

APPELLATE LAW AND POLICY (Rev. 8-7-20)

University of Florida, College of Law
Fall 2020, Course 6936-08HA-15330, (2 Credit Hours)
Professor: Scott D. Makar

Time: 10:00-12:00pm, Thursdays
Place: Room 213B
Office Hours: After class or by appointment.
Text: Meador, et. al., Appellate Courts: Structures, Functions, Processes, and Personnel (2nd Ed. Lexis/Nexis 2006 & 2009 Supplement); and Richard Posner, Reflections on Judging (2013).

Course Description/Objectives: *Description:* This seminar focuses on a broad range of topics of current and ongoing interest to appellate lawyers, judges, and academics including: *the structure, performance, and reforms of state and federal appellate court systems* (such as dividing large courts, adding judges, staffing/funding appellate courts); *the judicial decision-making process* (jurisdiction/appellate writs, judicial opinion writing, judicial strategy, en banc v. panel decisions); *issues of current debate* (judicial independence, judicial selection methods, judicial free speech, and judicial ethics); and *related appellate topics* (such as technology in and media coverage of appellate courts including appellate blogs and legal research). Appellate law clerk skills will also be included. Students choose topics on which to write seminar papers, and present current events throughout the semester. *Objectives:* Students successfully completing this course should: be able to understand and explain each of the topics just listed; be conversant with contemporary appellate issues as to each topic; and present a research paper of potentially publishable quality that shows a thorough understanding of a pre-approved appellate topic.

Assignments: In general, the course will follow the Tentative Course Schedule presented below. Approximately 30-45 pages of materials will be covered per class meeting. Assignments will be revised depending upon the pace maintained during the semester as well as the number of outside speakers. *Experience has shown that frequent revisions are required, which are posted in the course's Canvas page.*

Attendance and Preparation: A minimum requirement for each class meeting is to have read the assigned materials for that class (you'll spend about 2 hours reading out of class for every 1 hour in class). All class members will be expected to contribute to class discussions. Notice will be taken of both strong and inadequate preparation and attendance. Nonattendance will be noted and, if egregious, could result in a lower course grade.

Class Format: Each class meeting will begin with a presentation of assigned materials followed by a class discussion. You are encouraged to ask questions at any time. You are also encouraged to bring materials on topics relevant to the course for class discussion. Students will be assigned various tasks and topics throughout the semester including presenting summaries of their seminar papers. The class will have speakers from the community from time to time. As such, students should anticipate that the tentative class schedule will be frequently revised.

Grades: Course grades will be based on the semester paper and class preparation, participation, and attendance, and be in accordance with the College of Law’s posted grading policy. Particularly strong or weak preparation, participation, or attendance will be factors in determining final course grades. Paper topics must be approved in writing as early as possible in the term to enable enough time for research and writing. The paper will consist of no less than 20 (and no more than 25) pages of double-spaced text appropriately footnoted (text in footnotes does not count towards the minimum 20-page requirement). **Notice:** Papers must meet citation standards (Bluebook) and compliance with the honor code, particularly as to plagiarism, will be strictly enforced.

UF Policies:

University Policy on Accommodating Students with Disabilities: Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

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

University Letter Grade Point Equivalences:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

TENTATIVE CLASS SCHEDULE
(Subject to Periodic Change)

Assignment of specific pages from text and Posner book will be posted separately in Canvas.

August 27	Overview of course; appellate structure under Florida's constitution and the U.S Constitution; jurisdiction/standards of review/Florida appellate practice.
September 3	No Class (due to judicial conference)
September 10	Managing appellate caseloads; pro se appeals; judicial staff; court size and structure; specialized courts; divisions; creating new courts/dividing large courts; optimal number of judges.
September 17	Opinion writing; types of opinions; published versus non-published opinions; non-citation rules; role of PCAs; role of judicial law clerks.
September 24	Judicial strategy; en banc issues; judicial performance/ranking;
October 1	U.S. Supreme Court practice; health care litigation; confirmation process.
October 8	Judicial Independence; judicial selection and retention; state v. federal models; mandatory retirement age; use of senior judges.
October 15	Appellate judicial clerks: skills and responsibilities.
October 22	Judicial immunity; judicial ethics; judicial salary/compensation; judicial discipline; judicial recusal; judicial free speech.
October 29	Court funding issues; role of legislature.
November 5	Media and the courts; covering high profile appeals; appellate blogs.
November 12	Oral arguments; video arguments; archives.
November 19	Appellate court administration; technology; virtual records on appeal; privacy and public records issues.
TBD	Make-up class for Sept. 3rd
TBD	Papers Due