

SYLLABUS

APPELLATE PRACTICE AND PROCEDURE

George Mason University School of Law

Spring Semester 2009

Room 123 6:00 – 7:50 p.m.

Judge R. Terrence Ney

Assigned Textbook: Martineau, Sinclair, Solimine, Holland, *Appellate Practice and Procedure* (2d. Ed. 2005)

Supplementary Textbook: *Appellate Practice: Virginia and Federal Courts* (4th. Ed. 2008)

	Class Subject:	Assignment:
Jan. 13:	Introduction to Course and Materials	
Jan. 27:	Overview of Appellate Practice	Read: Chapter 1 of textbook, Sections A and B; <i>M.L.B. v. S.L.J.</i> , 519 U.S. 102 (1996); <i>Ross v. Moffitt</i> , 417 U.S. 600 (1974).
Feb. 3:	Preservation of Issues	Read Chapter 2 of textbook, Sections A, B, D, and E.
Feb. 16:	Reserved	<i>Rogers v. Missouri Pacific R.R. Co.</i> , 352 U.S. 500 (1957).
Feb. 17:	Appealability	Read Chapter 3 of textbook, Sections A and B(1)(3); <i>Moses H. Cone Mem. Hosp. v. Mercury Const. Corp.</i> , 460 U.S. 1 (1983); <i>Gulfstream Aerospace Corp. v. Mayacamas Corp.</i> , 485 U.S. 271 (1988).
Feb. 24:	Reserved	<i>Distribute appeal.</i>
March 3:	Issues and Questions Presented Effective Brief Writing	Read Chapter 8 of textbook, Sections A, C, D, and E(3)(a); Rutledge, <i>The Appellate Brief</i> , 28 A.B.A. Journal 251 (1942); Wiener, <i>Essentials of an Effective Appellate Brief</i> , 17 Geo. Wash. L. Rev. 143, 144-48, 150, 151-54, 156-57, 160-61, 166, 171-79, 181-84 (1949); Read Chapter 5. <i>Appellate Practice: Virginia and Federal Courts.</i>

March 17:	Parties	Read Chapter 4 of textbook, Sections A, B, C, I, and J; <i>Baker v. Wade</i> , 769 F.2d 289 (5 th Cir. 1985); <i>Chambers v. Mississippi</i> , 410 U.S. 284 (1973).
March 24:	Initiating the Appeal	Read Chapter 5 of textbook, Sections A, D, E(3), F(1)(5)(6), and G(2); <i>Cone v. West Virginia Pulp & Paper Co.</i> , 330 U.S. 212 (1947); <i>Johnson v. New York, N.H.R. Co.</i> , 354 U.S. 48 (1952);
March 31:	Relief Pending Appeal	Submit Appellants Briefs. Read Chapter 6 of textbook, Sections B(1)(2)(4)(5), C and D. Read Chapter 4, <i>Appellate Practice: Virginia and Federal Courts</i> .
April 7:	Record on Appeal	Read Chapter 7 of textbook, Sections B, C, D, and E; <i>West Virginia Board of Education v. Barnette</i> , 319 U.S. 624 (1943).
April 14:	Reserved	Submit Appellees Briefs.
April 21:	Oral Argument	Harlan, <i>What Part Does the Oral Argument Play in the Conduct of Appeal</i> , 41 Cornell L.Q. 6 (1955); Prettyman, <i>Some Observations Concerning Appellate Advocacy</i> , 39 Va. L. Rev. 28 (1953); Prettyman, Jr., <i>Supreme Court Advocacy: Random Thoughts in a Day of Time Restrictions</i> , <i>Litigation</i> , Vol. 4, No. 2 (1978).
April 28:	Oral Argument	Submit Reply Briefs. Davis, <i>The Argument of an Appeal</i> , 26 A.B.A. Journal 895 (1940); Wiener, <i>Oral Advocacy</i> , 62 Harv. L. Rev. 56, 60-75 (1948); Jackson, <i>Advocacy Before the Supreme Court</i> , 37 A.B.A. Journal 801 (1951); Wiener, <i>On the Improvement of Oral Argument, Case & Comment 12-17 (Nov.-Dec. 1967)</i> . Read Chapter 6, <i>Appellate Practice: Virginia and Federal Courts</i> .
May 8, 2:00 p.m.:	Oral Arguments	Courthouse