Legal Writing II

Section W, Class Number 28486, Spring 2022

Prof. Joseph Jackson, [jjackson@law.ufl.edu](mailto:jjackson@law.ufl.edu)

Class Hours: Tues/Thurs 3:00-4:25PM in Room 284 Holland Hall

Office Hours: Mon 12:00-2:00PM Room 368 C Holland Hall (352)273-0882

Zoom Personal Meeting Room: <https://ufl.zoom.us/j/6437443675>

Texts: **Joan Rocklin et al., An Advocate Persuades** (3d ed. 2016)

**The Bluebook** (21st ed. 2020)

**COURSE OBJECTIVE AND GOALS**

The primary objective of this course is for you to learn how to construct a thorough legal argument and express it effectively and persuasively in writing.  An additional objective is for you to learn how to perform effectively in presenting oral argument in support of your legal position. Finally, you will further refine your research strategies.

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

* Continue practicing how to research, analyze, and write about legal issues under time constraints.
* Demonstrate increasing levels of citation literacy: the ability both to read legal citations and to write them with appropriate placement and style.
* Apply a lawyer’s ethical and professional standards in the context of written and oral advocacy.
* Frame a legal issue to persuade a court to rule in your favor.
* Demonstrate ability to engage in effective legal analysis and advocacy through, for example, constructing persuasive rules, effectively employing analogical reasoning, strategically applying law to fact utilizing policy arguments and selecting a persuasive and logical organizational structure.
* Demonstrate an ability to communicate your legal analysis in a polished, readable, and appropriately concise written product, including motion memos and appellate briefs.
* Demonstrate a fundamental understanding of the trial process, including the filing of trial motions.
* Demonstrate an understanding of the basic appellate process and fundamental appellate concepts, including the decision to appeal.
* Edit and proofread persuasive legal documents.
* Present legal arguments, and answer questions effectively, in meetings or simulated hearings.
* Prepare and effectively present an oral argument in support of your legal position in a simulated appellate oral argument.

You should plan to spend approximately 2 hours out of class reading and preparing for in class assignments for every 1 hour in class.

Policies concerning grading, attendance, academic dishonesty, formatting of written assignments, untimely submission of written assignments, and other matters are set forth in the Course Administrative Policies below. Reasonable accommodations will be made for students with disabilities. Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester.

**COURSE ADMINISTRATIVE POLICIES**

1. **Assignments; Grades**

The principal writing assignments in this course consist of trial court motion memoranda and portions of an appellate brief. Some of the assignments will entail extensive research; many of the assignments will require submission of a preliminary draft. Other assignments include the presentation of appellate oral argument.

Grades will be determined primarily on the basis of the Trial Memo (10%), the final draft of the Appellate Brief Argument Section and Final Oral Argument (40%), and the Final Exam (50%). In exceptional cases, extraordinary (or extraordinarily deficient) course work throughout the semester also may be taken into account in determining the final grade. See also “Grading Standards for Final Drafts” and section 6 below, and the law school grading policy found [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies).

**Grading Standards for Final Drafts**

**A or A-:** The paper is excellent in all respects. The analysis presented is persuasive, interesting, and well-reasoned. The writing style is clear, direct, and grammatically correct. The paper is generally free of typos, formatting problems and citation errors.

**B+:** The paper is very good in all respects. By and large, the analysis is persuasive and well-reasoned, the writing style is clear, direct, and grammatically correct, and the paper is free of typos, formatting problems and citation errors, but the paper lacks some of the sophistication present in an A or A- paper.

**B:** The paper constitutes a solid, well-reasoned and professional piece of work. The organization, the writing style, the use of citation and the formatting of the paper demonstrate mastery of the basics of persuasive legal writing and citation.

**B- or below:** The paper is notably deficient in one or more respects: the analysis presented is thin, conclusory, or poorly-reasoned; the writing style is unclear, confusing or difficult to follow; the organization is poor; or the paper suffers from extensive grammatical, formatting or citation errors.

1. **Collaboration and Use of Unauthorized Sources**

You are encouragedto 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, without the aid of unauthorized sources. In particular, the parties’ briefs and amicus briefs in *Shurtleff v. City of Boston* and similar litigation are off-limits except as specifically noted in class.

Similarly, unauthorized collaboration on writing assignments is an Honor Code violation. **Do not read any other student's work, and do not share your written work with any student** **other than your TA**, unless you have obtained my explicit permission to do so. Giving your work to another student violates the collaboration policy as much as taking work from another student does.

1. **Plagiarism and Quotations**

**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 not only avoids plagiarism, it also gives your position more credence by showing that someone else has supported your view.)

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. What is within the quotation marks should correspond exactly with the original; any changes should be indicated by square brackets ([ ]), and any omissions should be indicated by an ellipsis (. . .). Be sure you **specifically double-check the accuracy of all quotations** against the source.

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 constitutes case law precedent. **Never cite to or quote from the headnotes or syllabus of a case.**

1. **Proofreading**

Careless errors undermine your credibility, and thereby undermine the persuasive force of what you write. **Excessive typographical, spelling, format, grammatical, or citation errors may cause a paper to be deemed unsatisfactory, regardless of its substantive merit.** Proofreading is essential. Merely proofreading for typographical errors, however, will not reveal inaccuracies in your pinpoint citations. Therefore, you should **specifically double-check the accuracy of your pinpoint citations** against the source.

**5. Formatting Requirements for Writing Assignments**

All assignments (except the Final Exam Trial Memo) are to be submitted electronically via the course Canvas website, in Word or .pdf format. Specific formatting requirements will be specified in class. In general, the right margin should not be justified, page numbers should be located at the bottom center of each page except the first, and the text should be double-spaced, except for the headings.

**6.** **Class Attendance and Assignment Due Dates**

The law school policy on exam delays and accommodations can be found [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form). 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. 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 upload your document long enough before the deadline to find another computer in case the one you’re using fails.

**7. Course Evaluation**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

**8. Recording Classes**

You may record video or audio of class lectures only for the following narrow purposes: (1) for your sole, personal educational use; (2) in connection with a complaint to the university; or (3) as evidence in, or in preparation for, a criminal or civil proceeding. Recording for any other purpose is prohibited. Moreover, you may not publish, share, or transmit any part of your personal recording to anyone else—including another student in the class—without my written permission. If you do so without my written consent you may be subject to civil liability, as well as to discipline under the UF Student Honor Code and Student Conduct Code.

**ASSIGNMENTS AND COURSE SCHEDULE**

The Course Calendar begins below. **Note that the schedule is tentative, and may change.** “Text” refers toJoan Rocklin et al.,*An Advocate Persuades*, 3d ed.

**\* indicates a special combined class with Section 1R, not at our usual day/time/location**

(T) January 18 **Introduction to Legal Writing II and *Shurtleff v. City of Boston***

Read:Familiarize yourself with our class Canvas page prior to first class.

Read and be prepared to discuss the decision below in *Shurtleff v. City of Boston*, 986 F.3d 78 (1st Cir. 2021). Optional: ch. 1, 2, 3 of text

(Th) January 20 **Key government speech cases, sample brief, and structure of brief**

Read: Read cases (see Canvas module for today’s readings); skim Syllabus and Sample Brief. Optional: ch. 12 of text

(T) January 25 **Key public forum cases, Questions Presented, Research Assignment**

Read: Read cases (see Canvas module for today’s readings); find and read Supreme Court rule on Questions Presented in Brief on the Merits. Optional: ch. 5 of text

(Th) January 27 **Remaining public forum cases, Record on Appeal excerpts**

Read: Read key portions of record on appeal (see Canvas module for today’s readings)

DUE by start of class, on Canvas: Cover page and Question Presented

(T) February 1 **Structure of Argument and Assertive Style for Briefs; Research results**

Read: Text ch. 6-7

(Th) February 3 **Substance and organization of arguments**

Read: TBA

(T) February 8 **Writing a persuasive Statement of Case and Facts**

Read: Text ch. 12; additional readings TBA

DUE by start of class, on Canvas: Outline of Appellate Argument

(Th) February 10 **In-class peer review of SOCAF**

Read: TBA

DUE by the start of class. on Canvas: SOCAF draft. You will be assigned a peer-review partner for in-class peer review for the Feb. 10 class.

(T) February 15 **Substance and Organization of Appellate Brief Argument Section**

Read:Text ch. 8

DUE by start of class, on Canvas: SOCAF

(Th) February 17 **Q&A regarding format, style, substance, and organization of Argument Section**

(T) February 22 **Trial memo research assignment**

Read: Supplemental Material in Canvas (Research assignment)

DUE by start of class, on Canvas: Draft of Appellate Brief Argument Section

(Th) February 24 **Introduction to Appellate Oral Argument**

Read: Text ch. 14

(T) March 1 **Introduction to the Trial Memo; TA demonstration of appellate oral argument**

Read: Text ch. 4, 9

DUE by start of class, on Canvas: Trial memo research assignment

(Th) March 3 **Mini-Oral Argument Exercise** (time TBA; scheduled w/ your TA group)

**March 7 – 11 Spring Break**

**\***March 14 or 15 (TBA) **Guest Lecture in lieu of class (Mat Staver, Liberty Counsel)**

(Th) March 17 **Common issues with Argument Section drafts; Q&A re Trial Memo**

Read: Text ch. 13

**\***(M) March 21 @ 3:00 **Combined class: Oral argument tips; final Q&A re Trial Memo**

Read: TBA

DUE by 11:59pm Monday March 21, on Canvas: Trial Memo

**\***(T) March 22 @ 12:00 **Panel discussion on oral argument: Judge Scott Makar and Bryan Gowdy, Esq.**

Read: TBA

March 22-25 **Practice Oral Arguments in lieu of class (date/time TBA**). You and your partner will be assigned a 30-minute block one afternoon or evening this week.

(F) March 25 Optional writing workshop. Details to be announced.

**\***(M) March 28 @ 3:00 **Combined class: Q&A re Final Oral Arguments**

Read: TBA

March 28-31 **Final oral arguments this week (date/time TBA)**. You and your partner will be assigned a 30-minute block between 6:00 and 9:00 one evening this week.

**\***(F) April 1 (time TBA) **Combined class: common issues with trial memo drafts; final Q&A re Brief**

Read: n/a

DUE by 11:59 p.m. Sunday April 3, on Canvas: Final Draft of Appellate Brief Argument Section

(T) April 5 **Course evaluations; oral argument post-mortem**

(Th) April 7 No class

(T) April 12: **Research exercise assignment**

Read: TBA

(Th) April 14: **Research exercise discussed and explained**

DUE by start of class, on Canvas: Research exercise

FINAL EXAM DROPS: Friday April 15, 5:00 p.m.

**\***(M) April 18 @ 3:00 **Combined class: Limited Q&A regarding final exam**

DUE by 11:59 p.m. Friday April 22, via ExamSoft: FINAL EXAM