

**Appellate Advocacy §  
LAW 5793, Section 1587  
Spring 2018**

Instructor: Timothy McLendon  
Mondays & Wednesdays, 3:00 PM  
Holland Hall, Room 210

**SYLLABUS**

**Professor:** Timothy McLendon  
**Office:** 230 Bruton-Geer Hall (on the 2<sup>nd</sup> floor, in the office suite of the Center for Governmental Responsibility)  
**Telephone:** (352) 273-0835  
**E-mail:** [mclendon@law.ufl.edu](mailto:mclendon@law.ufl.edu)

**Office Hours:** Mondays, 9.30-10.30am  
Wednesdays, 9.30-11.30am  
Thursdays, 3.00-4.30pm  
and always by appointment.

**Required Textbooks:** Linda Edwards, *Legal Writing: Process, Analysis & Organization* (6<sup>th</sup> ed., 2016).  
Richard Wydick, *Plain English for Lawyers* (6<sup>th</sup> ed., 2005).  
*The Bluebook: A Uniform System of Citation* (20<sup>th</sup> ed., 2016).  
Additional Course Materials available on TWEN  
Note that these are the same materials as were required for your fall 2017 Legal Research & Writing course.

**Course Objectives:**

This course is designed to help students learn how to read, think, and write like an appellate lawyer. The course build upon the foundation students received last semester in legal research and writing, using this to become effective persuasive writers. Together we will dissect and analyze your client's case and will practice applying cogent legal arguments to support your client's position. Students will then have the opportunity to argue their case in an appellate court format.

Upon completion of this course, you should be able to:

- Apply a lawyer's ethical and professional standards in the context of written and oral advocacy;

- Demonstrate an understanding of appellate standards of review of trial court decisions;
- Use effective techniques of persuasion;
- Develop a theme and integrate that theme into your argument;
- Frame a legal issue to persuade a court to rule in your favor;
- Present a compelling account of all relevant facts;
- Write a persuasive argument, supported by credibility, logic, the law, and a commanding narrative;
- Use effective organizational techniques;
- Demonstrate an understanding of the importance of adhering to appellate procedural rules and formatting requirements for submitting appellate briefs to a court;
- Demonstrate an understanding of the basic appellate process and fundamental appellate concepts, including the decision to appeal;
- Edit and proofread a persuasive legal document; and
- Prepare and effectively present an oral argument in support of your legal position.

**Grading:**

30% Participation (includes successful and timely completion of all assignments, in class exercises, and oral argument presentations)

70% Final Appellate Brief

**Grade Values for Conversion**

|              |     |      |      |     |      |      |     |      |      |     |     |   |
|--------------|-----|------|------|-----|------|------|-----|------|------|-----|-----|---|
| Letter Grade | A   | A-   | B+   | B   | B-   | C+   | C   | C-   | D+   | D   | D-  | E |
| Grade Points | 4.0 | 3.67 | 3.33 | 3.0 | 2.67 | 2.33 | 2.0 | 1.67 | 1.33 | 1.0 | .67 | 0 |

The law school grading policy is available at: <http://www.law.ufl.edu/students/policies.shtml#9>

**Policy regarding late submission of assignments:**

If you turn in a writing assignment, and have not received prior permission from me, your FINAL GRADE will be lowered by one step (for example, B+ to B) for every 48 hours each paper is late. If you have an emergency, you must contact me at your earliest opportunity to obtain a special arrangement. There is no guarantee that I will allow any special arrangement or late submission of work absent a true emergency. This is the same professionalism you would be expected to provide to your law partner, a judge, or a client. Your professional career starts now.

If you have a religious holiday that falls on a class date or assignment due date, please contact me BEFORE that holiday to make arrangements. It is the University of Florida's policy to accommodate religious holidays, and that policy will be honored.

**Attendance:**

We will take attendance during each class period. You are permitted to miss two classes without penalty. Your participation grade may be lowered due to additional unexcused absences. Missing more than six classes will result in a failing grade in the course. Excessive tardiness may also result in a grade penalty.

**Class Participation:**

Students are expected to complete all readings prior to class. Your readings are outlined in the syllabus. Additional readings may be assigned during the semester and posted to the TWEN site.

Your participation grade is based on not only in class participation, but also on your successful completion of all assignments. Each assignment will be evaluated for completeness, accuracy and timeliness.

This 2-credit course complies with ABA Standard 310. It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in-class assignments for every 1 hour in class.

**Other Policy Statements:****A. Policy related to Make-up exams or other work.**

The law school policy on delay in taking exams can be found at:  
<http://www.law.ufl.edu/students/policies.shtml#12>.

**B. Statement regarding accommodations for students with disabilities.**

Students with disabilities seeking accommodations should first register with the UF Disability Resource Center (tel: 352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) with appropriate documentation. After registering, students will receive a letter to give to the instructor when requesting any accommodations. Students with disabilities should follow this procedure as early as possible in the semester.

### C. Evaluations.

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at: <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, and students will be informed when they are open. Summary results of these assessments are available to students at: <https://evaluations.ufl.edu/results/>.

### D. Academic Misconduct.

Academic honesty and integrity are fundamental values of the UF community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

### **Overview of Major Assignment Deadlines:**

|                   |   |
|-------------------|---|
| January 24        | Writing Assignment #1 [Cover Page, Question Presented & Jurisdictional Statement] |
| February 5        | Writing Assignment #2 [Outline of Argument]                                       |
| February 26       | Writing Assignment #3 [Entire draft of Argument & Conclusion]                     |
| March 19          | Writing Assignment #4 [Statement of Case & Facts]                                 |
| March 27-30       | Practice Oral Arguments (dates subject to change)                                 |
| <b>April 2-13</b> | <b>Final Oral Arguments</b> (dates subject to change)                             |
| April 2           | Writing Assignment #5 [Summary of Argument]                                       |
| April 9           | Writing Assignment #6 [Table of Contents & Table of Citations]                    |
| <b>April 20</b>   | <b>Final Brief Due</b>  |

### **Class Schedule:**

Classes will generally meet Mondays and Wednesdays at 3:00pm in Room 210 Holland Hall. **Note:** This is a tentative syllabus - assigned readings and assignment due dates may change.

### **Outline of the Course:**

#### **Monday, January 8, 2018**

**Read:** Edwards text, chapter 17; FED. R. APP. P. 28, with 11<sup>TH</sup> CIR. R. 28-1 & FED. R. APP. P. 32, with 11<sup>TH</sup> CIR. R. 32-1 – 32-4 (on TWEN)

**Discuss:** Overview of course; format & structure of appellate briefs

#### **Wednesday, January 10, 2018**

**Read:** Edwards text, chapter 19 (pp. 280-86); Record on Appeal (on TWEN); 28 U.S.C. §§ 1331, 1332; 18 U.S.C. § 3231; 28 U.S.C. § 1291.

**Discuss:** Standards of Review; jurisdiction of district court & appellate court

**Monday, January 15, 2018**

**Martin Luther King Day – No Class**

**Wednesday, January 17, 2018**

**Read:** U.S. Const. amend. IV; *Mapp v. Ohio*; *Katz v. United States*; *Oliver v. United States*; *United States v. Ruckman*

**Discuss:** Facts in the Record; Exclusionary Rule under Fourth Amendment; assigned cases

**Monday, January 22, 2018**

**Read:** Edwards text, ch. 21 (pp. 316-325); *United States v. Sandoval*; *Amezquita v. Hernandez-Colon*; *United States v. Gooch*; *United States v. Wilson*; *People v. Hughston*

**Discuss:** Question Presented; assigned cases

**Wednesday, January 24, 2018**

**Writing Assignment #1 due** (Cover Page, Question Presented & Jurisdictional Statement)

**Read:** *State v. Mooney*; *People v. Nishi*; *State v. Cleator*; *Pottinger v. City of Miami*; *Kelly v. State*; *Stoner v. California*; *State v. Dias*

**Discuss:** Question Presented; assigned cases

**Monday, January 29, 2018**

**Read:** Edwards text, ch. 20-21

**Discuss:** Outlining Argument; Structure of Appellant's and Appellee's arguments

**Wednesday, January 31, 2018**

**Writing Assignment #1 returned**

**Read:** Edwards text, ch. 19 (pp. 273-79); ch. 21 (pp. 310-15).

**Discuss:** Argument Headings

**Friday, February 2, 2018**

Attend Maguire Moot Court Competition before Florida Supreme Court justices.

Time TBA

**Monday, February 5, 2018**

**Writing Assignment #2 due**

**Read:** Gary Gaffney, *Drafting an Effective Appellate Brief*, 67 FLA. B.J. 43 (Oct. 1993) (on TWEN)

**Wednesday, February 7, 2018**

**Read:** Edwards text, ch. 20 (review); Raoul G. Cantero, *Three Simple Ways to Improve Your Briefs*, 85 FLA. B.J. 31 (Feb. 2011) (on TWEN)

**Discuss:** Argument structure

**Monday, February 12, 2018**

**Read:** Edwards text, ch. 24 (oral argument)

**Discuss:** Introduction to oral argument

**Wednesday, February 14, 2018**

**Writing Assignment #2 returned**

**Read:**

**Discuss:** Common issues & problems with Writing Assignment #2; substance & organization of Argument

**Monday, February 19, 2018**

**Read:** Edwards text, ch. 23 & Record on Appeal

**Discuss:** Questions & Answers re Writing Assignment #3 (Draft Argument & Conclusion); writing & editing tips

**Wednesday, February 21, 2018**

**TA Oral Argument Demonstration**

**Discuss:** Oral argument; Questions & Answers re Writing Assignment #3 (Draft Argument & Conclusion)

**Monday, February 26, 2018**

**Writing Assignment #3 due (draft argument & conclusion)**

**Read:** To be assigned

**Wednesday, February 28, 2018**

**Guest speaker**

**Monday, March 5 – Friday, March 9, 2018**

**SPRING BREAK**

**Monday, March 12 – Friday, March 16, 2018**

**Mini-orals** Set up with your TA groups

**Monday, March 12, 2018**

**Read:** Edwards text, ch. 22

**Discuss:** Statement of Case and Facts

**Wednesday, March 14, 2018**

**Read:** Edwards text, ch. 19

**Discuss:** Summary of Argument

**Monday, March 19, 2018**

**Writing Assignment #3 returned**

**Writing Assignment #4 due (Statement of Case & Facts)**

**Discuss:** Common issues & problems with Writing Assignment #3

**Tuesday, March 20 – Tuesday, March 27, 2018**

**Individual Conferences – sign up on TWEN**

**Wednesday, March 21, 2018**

**No Class**

**Monday, March 26, 2018**

**Read:** To be assigned

**Discuss:** Practice Oral Arguments

**Tuesday, March 27 – Friday, March 30, 2018**

**Practice Oral Arguments** (with TA groups)

**Wednesday, March 28, 2018**

**Discuss:** Writing Assignment # 5 (due on April 4); Questions & Answers re oral argument

**Monday, April 2 – Friday, April 13, 2018**

**Prepare & Present – Final Oral Arguments**

Your final oral argument will be scheduled on one of these nights (subject to judge availability) for a 30-minute period

**Monday, April 2, 2018**

**Writing Assignment #4 returned**

**Writing Assignment #5 due (Summary of Argument)**

**Discuss:** Common problems & issues with Writing Assignment #4; Question & Answers re final oral argument

**Wednesday, April 4, 2018**

**Read:** Raymond T. Elligett, Jr., & Amy Farris, *The Joy of Editing: Better Appellate Briefs*, 82 FLA. B.J. 86 (June 2008) (on TWEN)

**Discuss:** Citation issues & argument headings; Writing Assignment #6 (due on April 11)

**Monday, April 9, 2018**

**Writing Assignment #5 returned**

**Writing Assignment #6 due (Table of Contents & Table of Citations)**

**Discuss:** Common problems & issues with Writing Assignment #5; citation issues; Questions & Answers re final brief

**Wednesday, April 11, 2018**

**Writing Assignment #6 returned**

**Discuss:** final editing tips; citation issues

**Monday, April 16, 2018**

**Discuss:** oral argument reflections; Questions & Answers re final brief; course evaluation

**Wednesday, April 18, 2018**

**No Class**

**Friday, April 20, 2018**

**FINAL BRIEF due on TWEN by 11.59pm**