hands-on training,” Smith said. The court buys the materials from NITA and manages to keep the program cost low: \$550 for the entire three-day academy.

Past programs have focused on direct and cross-examinations; opening statements and closing arguments; and mediation. Program coordinators are considering expanding the topics to address oral advocacy and expert witnesses.

“The reality is training to be a lawyer doesn’t happen in three years. It takes a lifetime,” Smith said.

That sentiment was very much a theme in the feedback the lawyers received as they worked their way through the depositions of a fictitious man and woman locked in a dispute about the sale of a lucrative electronics company.

“It’s a career-long process, but just keep these two words in mind in the bottom of the funnel: surgical, strategic,” Providence lawyer Matthew T. Oliverio told one group.

“You want to reaffirm [the concession] and lock it in,” he said. Other tips he and Smith offered the group were to slow their speaking down and to ask questions that have definite answers.

“We don’t know it all. We’re still learning — at least I am,” Oliveiro, of Oliverio & Marcaccio, said.

It was Magratten’s idea to bring the actors on.

“It was brilliant. It just totally changes the dynamic,” Smith said.

Casey Seymour Kim, an actress at Gamm, complimented one participant on her delivery. “Your nice, short questions were very good,” Kim said. She told another that she let her ramble on too long.

Richard Donnelly, an actor at Trinity, has been playing a witness for three years now after being approached by Magratten.

“You get the case and learn it,” he said this week.

“It’s ad lib, and you’re grilled by lawyers,” he said. “If the lawyer’s forceful, you give it right back. You kind of go with whatever they give you.”

“It’s like tennis,” he continued. “I’m trying not to say something that’s going to cost me \$300,000.”

The academy has been so well-received that other districts are looking to replicate it, including in Ohio and Hawaii, Smith said.

“It’s beyond my expectations, the success of it,” he said.