

Appellate Advocacy § T
LAW 5793, Class # 16428
Spring 2019

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

SYLLABUS

Professor: Timothy McLendon
Office: 230 Bruton-Geer Hall (on the 2nd floor, in the office suite of the Center for Governmental Responsibility)
Telephone: (352) 273-0835
E-mail: 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* (6th ed., 2016).
The Bluebook: A Uniform System of Citation (20th ed., 2016).
Additional Course Materials available on TWEN
Note that these are the same materials as were required for your fall 2019 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/) 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:

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|-------------------|---|
| January 23 | Writing Assignment #1 [Cover Page, Question Presented & Jurisdictional Statement] |
| February 4 | Writing Assignment #2 [Outline of Argument] |
| February 25 | Writing Assignment #3 [Entire draft of Argument & Conclusion] |
| March 18 | Writing Assignment #4 [Statement of Case & Facts] |
| March 26-29 | Practice Oral Arguments (dates subject to change) |
| April 1-12 | Final Oral Arguments (dates subject to change) |
| April 1 | Writing Assignment #5 [Summary of Argument] |
| April 8 | Writing Assignment #6 [Table of Contents & Table of Citations] |
| April 22 | Final Brief Due |

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 7, 2019

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

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

Wednesday, January 9, 2019

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 14, 2019

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

Wednesday, January 16, 2019

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

Monday, January 21, 2019

Martin Luther King Day – No Class

Wednesday, January 23, 2019

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 28, 2019

Read: Edwards text, ch. 20-21

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

Wednesday, January 30, 2019

Writing Assignment #1 returned

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

Discuss: Argument Headings

Friday, February 1, 2019

Attend Maguire Moot Court Competition before Florida Supreme Court justices.
Time TBA

Monday, February 4, 2019

Writing Assignment #2 due

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

Wednesday, February 6, 2019

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 11, 2019

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

Discuss: Introduction to oral argument

Wednesday, February 13, 2019

Writing Assignment #2 returned

Read:

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

Monday, February 18, 2019

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

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

Wednesday, February 20, 2019

TA Oral Argument Demonstration

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

Monday, February 25, 2019

Writing Assignment #3 due (draft argument & conclusion)

Read: To be assigned

Wednesday, February 27, 2019

Guest speaker

Monday, March 4 – Friday, March 8, 2019

SPRING BREAK

Monday, March 11 – Friday, March 15, 2019

Mini-orals Set up with your TA groups

Monday, March 11, 2019

Read: Edwards text, ch. 22

Discuss: Statement of Case and Facts

Wednesday, March 13, 2019

Read: Edwards text, ch. 19

Discuss: Summary of Argument

Monday, March 18, 2019

Writing Assignment #3 returned

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

Discuss: Common issues & problems with Writing Assignment #3

Tuesday, March 19 – Tuesday, March 26, 2019

Individual Conferences – sign up on TWEN

Wednesday, March 20, 2019

No Class

Monday, March 25, 2019

Read: To be assigned

Discuss: Practice Oral Arguments

Tuesday, March 26 – Friday, March 29, 2019

Practice Oral Arguments (with TA groups)

Wednesday, March 27, 2019

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

Monday, April 1 – Friday, April 12, 2019

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 1, 2019

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 3, 2019

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 8, 2019

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 10, 2019

Writing Assignment #6 returned

Discuss: final editing tips; citation issues

Monday, April 15, 2019

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

Wednesday, April 17, 2019

No Class

Monday, April 22, 2019

FINAL BRIEF due on TWEN by 11.59pm