

APPELLATE PRACTICE AND PROCEDURE

George Mason University School of Law

Fall Semester 2004

Room 123 6:00 – 7:50 p.m.

Judge R. Terrence Ney

Assigned Text: Robert J. Martineau, Appellate Practice and Procedure (1987)

Supplementary Text: Appellate Practice: Virginia and Federal Courts (Third Edition 2001)

	Class Subject:	Assignment:
Aug. 31:	Introduction to Course and Materials	
Sept. 7:	Overview of Appellate Practice	Read: Chapter 1 of text. <u>Cherrick, Issues, Facts, and Appellate Strategy</u> , Litigation, Vol. 16, No. 3 (1990); <u>M.L.B. v. S.L.J.</u> , 519 U.S. 102 (1996); <u>Ross v. Moffitt</u> , 417 U.S. 600 (1974).
Sept. 14:	Decision to Appeal	Read Chapters 2 and 3 of text. <u>Moses H. Cone Mem. Hosp. v. Mercury Const. Corp.</u> , 460 U.S. 1 (1983); <u>Gulfstream Aerospace Corp. v. Mayacamas Corp.</u> , 485 U.S. 271 (1988).
Sept. 21:	Preserving Issues for Appeal	Read Chapters 4 and 5 of text. Read Chapters 2 and 3, Appellate Practice: Virginia and Federal Courts; Martineau, <u>Considering New Issues on Appeal: The General Rule and the Gorilla Rule</u> , 40 Vand.L.Rev. 1023 (1987); <u>Cone v. West Virginia Pulp & Paper Co.</u> , 330 U.S. 212 (1947); <u>Johnson v. New York, N.H.R. Co.</u> , 354 U.S. 48 (1952); <u>Chambers v. Mississippi</u> , 410 U.S. 284 (1973)
Sept. 28:	Initiating and Perfecting the Appeal Extraordinary Writs	Read Chapters 6 and 7 of text. Read Chapter 4, Appellate Practice: Virginia and Federal Courts.
Oct. 5:	Issues and Questions Presented Effective Brief Writing	Read Chapter 5, Appellate Practice: Virginia and Federal Courts; <u>West Virginia Board of Education v. Barnette</u> , 319 U.S. 624 (1943) Distribute appeals.

Oct. 19:	Effective Brief Writing	Read Chapter 8 of text. Rutledge, <u>The Appellate Brief</u> , 28 A.B.A. Journal 251 (1942).
Oct. 26:	Effective Brief Writing Reply Briefs	Read Chapter 9 of text. Submit Appellants Briefs.
Nov. 2:	Effective Oral Argument	Wilkins, <u>The Argument of an Appeal</u> , 33 Cornell L.J. 40 (1947); Prettyman, <u>Some Observations Concerning Appellate Advocacy</u> , 39 Va. L. Rev. 28 (1953); Prettyman, Jr., <u>Supreme Court Advocacy: Random Thoughts in a Day of Time Restrictions</u> , Litigation, Vol. 4, No. 2 (1978).
Nov. 9:	Effective Oral Argument	Submit Appellees Briefs. Harlan, <u>What Part Does the Oral Argument Play in the Conduct of Appeal</u> , 41 Cornell L.Q. 6 (1955); Godbold, <u>Twenty Pages and Twenty Minutes – Effective Advocacy on Appeal</u> , 30 Southwestern L.J. 801 (1976); Jackson, <u>Advocacy Before the Supreme Court</u> , 37 A.B.A. Journal 801 (1951); Wiener, Frederick Bernays, <u>On the Improvement of Oral Argument</u> , Case & Comment 12-17 (Nov.-Dec. 1967).
Nov. 16:	Oral Arguments	Read Chapter 15 of text. Read Chapter 6, Appellate Practice: Virginia and Federal Courts. Submit Reply Briefs.
Nov. 23:	Oral Arguments	Read Chapter 7, Appellate Practice: Virginia and Federal Courts.
Dec. 4:	Oral Arguments	Courthouse