



Episode 103: Setting Yourself Up to be a Mock Trial Rockstar

Lee Burgess: Welcome to the Law School Toolbox Podcast. Today we're talking with Sara O'Connor, a current tutor with the Law School Toolbox, about setting yourself up to be a mock trial superstar. Your law school toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the law school and early legal career experience so you can be the best law student and lawyer you can be. We're the co-creators of the [Law School Toolbox](#), the [Bar Exam Toolbox](#), and the Catapult Conference. Alison also runs [The Girl's Guide to Law School](#). If you enjoy the show, please leave a review [on iTunes](#), and if you have any questions don't hesitate to reach out to us. You can reach us via the [contact form on LawSchoolToolbox.com](#) and we'd love to hear from you. With that, let's get started.

Welcome back. Today we're talking with Sara O'Connor, one of our law school tutors, about setting yourself up for success in your mock trial class and/or competition team. First off Sara, can you give us a bit of a background on the type of involvement you've had with mock trial and law school and after you graduated?

Sara O'Connor: Sure. Different schools setup their mock trial programs differently, but for my school, our mock trial program had the mock trial class be kind of like a feeder program. For our school, like other schools with mock trial programs, you had to compete to get into the class and then through class performance you would make one of several teams, either during the fall semester and/or the spring semester. I competed on two teams, one my second semester of my second year, first semester of my third year, and then for my last semester of law school I actually co-coached a high school mock trial team as part of me being a competitor, my team I think at least once became court finalists. My high school team did really well, became district champions and semi-regional champions. After law school, I coached three separate teams where the students performed remarkably well.

Lee Burgess: That's a lot of experience with mock trial.

Sara O'Connor: I forgot, I occasionally co-taught some of the trial advocacy classes-

Lee Burgess: In your free time?

Sara O'Connor: Yeah. It was really wonderful. It was something I enjoyed back when I was a high school student and so it was kind of my way of paying forward what I had been gifted when I had first started my journey.

Lee Burgess: I think that's really interesting, and one thing especially if a new law student is listening to think about is, different school setup mock trial differently or moot court, sometimes they call it moot court. There's a lot of different ways that this is setup. At my law school, we had to do what they called moot court where we did mock appellate arguments as part of our legal writing program and they would still do awards and things like that, but everybody had to participate. From there, you could apply to be a member of a competitive team or you could even at our school level, there was an advocate of the year competition that you could take part in. There were a lot of different ways that you could get involved. We then had, our moot court program is actually student run so I then had friends who were on the moot court board and it was their job to kind of run that whole program. If advocacy is something you're really interested in and coaching and mentoring, learn more about it in your school because there can be a variety of ways to get involved.

Sara O'Connor: Absolutely, absolutely. I think it is a little bit typical, it sounds almost like you and I went to the same law schools, although I know it was different. For those of you guys starting out your first year, it's not too early to find out what you can be looking forward to usually for your second year of law school but perhaps even earlier at certain law schools.

Lee Burgess: That's true. And moot court program is second semester first year, so it was definitely something you wanted to start thinking about that early. If you're in an alum it can be fun to go back and judge these competitions and a lot of times these competitions, if they're part of an academic program, can be even pass-fail. Students will tell me things like, "Well it's pass-fail, I'm not going to try," and I love to tell them my story about moot court because I did my argument and then two years later, or I guess it was maybe the fall of the next year, I was doing on campus interviewing for big firm summer associate jobs and I'm in the elevator with an associate who's taking me to lunch and she's like, "I know you, I know I know you. I can't place it," and we kept going back and back and forth and around and we realized she was a judge for my moot court argument. Luckily I didn't blow that off, because that would've not done anything good for my job prospects. Anytime you do these activities at school especially if alumni are involved, you want to remember that this is kind of laying the ground work for a little bit of your professional reputation.

Sara O'Connor: Absolutely. In fact, my first-year oral argument was how I got my internship with a Justice of the Pennsylvania Supreme Court. I think for you listeners out there, it's time to man up and do really well at these things because your future may depend in part on how well you perform at these things.

Lee Burgess: Yeah. I think that that's true. Let's dive in and talk about how to make a trial advocacy team or even earn a spot in a mock trial course or trying to win an award in a moot court or a mock trial competition. There've got to be a few things that you can do to set yourself up for success.

Sara O'Connor: Absolutely. One of the first things is you want to dress the part that you want to become. While you don't need a brand spanking new suit for each and every single one of your classes, trust me when I say from sitting on the professor slash coach side of the table that when you dress for success, you're more likely to obtain it. That's true even if some of your classmates may snicker, whether from their own nerves or from their own perhaps envy, but consider it like an interview because that's technically what you're doing, you're interviewing either to get into the class or to get onto a team for this semester or next semester, so you want to make, just like in a job interview, you want to make the right first impression.

Lee Burgess: That's really true. We've talked about [how to dress in other podcasts for interviews](#) and things like that, but just ... This is one of those times where you want to look like yourself but you want to look like the cleaned up professional version of yourself.

Sara O'Connor: Yeah.

Lee Burgess: It may not be the best time to wear a bright red suit because you probably wouldn't show up in court, at least an appellate court, it's possible you would. I wouldn't necessarily say red bright suit is the way to go, but I also don't think that you should be in something uncomfortable that doesn't work for you. It always bugs me when they tell women they have to wear button-up dress shirts that look like men's dress shirts because those look terrible on me and they don't lay right on my body. I always look much better if I'm wearing some sort of like silk blouse or tank or something under a suit. If I would wear one of these button-up shirts, I would look terrible and I would look uncomfortable because I would constantly worry that buttons would be pulling. I think it's more complicated for women because we have all these different options.

You also don't have to wear like, super stiletto heels, wear something that's comfortable and easy to stand in. You have to just think about what's going to present an authentic version of yourself, but one that isn't going to have distracting elements. Other things I caution you about is very flashy jewelry, maybe not the right time to pull off an amazing statement necklace. I love a good statement necklace but maybe not the best time. For men, maybe not the best time to wear a super flashy tie. Go ahead and save that for a family event or something like that. You don't want the clothes to be what they notice about you, you want them to just be part of your costume to play the part. I used to do a lot of theater and I always felt like when I would dress up to go do one of these competitions in law school that I was just getting dressed up to play a part.

Sara O'Connor: Mm-hmm (affirmative). A part is of an attorney or of a witness.

Lee Burgess: Yeah, exactly. I think the other thing to caution, and I always feel like I sound like my mom, sorry mom if you're listening to this, is to make sure if you're a

woman with long hair, and I'm a woman with long hair which is why I'm saying this, that you make sure that you're not going to play with it. I've heard a lot of criticisms, especially of women, who are putting their hair behind their ears or brushing their bangs out of their face, those kind of nervous habits can be very distracting. You also want to think about how you're going to do your wardrobe to prevent yourself from maybe doing things that can be distracting to the judges.

Sara O'Connor: Mm-hmm (affirmative).

Lee Burgess: Now I just totally sound like my grandmother, like, "Put that hair out of your face!"

Sara O'Connor: It's an important point and for the men out there so you don't feel alone, don't put your hands in your pockets and keep playing with them. That's one of the things that I see for nervous competitors from the male perspective. That's usually their catch-all nervous telltale sign.

Lee Burgess: I think that's a really good point about men. One more thing about shoes, because women, when I go give talks about how to dress or have in the past, women love to talk about shoes and let me tell you, I love to talk about shoes too, you could, like, window into my closet, there are plenty of them, but you really have to wear something that ... I'm most worried about it being conservative, is you need to feel stable, especially when you get nervous. If you cannot stand in whatever shoes you're planning to wear when your knees twitching a little bit, that's maybe not the best pair of shoes to wear if you're going to stand up and do an oral argument.

Sara O'Connor: Absolutely. That actually segues really nicely to my next point, is that you need to go in prepared for whatever is required to try out for a team or for the class. Just like with any essay exam, you need to follow the directions, and if you don't follow the directions, you're going to get dinged for it because it's the same as not being able to properly follow the rules of the jurisdiction that you're in. In mock trial class, the judge is the professor who has the pass or fail for getting into the class, so make sure whatever is expected for everyone to be trying out for the class. Yes you want to show who you are and you want to have a unique distinct presentation, but this is not the time to go in to crazy La La Land where you're posing this new theory just to seem unique for uniqueness's sake.

Lee Burgess: Right. That's a really great point. I think what can be challenging about advocacy, which is what I think creates it as a bit of an art as the daughter of a litigator who watched a lot of trials growing up and appellate arguments, but there's that balance where it's planned but it can't be scripted, because the nature of advocacy or litigation is that it somewhat has to be off the cuff, and that's a very challenging balance to reach. How can you be comfortable enough with the material that it sounds like it could be scripted, but you're not so tied

to a script that you can't pivot when the judge interrupts you and asks you to change direction.

Sara O'Connor: That is something that professors often will do to see how you handle pressure, because guess what, in a real trial in the real world, your opposition isn't saying, "Oh, I'm sorry, Sara, I'm sorry, Lee. Are you ready for me to make an objection?" That's not what happens in the real world. That also segues nice to the idea of don't let your nerves get in the way. Trust me when I say this is someone who is saying this maybe a little hypocritically because I would sometimes get anxious in mock trial classes or the like just because we're so used to striving towards perfection that it sometimes gets in the way of what naturally flows, you're allowed to take a pregnant pause to think about a response, to think about how, what your opposition or what the judge has just asked you will best serve your case. It's much better to take a moment instead of filling the silence with umms and errs or something rashly stated without proper reflection.

Lee Burgess: I think that's a really great point. One of the talks I went to, gosh, Alison and I went a few years ago, Above the Law did a panel in San Francisco with some of the litigators who, or the appellate litigators who argued the California Proposition 8 case at the Supreme Court level. What was fascinating as they were talking about getting ready for these oral arguments is how they prepare for these supreme court arguments. I mean, there are lawyers who just basically do that level of arguments for a living, but it was really interesting to listen about they sat in these rooms and were peppered with different questions.

These are probably some of the most accomplished advocates in the country and they still had to prepare a lot. If you listen to the recordings of Supreme Court arguments, they still sometimes get a little tripped up or have to take a pause to think. These are folks that should have a mastery of what they're doing and should be extremely comfortable. I guess if you can be comfortable in that environment, I don't know, but have the best chance to be in a comfortable environment. It was very telling to me of this idea that preparation is something we have to be comfortable with at every point in this type of work that we do, but as a young law student you should welcome the opportunity to figure out how best to prepare because that's not going to go away. Trial lawyers prepare all of the time. That's a huge part of the trial-

Sara O'Connor: That's the essence.

Lee Burgess: Yeah. I mean, when I was a kid, my dad was a prosecutor and did a lot of trials and I didn't understand what trials were, it just meant that he didn't get to come home and I didn't get to see him right before bed because he was always working so many hours to prep for trial because it's such an intense experience. There's a lot of preparation. If you're a law student you're feeling like, well, why is it I have to practice, practice, practice a lot of this advocacy? That's because it's hard, or everyone would do it.

Sara O'Connor: To that, and also let's not be confused as to what arguing your position means. There's a difference between arguing and fighting and there is a lot more power to be said by someone who is coolly, calmly, and firmly advocating for a position versus someone who thinks they can get an objection sustained through a loud voice.

Lee Burgess: Interesting.

Sara O'Connor: Yeah, one of those works much better than the other. It's also a matter of understanding what you would want to listen to and what stance you would find most believable. This isn't like in the movies where there's this day or moment of reckoning where suddenly everyone praises your litigation genius. It's a building up of elements and arguments. I always caution my students, what's the expression? Carrying a big stick yet ... What is that expression? Do you know the one that I'm talking about Lee?

Lee Burgess: I do. Yeah, we'll have to look it up.

Sara O'Connor: Yeah. Pretty much the idea of a lot more can be said sometimes with what is not said and it's better to choose your words carefully than to state them loudly.

Lee Burgess: I think that's very true. It's interesting that one of the best litigators I've seen since going to law school was this patent litigation case out of, it was in the Oakland federal courts and it was on dialysis machines, so let's talk about, like not sexy, not sexy topic. They were literally fighting over the screen on the dialysis machine. Oh, it's speak softly and carry a big stick.

Sara O'Connor: Yes, that's what I was trying to say. Thanks, Lee.

Lee Burgess: No problem, thank you Google. Anyway, back to my story. They flew in this trial attorney from Texas, and this was in California where the southern shtick I guess, that like soft spoken kind of charismatic southern persona doesn't necessarily ... I guess a lot of people wouldn't think it would play well in California, but this guy was a master of exactly what you're saying. He had, just, was very disarming, the accent and persona and he was very calm and he would just kind of explain things, there's no hostility and the jury was mesmerized. I was also mesmerized. I was like, "This is amazing to listen to him talk about dialysis machines," which is bizarre because it was really boring, really boring, and very hard to follow. That was one of the times where I thought, "Wow, no wonder they fly this guy in to just do this level of work," because he had mastered that persona in the court room to get what he wanted and that side won. I'm sure that that had a big part in it.

Sara O'Connor: Yeah.

Lee Burgess: Okay. Let's see, what can students expect to learn in their mock trial course or their moot court courses in law school?

Sara O'Connor: I mean, one of the most obvious things that you should and can learn in your mock trial class are the basic elements of a trial. First and foremost, kind of a little bit of case prep, also some of that is limited in that normally you get a quote universe of documents or universe of exhibits that you're allowed to work with, but you still have to and you will learn how to discern what's relevant, what can be used for your position, what can be used against your position, and spoiler alert, you can't ignore what your opposition will use against you. In fact, if you use it first, that's one of the best things to do to take the fire away from them is to say, "We're not afraid of this, this is what this evidence actually means in this case."

Other things are openings and closings, so the beginning of the trial, the end of the trial, and then all of that juicy stuff in the middle, the idea of direct examinations of witnesses, cross examinations of witnesses, objections that can be raised frankly throughout the entire trial although it's very rare for there to be objections in an opening and closing, though it does happen occasionally. Of course, how to act in the court room, including kind of those mannerisms, how to speak that we were talking about earlier, but also how to move in the court room, what you can and can't do when you can and cannot approach witnesses, the judge, how close is too close to the jury box is one of those I guess geekily spicy topics that people in the mock trial world talk about a little bit.

Then really importantly, how to tell your client's story. Let me tell you that even if you're representing a large corporation, you can make that large corporation seem like the neighbor next door by explaining if the facts allow you to do so that the corporation is comprised of all of the neighbors that live next door. You'll learn how, hopefully your mock trial class will cover both criminal and civil trials and deal with both small plaintiffs and large plaintiffs or small defendants and large defendants.

Lee Burgess: Yeah, that's a really interesting point I hadn't thought about, the different kind of defendants and how different those stories are. When I started practicing law and I was defending big companies, I loved listening to the senior litigators tell war stories of the language that they would use. This one woman, her name was Mary and she had this crazy, like, hairdo bun thing that she always wore, she was just a persona, she had a full fascinating persona but she had the best stories. She would always say in depositions, and they did a lot of medical device defense, toxic torts, I mean, this was not, you were not on the warm and fuzzy side of the story at this point. She would always talk about how you would, even in a deposition, what was her language to say, "I'm so sorry that this has happened to you," she would talk about all these things she would say and how she would create a feeling of compassion without admitting anything.

Sara O'Connor: Exactly.

Lee Burgess: It was fascinating that there are so many tricks of the trade that you can start to compile even in law school and put in your back pocket that you can pull on

again. I think for folks who haven't spent a lot of time around the courthouse or court room, sometimes summer time or times where you have some breaks, you never know, you can check the local courthouse in your area or federal courthouse or even if you're in a metropolitan area you might have an appeals court to see if you can go listen to arguments. I think watching lawyers do this in person is one of the most fascinating ways to see how this plays out.

Sara O'Connor: Yeah.

Lee Burgess: I was even called in for jury duty, I think, I don't know, maybe six months ago, and if the young DA and PD knew I was sitting over there critiquing, thinking, I wouldn't suggest doing that too. I should mention that to my students, that's not a wise thing to do, but they were doing their job and not to be hypercritical but this idea of just learning what other people were doing or what questions come up well or what mannerisms kind of share information with the jury pool or even watching how different members of the jury pool were even responding to the different types of questions. If it was kind of a terrible question, did the juror become a little bit off-put by that. It's fascinating stuff and you should take every opportunity you can to, especially if you want to be a litigator, to learn about that world. It's a fascinating world-

Sara O'Connor: Absolutely. Absolutely. For some of you who may have a mock trial happen later in your law school career like in second year or even third year or even second semester but you know in your soul this is what you want to do, be brave and ask one of the upperclassmen or women or one of the coaches that you're aware of if you can shatter the team, because trust me, they need warm bodies to play the roles of witnesses or to run openings and closings by. That's a great way to start building your reputation as someone who has the drive to do it and you'll have a leg up on some of your other classmates. There's no guarantee that you'd be allowed to do it but I know that's something that we did with some of our teams at the teams that I coached. We definitely looked to first year students to help us out with some of those things.

Lee Burgess: That's really interesting. That's a great idea, I would've never thought to just ask if you can help. The worst thing they're going to say is no. It can only go so poorly.

Sara O'Connor: Right and then you're in the same spot you were in before.

Lee Burgess: Then you might even get credit for asking because if that person, if that coach is interviewing people for the next year they at least think you have the guts to come and put yourself in an uncomfortable position to ask.

Sara O'Connor: Yeah.

Lee Burgess: All right. You spent two semesters as a member of the mock trial team, so can you just chat a bit about what it was like preparing for the competitions and what the competition was actually like?

Sara O'Connor: Yeah, sure. First when it comes to preparing for the competition, let there be no hidden veil of deception. It was a ton of work. I would wager that this should be or very likely is pretty much universal across any law school's program because remember the point of these law school programs for the competition team is that you're competing to win, you're not just going this for your health. Even if you maybe find yourself without as much drive as some of your teammates, you better believe that they're going to be looking to rely upon you and so I was frankly for the first semester in a way astounded at just how much time it took. If you're doing mock trial your first semester of second year, you may want to consider how many credits you're taking, because remember you're not just going to have mock trial, you're also going to have on campus interviews. Some would argue, myself included, that in some ways, second year courses are more intellectually rigorous than first semester courses and so I just want those of you who know that this is something that you want to do to not wake up one day and go, "Goodness, my grades are slipping because there's practice three days a week for at least three hours each practice."

Lee Burgess: Mm-hmm (affirmative).

Sara O'Connor: When it comes to the team generally you get tasks divided to you, although I'm sure different teams do these things differently in that one of you will be responsible for the opening and the other person is responsible for the closing. Depending on the competition, sometimes the closers are supposed to be switchers in that for one round they act as one way and for the other they have to switch, so that's another thing to be cognizant of, this isn't marked in stone as set rules for each and every competition, it's just kind of general broad strokes.

You have to remain accountable, there's nothing more frustrating than knowing that midterms or finals are right around the bend, as is the competition and your teammate for better or worse hasn't gotten their direct locked down. You absolutely have to remain accountable and sometimes you have to help your teammates out or have what can be an uncomfortable conversation about, you know, you really need to get this together so that we are prepared for competition.

Practice, practice, practice, and the practice doesn't just have to happen when there's team meetings. One of the best things that I recommended for my students is to run your opening or your closing by your parents, to run your direct or your cross by your significant other. If they're not in the legal field, sometimes it can be really hilarious and fun because they generally know what they see in shows and so it can sometimes help relieve some of that tension or anxiety that's started to build for you and you can realize, "Okay, I can just talk about this normally," because if they don't understand what you're saying, you

haven't said it right. I would wager that's the same for an LRW memo, a legal research and writing memo, that confusing legalese that we read in some of our earlier tort cases for example, that's no longer the staple of the legal profession. You need to make sure what you're saying translates across age groups and regardless of whether or not someone has a legal background because trust me when I say, it will look a lot more favorable when you're presenting in front of a judge.

You have to be able to handle constructive criticism, particularly if you've got a guest judge coming in, and by guest judge I generally mean an alma mater from your school coming after they've been working a ridiculously long billable day, they've carved out time away from their families, away from R&R, away from more available hours. Be respectful and appreciate that.

You have to prepare for oddball rulings. What do I mean by that for those of you guys who don't yet know about mock trial that much yet is there is usually evidence in that universe of facts that I had referenced earlier that you just know is not coming in. There is zero ways based on the rules of evidence that quote everyone knows. Well guess what? In real world, just like in competition, there is occasionally these horror stories of judges who practice maybe criminal law and this is a civil trial and they think, "Just let it in, we'll be a little bit loose," and it throws everything off. You have to prepare for those oddball rulings.

Lee Burgess:

Yeah. That's really interesting. I also liked what you were saying a little bit earlier about criticism and needing to be able to take constructive criticism because I think all law students need to work on this and young lawyers. For all of us criticism is challenging, I'm no different. Everybody doesn't like to see negative things written about them or said about them but if you are someone who really has a tendency to respond quickly to criticism, then you might want to work on having some coping mechanisms for that, whether it be a few deep breathing exercises while you're listening to the criticism or if it's taking a couple deep breaths before you respond to something. It really is a very good skill to practice, probably a lifelong skill to practice, because you're going to make mistakes and failure is part of this. The criticism and the feedback hopefully it can be constructive is part of making you better. If you know about yourself that that can hit you quite hard, it's important to go in thinking about how you can turn that criticism into something positive with the growth mindset that we always talk about but to really circle back and say, "Okay, that was tough to listen to but there are nuggets in there that I can really think about," and just make sure you don't accidentally snap at an elder statesman because you don't like the feedback.

Sara O'Connor:

Yeah. Remember, guess who the constructive criticism benefits? You as the receiver, not as the person who's giving it. They're not the one who is going to be judged on your performance in a few short weeks. Every once in a while, there might be someone who enjoys a few war stories a little too much but that's the exception to the rule, not the general rule.

Lee Burgess: I think that's a really interesting point. Okay, now how about at competition. What are some things you think listeners should understand about the competition?

Sara O'Connor: Be cordial. Even when you travel for national competitions, you'd be shocked at when you run into people from your past and you may be shocked as how someone that you met as Lee was talking about two years ago that she may never have thought she would pass across again, resurfaces. Being cordial, even if the opposition isn't which is rare, you take the higher ground.

Conversely, if they are the kind of opposition that are trying to flaunt, kind of like sometimes what happens when you and your friends are studying for finals, how many hours they've prepared or how many drafts of directs they've gone through and all of that stuff, don't get psyched out. Usually when people are peacocking, it's because they're nervous and just let that fuel your own internal fire and don't rise up to that.

Remaining calm and professional both before during and after the competition are so critical because you don't know in these competition settings, no one wears ... I mean, correct me if I'm wrong, I don't know of any competition where the judges are walking around with a badge that says, "Judge," and other people are walking around with badges stating, "Jury." I know when I was a coach because I still looked so young, one of the students tried to hit on me. I had to explain to them, "No, I'm a coach here. Yes, I have students who are working under me," and so remain calm and professional because you don't know. I mean, there are students, and I love them, there are students who this is going to be their second career, they're not in their late or even early 20s or 30s. You don't know who a competitor is, you don't know who's judging you, and you don't know who is going to be acting as the presiding judge. They may be sitting in the benches just waiting for whoever is being the, I guess lead judge to come in before taking their positions. You don't want their first impression of you to be you snipping at the competition before things have even started to heat up.

Lee Burgess: That's a really good point. The legal community is a small one, it really is.

Sara O'Connor: Yeah.

Lee Burgess: No matter where you live, it really is.

Sara O'Connor: Exactly. Kind of like what I was talking about with the oddball rulings, I apparently can't say this word today, is that every once in a while, judges mess up. You just have to roll with the rulings, although one of the tricks can be to respectfully and calmly push back. One of the ways can be to argue it again calmly and professionally or worst case scenario say, "Your honor, I would like to reserve my objection on the record," because worst case scenario that's what you do in the real world when you think, "This is going to be something we have to appeal." That's another way to signal both to the presiding judge and the

jurors that one, you can handle things when they don't go your way, and two, you know how to protect your quote client in the real-life situation where you still stand firm by your position but realize for better or worse you're not going to win this one today at the trial court level and will be willing to take it on appeal. Most students don't think that far in advance because we're so focused on the dispute that lasts for the two hours' worth of the competition but you have to think of it as if you are in the real world and what you would need to do in the real world to really shine.

Lee Burgess: Yeah. How do they judge these competitions? Who are the judges and how does it work?

Sara O'Connor: It varies by competition again but generally speaking, the judges are, the people who actually judge you for points are usually not the presiding judge. I don't want people to get confused when I say judges, I'll try and use presiding judge for the one who's issuing rulings like on objections and that kind of things, and the jurors are usually the ones who are allocating points. I would say nearly universally there's a certain allotment of points for each component of a trial that we had talked about you learning about, so there's, I don't know, 20 points available for an opening, 30 points for the closing, and each of the directs and crosses are worth 20 or 15 points and so are objections and motions in limine which are the things that happen before the openings where you want to have the judge rule on evidence before it's heard during the trial.

The people who are the presiding judge and the jurors who are judges are members of the legal community in the area where you're competing. This once again returns to what Lee and I were talking about, the idea of always put your best foot forward because although it's rare, it does happen where people can get job offers based on someone's impression of how you did during the competition. Even if it's a civil trial that you're competing in, the jurors may be working in an agency capacity, they may be clerks for a local judge, they may be a local judge, they could be people in the prosecution, the defense, or civil litigation or even corporate attorneys. It's really a hodgepodge and that's again why I mentioned earlier the idea of you need to be able to speak universally because just like a real-life jury who is comprised of numerous different citizens in the community, so is your jury in these competitions. The only difference is, everyone there has a JD attached to their name.

Lee Burgess: Mm-hmm (affirmative). Yeah. That's really interesting.

Sara O'Connor: The judges look for how well you speak and move in the competition, for better or worse nervousness can subconsciously or expressly factor into how you do. You need to be able to use the evidence well and that's why planning with your team well in advance, I think normally there's like eight weeks to prepare for these things or six weeks to prepare for these things. That's why it's so crucial to have a team that is willing to buckle in and work hard because the judges and jury want to see that you can use the evidence well. Every once in a while,

though because these judges don't necessarily practice in the area that the case is about, they get it wrong. Sometimes it can be a little frustrating for competitors, my students included, where someone involved in the criminal arena will say, "Why didn't you use this piece of evidence?" Well, because it wasn't admissible.

Lee Burgess: Right.

Sara O'Connor: That happens sometimes. You just need to shake it off because I'd wager that there are numerous attorneys out there who have had the benefit of litigating a case to trial where the result of the jury came back with whether it's the amount of damages or the result in total was not what they would have expected based on the evidence they were able to present. You just have to roll with the punches a bit.

Lee Burgess: Yeah. I think the roll with the punches is a great theme from a lot of this, right?

Sara O'Connor: For sure. For sure.

Lee Burgess: Flexibility.

Sara O'Connor: Absolutely. As much as you script out in large part the different components of each of the trial, you need to be flexible because otherwise you're not listening to what the other side is bringing in to evidence. If you just keep practicing as though this is exactly how you would do it, you're not going to be adequately prepared when the opposing side uses evidence in a new way you guys had not prepared for, and that happens. That's one of the ways that you can really see trial teams distinguishing themselves from the competition, the ability to listen to what the judge says in response to objections and how they use what the opposition presents and argues against them. I mean, it's so embarrassing, but it does happen where a litigant just completely blanks out on whether the judge sustains or overrules an objection and they act as if it never happened. That's the worst, but that's why I think ... I think maybe we have an article on this, Lee, [the idea of active listening in class lectures](#), the same applies in a mock trial competition.

Lee Burgess: Mm-hmm (affirmative). I think that that's really good advice. One final thought for folks who are listening to this going, "I don't want to be in court. Why would I ever participate in any of these activities?" Although you may not want advocacy the entirety of your professional job, it is possible that depending on what path your legal career takes, that you will need to show up in court. It could be pro bono litigation, it could be, I have a friend who is a family law attorney and she never intended to be in court, she got incredibly, incredibly nervous before any sort of moot court or mock trial or anything like that, but now she's a partner in a law firm and needs to litigate in court, that's part of her job. She had to figure it out. Because the court room is such an essential part of what so much of the practice of law is, I think having a basic understanding of

what happens in the court room, what it feels like to be a litigator in the court room, how challenging some of this work is, even if you end up being a transactional lawyer, transactional stuff is often times how we end up in court, so it can still be really good to have that understanding.

Sara O'Connor: Absolutely. Regardless of whether you're an introvert or an extrovert transactional litigation, whatnot, you need to be able to deal with the opposition in real time and so this is, as scary as it may seem, it's actually a safe space to start testing out those skills, it really is.

Lee Burgess: I mean, what's the worst that could happen? It's much better to make mistakes when nobody's life or business is on the line.

Sara O'Connor: Mm-hmm (affirmative).

Lee Burgess: Yeah. Well, with that, we're out of time. Thank you, Sara. That was really fascinating.

Sara O'Connor: Yeah, it was great.

Lee Burgess: If you enjoyed this episode of the Law School Toolbox Podcast, please take a second to leave a review or a rating [on iTunes](#), we'd really appreciate it. Be sure to subscribe so you don't miss anything. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at Lee@LawSchoolToolbox.com or Alison@LawSchoolToolbox.com or you can always contact us via our website [contact form at LawSchoolToolbox.com](#). Thanks for listening, and we'll talk soon.

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