

APPELLATE ADVOCACY §U

Spring 2019

TENTATIVE SYLLABUS

Course number: LAW 5793

Credit hours: 2

Contact information:

Joe Jackson
368C Holland Hall
273-0882
jjackson@law.ufl.edu

Office Hours:

Tues. & Thurs. 4:00-5:00
or by appointment

Texts:

ALWD Guide to Legal Citation (required)
Alan Dworsky, The Little Book on Oral Argument (recommended)

Course Objectives and Learning Outcomes:

The primary objective of this course is to teach you how to construct a rigorous legal argument and express it effectively and persuasively in writing. An additional objective is to teach you how to perform effectively in presenting oral argument in support of your legal position. 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 the basic appellate process and fundamental appellate concepts, including the decision to appeal.
- 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.
- Understand the importance of adhering to appellate procedural rules and formatting requirements for submitting appellate briefs to a court.
- Edit and proofread a persuasive legal document.
- Prepare and effectively present an oral argument in support of your legal position.

For information on grading, attendance, and other course policies, see the Course Administrative Policies (posted on TWEN). Reasonable accommodations will be made for

students with disabilities. Requests for such accommodations should be directed to the Student Affairs Office.

Overview of Major Assignment Due Dates:

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|-----------------|--|
| 1/22 | Writing Assignment #1 [Cover Page & Question Presented] |
| 1/31 | Writing Assignment #2 [Outline of Argument] |
| 2/21 | Writing Assignment #3 [Entire draft of Argument & Conclusion] |
| 2/28 | Writing Assignment #4 [Statement of Case & Facts] |
| 3/25-3/29 | Practice Oral Arguments (dates subject to change) |
| 4/1-4/12 | Final Oral Arguments (dates subject to change) |
| 4/4 | Writing Assignment #5 [Summary of Argument] |
| 4/9 | Writing Assignment #6 [Table of Contents & Table of Citations] |
| 4/16 | Final Brief Due |

Some assignments will not be very time-consuming, but others will require substantial effort, and you should expect that by the end of the semester you will have spent more than twice as much time working on assignments outside of class as you have spent attending class.

Class Schedule: Classes generally meet at 3:00 in Room 382 on Tuesdays and Thursdays.
Please note: This is a tentative syllabus - assigned readings and assignment due dates may change.

Tuesday, Jan. 8

Read: **Record on Appeal**, pp. 1-3, 25-27; ***Meritor Savings Bank v. Vinson***, 477 U.S. 57 (1986) [skip concurring opinions]; ***Parkins v. Civil Constructors of Illinois, Inc.***, 163 F.3d 1027 (7th Cir. 1998) [skip Retaliation analysis on pp. 1038-39]; **List of Permitted Authorities** [on TWEN].

Discuss: Overview of course; *Meritor* and *Parkins*; substantive requirements of sexual harassment claim based on conduct of co-worker; issues on appeal

Thursday, Jan. 10

Read: **Record on Appeal**, pp. 4-24; **29 CFR §1604.11**; **Theories of Employer Liability Flow Chart** [on TWEN]; **Appellant/Appellee Preference Form** [on TWEN]; Course Administrative Policies; Sample Briefs (skim)

Discuss: Facts established by Record on Appeal and possible arguments for Appellant and Appellee

Tuesday, Jan. 15

Read: ***Guess v. Bethlehem Steel Corp.***, 913 F.2d 463 (7th Cir. 1990); ***Young v. Bayer Corporation***, 123 F.3d 672 (7th Cir. 1997); ***Bernier v. Morningstar, Inc.***, 495 F.3d 369 (7th Cir. 2007); ***Wilson v. Tulsa Junior College***, 164 F.3d 534 (10th Cir. 1998).

Discuss: assigned cases

Thursday, Jan. 17

Read: *Zimmerman v. Cook County Sheriff's Dept.*, 96 F.3d 1017 (7th Cir. 1996); *Baskerville v. Culligan International Co.*, 50 F.3d 428 (7th Cir. 1995); *Carr v. Allison Gas Turbine Div., General Motors Corp.*, 32 F.3d 1007 (7th Cir. 1994); *Saxton v. American Telephone & Telegraph Co.*, 10 F.3d 526 (7th Cir. 1993).

Discuss: assigned cases; Writing Assignment #1 [due 1/22]; In-class exercise: Heart of the Matter

Tuesday, Jan. 22

Turn in: Writing Assignment #1: Cover Page and Question Presented

Read: *Rouse v. City of Milwaukee*, 921 F. Supp. 583 (E.D. Wis. 1996); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998) [skip Part II.B.1 and dissenting opinion]; *Burlington Industries Inc. v. Ellerth*, 524 U.S. 742 (1998) [skip Part II, Part III.A, and concurring and dissenting opinions];

Discuss: assigned cases

Thursday, Jan. 24

Read: TBA

Discuss: Persuasive legal writing; structure of Appellant's and Appellee's arguments

Tuesday, Jan. 29 [Writing Assignment #1 returned]

Read: TBA

Discuss: Common problems with Writing Assignment #1; Q&A re: Writing Assignment #2: Outline of Argument

Thursday, Jan. 31

Turn in: Writing Assignment #2: Outline of Argument

Discuss: Introduction to Oral Argument

Friday, Feb. 1 MAGUIRE MOOT COURT COMPETITION [date subject to change]

Tuesday, Feb. 5 [Martin Simpson guest lecture] [class may be re-scheduled]

Read: TBA

Discuss: Principles of style; writing/editing tips

Thursday, Feb. 7 [Writing Assignment #2 returned]

Read: TBA

Discuss: common problems with Writing Assignment #2; substance and organization of argument

Tuesday, Feb. 12

Read: TBA

Discuss: Q&A re: Writing Assignment #3 [entire draft of Argument & Conclusion]; writing/editing tips; “mini” oral argument exercise

Thursday, Feb. 14 [TA Oral Argument Demonstration]

Read: TBA

Discuss: Oral argument; Q&A re: Writing Assignment #3 [entire draft of Argument & Conclusion]

Tuesday, Feb. 19 Prepare & Present: “Mini” Oral Arguments

Thursday, Feb. 21

Turn in: Writing Assignment #3 [entire draft of Argument & Conclusion]

Read: TBA

Discuss: Oral argument

Tuesday, Feb. 26

Read: TBA

Discuss: Writing Assignment #4 [Statement of Case & Facts]

Thursday, Feb. 28

Turn in: Writing Assignment #4 [Statement of Case & Facts]

Read: TBA

Discuss: TBA

Monday, Mar. 4 – Friday, Mar. 8: SPRING BREAK

Tuesday, Mar. 12 [Writing Assignment #3 returned]

Discuss: common problems with Writing Assignment #3

WEDNESDAY, Mar. 13 – MONDAY, Mar. 25 Individual Conferences [sign up on TWEN]

Thursday, Mar. 14 No Class

Tuesday, Mar. 19 No Class

Thursday, Mar. 21

Read: TBA

Discuss: practice oral arguments

Tuesday, Mar. 26 [Writing Assignment #4 returned]

Read: TBA

Discuss: Common problems with Writing Assignment #4; Q&A re: oral argument

MONDAY, Mar. 25 - FRIDAY, Mar. 29

Prepare & Present: Practice Oral Arguments

Thursday, Mar. 28 No Class

Tuesday, Apr. 2

Read: TBA

Discuss: Writing Assignment #5 [due 4/4]; Q&A re: oral argument

MONDAY, Apr. 1 – FRIDAY, Apr. 12

Prepare & Present: Final Oral Arguments

Thursday, Apr. 4

Turn in: Writing Assignment #5 [Summary of Argument]

Read: TBA

Discuss: Citation; argument headings; Writing Assignment #6 [due 4/9]

Tuesday, Apr. 9 [Writing Assignment #5 returned]

Turn in: Writing Assignment #6 [Table of Contents and Table of Citations]

Discuss: Common problems with Writing Assignment #5; citation; Q&A re: final brief & final oral argument

Thursday, Apr. 11 [Writing Assignment #6 returned]

Discuss: final editing tips; citation

Tuesday, Apr. 16

Turn in: FINAL BRIEF

Discuss: course evaluation

JACKSON – APPELLATE ADVOCACY ADMINISTRATIVE POLICIES

1. Assignments; Grades

The principal assignments in this course consist of writing an appellate brief and presenting an oral argument. A number of preliminary assignments related to these major projects also must be completed. Timely and satisfactory completion of all assignments is expected. Please be aware of the following examples of unsatisfactory performance:

- * Submission of a paper containing excessive typographical, format or citation errors. Proofread your work carefully before submitting it.

- * Submission of an initial or final brief demonstrating a lack of credibility as a result of inaccurate quotations, misleading citations, or quotation of the headnotes or syllabus of a case in lieu of the court’s opinion (see 2, below). Double-check your quotes and cites for accuracy.

- * Failure to participate in the mini, practice or final oral arguments.

- * Violation of the Honor Code (see 3 & 4, below).

Grades will be determined primarily on the basis of (1) the final brief (90%), and (2) course work throughout the semester (10%). In exceptional cases, class participation also may be taken into account. See also section 6 below.

2. Accuracy of Quotations and Citations

The persuasive force of what you write (and say) depends fundamentally on your credibility. Careless errors undermine your credibility. Therefore, it is essential that you **proofread your brief to catch typographical errors**. Moreover, when you give a pinpoint cite, you are representing to the court that the portion of the case that supports your assertion can be found on the page you identify. Proofreading for typographical errors, however, will not reveal inaccuracies in your pinpoint citations. Therefore, it is essential that you **specifically double-check the accuracy of your pinpoint citations**.

Your representations to the court must be scrupulously accurate, not only with regard to the facts of the case as disclosed by the Record on Appeal, but also with regard to the legal authorities on which you rely. When you include a direct quotation in your brief, you are representing to the court that the text you set forth within the quotation marks is exactly what appears in the source, except as you specifically indicate otherwise through the use of brackets ([]) and ellipses (. . .). Thus, it is essential that you **specifically double-check the accuracy of all quotations**.

Finally, when you cite to a case you are representing that the court opinion supports the proposition you’ve asserted. The headnotes and syllabus of a case are not part of the court opinion, and if you cite to or quote from them, you betray a fundamental ignorance of what qualifies as precedent, and thereby destroy your credibility. **Never cite to or quote from the headnotes or syllabus of a case.**

3. Collaboration

You are encouraged to discuss ideas relating to the writing assignments, and the importance or interpretation of cases. Such discussion is often helpful in refining and testing your interpretation and analysis. However, **the Honor Code requires your paper to represent your own work**. Written work must be done independently, and unauthorized collaboration on writing assignments is an Honor Code violation. **Do not read another student's work, or share your written work with another student**, unless you have obtained my explicit written permission to do so. Giving your work to another student violates the collaboration policy as much as taking work from another student does.

4. Plagiarism

Plagiarism is an Honor Code violation. Sources must be acknowledged, not only when you quote their text, but also when you paraphrase. (Citing the original source when you paraphrase also enhances the credibility of your position.)

Direct quotes must be indicated by quotation marks, and the source should be cited immediately after the quoted passage or at the conclusion of the sentence in which the quoted passage appears. Text within the quotation marks should correspond exactly with the original; changes must be indicated by brackets, and omissions must be indicated by an ellipsis.

5. General Requirements for Writing Assignments

Specific format requirements for the final brief will be discussed more fully in class. More generally, all papers for this course are to be typed in **12-point Calibri** font, on 8 ½" x 11" paper, double spaced, with 1¼-inch margins on the left and right. The right margin should not be justified. Page numbers should be located at the bottom center of each page; the document should be stapled in the upper left hand corner (without a cover sheet), and (except for the final brief) should include a heading as follows:

To: Joe Jackson/[insert your TA's name here]

From: [insert your name here]

As noted above, excessive typographical, spelling, format, grammatical, or citation errors may cause a paper to be deemed unsatisfactory, regardless of its substantive merit. Proofreading is essential. You are encouraged to correct any errors you note on the printed copy neatly in pen.

6. Class Attendance and Assignment Due Dates

Class attendance and assignment due dates are mandatory. Excessive unexcused absences may result in a downward adjustment of your final grade or your dismissal from the course. Assignments turned in more than five minutes late will be noted as untimely; assignments turned in more than one hour late will be deemed delinquent. Unless the delay is excused, submission of multiple untimely assignments, or submission of any delinquent assignment, may result in a downward adjustment of your final grade. Printer or computer failures, errors, and the like generally do not constitute a satisfactory excuse for failing to turn in an assignment on time. I therefore urge you to prepare for such contingencies: back-up your work, and plan to print your document long enough before the deadline to find another printer in case the one you're using fails.