

## LRWA III - Appellate Writing

Welcome to Appellate Writing. In this two-credit course, you will refine your persuasive writing skills by writing two full appellate briefs. The course focuses on the selection and construction of effective legal arguments in the appellate context. We expect you to behave professionally, demonstrating responsibility and initiative in your class sessions, individual meetings, and written assignments. Please carefully read this syllabus and the Appellate Writing Rules.

At the conclusion of this course, you should:

- understand the Federal Rules of Appellate Procedure and First Circuit Local Rules for appealing a federal case;
- write appellate briefs that comply with the Federal Rules of Appellate Procedure and First Circuit Local Rules;
- effectively research and think critically about legal issues;
- effectively frame legal arguments in the appellate context;
- understand and recognize various advanced persuasive writing techniques;
- apply advanced persuasive writing techniques in writing appellate briefs; and
- effectively critique and edit your own work and the work of others.

### Class Logistics

All sections will meet in person, although some individual meetings may be carried out virtually. All sections will cover the same material. All students are responsible for completing all assignments. The chart beginning on page 3 lists each section and its meeting day and time.

We are fortunate to have dedicated and experienced practicing attorneys who care about training young lawyers give their time to teach you. Please respect their time and keep in mind that, due to professional or family commitments, they may not always be available to respond immediately to your email or phone call. Allow one business day for a reply.

### Textbook and Out-of-Class Assignments

The required textbook for this course is Joan M. Rocklin et al., *An Advocate Persuades* (Carolina Academic Press 2016), which you should already have from your LRWA II class. The course calendar in this syllabus lists assigned reading and other out-of-class requirements for each week for all sections. Individual professors may assign additional reading, videos, or out-of-class activities. You are expected to complete each assignment **in advance of the class for which it is assigned** unless instructed otherwise by your professor.

### TWEN

Please register on TWEN for **both** LRWA III Appellate Writing (All Students), and your section's TWEN page ("LRWA III Appellate Writing ([Professor Name])"). **You are responsible for knowing all information posted on the two TWEN pages throughout the semester. You may**

**not join the TWEN page of a section that is not yours.** Your section's TWEN page is where you will contribute to online discussion, take quizzes, and submit assignments. It is also where your professor will communicate with you regarding requirements specific to your section.

### **Restrictions on Collaboration**

All written projects this semester are individual projects. You may not request or accept editing or proofreading assistance from any person except at the express direction of your professor or the director of the program. However, you may freely discuss with others the record in the case, legal research techniques and results, cases and precedent, and how the law applies to the facts of our case. In short, the legal substance of the assignments is fair game for discussion – and discussion is encouraged – but your written work product must be yours alone.

### **Time Management**

Fall of your second year can be extremely busy with the addition of extracurricular activities, job interviews, moot court or trial advocacy competitions, journal responsibilities, and internship responsibilities to the commitments you juggled during your first year. Pace yourself and manage your time so that you are not completing assignments at the last minute.

### **Projects and Grading**

During this semester you will work as appellate attorneys on a single case, first as counsel for appellant and then as counsel for appellee. You will start by conducting legal research and reporting your results to your professor either in class, in small groups, or in one-on-one meetings. You will then draft specific portions of the appellant's brief before drafting a full appellant's brief. Your final project will be to write a full appellee's brief.

For each written project, you must submit a Microsoft Word (.doc/.docx) file conforming to all requirements of the project memo. Each of your AGN projects must include the following information, centered as a header on a single line on every page, using the same font as the body of your project: [Semester Identification] [Instructor Name] [Project Number] [AGN]. For example, a student submitting Project 5 in Professor Driscoll's section would use the following header:

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For projects submitted without AGNs, use your last name in place of the AGN.

For **all** written submissions, use this same header text to name your file in Word. All written submissions must contain page numbers on each page in the same font as the body of the project.

Some assignments will be graded on an “Expanded Pass/Fail” basis. All other projects will be graded on a six-point scale, for which you will use Anonymous Grading Numbers (AGNs). AGNs must be exactly seven characters, must not form a discernable word or phrase, and must not form a discernable pattern when viewed in combination with your other AGNs. **You must create and submit your AGNs for all projects using the link on TWEN before 6:00 pm on Friday, September 10.**

You will also be graded on your professionalism throughout the semester. The professionalism evaluation includes: your completion of and performance on quizzes, in-class or out-of-class assignments, and course projects; indices of preparation, attention, and focus during class and in your written work product; and interaction with classmates and your professor during class. It also includes your interactions with your professor or the director of the program outside of class. The chart below lists the various graded aspects of this course.

Description	Grading Method	Weight
Project 1: Presentation of initial research results and follow up email	Expanded Pass/Fail	5%
Project 2: Draft Appellant’s issue statements	Expanded Pass/Fail	3%
Project 3: Draft Appellant’s point headings	Expanded Pass/Fail	3%
Project 4: Draft Appellant’s Statement of the Case	Expanded Pass/Fail	4%
Project 5: Draft Appellant’s Brief (Issue Statements, Draft Argument) discussing jurisdictional issue only	0-6 point scale	15%
Project 6: Appellant’s Brief discussing both issues (issue statements, Statement of the Case, and two argument sections)	0-6 point scale	25%
Project 7: Appellee’s Statement of the Case and point headings	Expanded Pass/Fail	5%
Project 8: Full Appellee’s Brief (including cover sheet, tables, conclusion, and certificates)	0-6 point scale	35%
Professionalism	0-6 point scale	5%

### Appellate Writing Sections

Day	Time	Section Number	Professor
Tuesday	9:50am	98-001	Atkins
Tuesday	6:05pm	98-008	Springs
Tuesday	6:05pm	98-009	Bowles
Wednesday	9:00am	98-002	Bayram
Wednesday	9:50am	98-003	Barnes
Wednesday	6:05pm	98-010	Goldstein

Wednesday	8:10pm	98-011	Wagstaff
Wednesday	8:10pm	98-012	Robins
Thursday	9:50am	98-004	Hemmer
Thursday	2:00pm	98-005	Perry
Thursday	4:00pm	98-006	Sockett
Thursday	8:10pm	98-013	Driscoll
Friday	Noon	98-007	Hope

### Course Calendar

This course calendar lists the general weekly class topics and class assignments applicable to all sections, which are subject to change during the semester. Any changes will be communicated to you via TWEN—plan to check your section’s site at least weekly. In addition, each section may have additional class assignments or may slightly change the order of topics at the discretion of the Professor. You are responsible for knowing your section-specific requirements.

Class Week/ Due Date	Reading and Drafting Assignments to be Completed Before Class	In Class Topics and Exercises
Week of August 23	<p><b>Read:</b> Syllabus &amp; Rules (on TWEN)</p> <p><u>An Advocate Persuades</u>, Chapter 5: Appellate Practice</p> <p>Fed. R. App. P. 3, 4, 10, &amp; 11</p> <p>The Record (on TWEN)</p> <p>Project 1 Memo (on TWEN)</p> <p><b>View Videos:</b> The Appellate Process</p> <p>Standard of Review</p> <p><b>Post:</b> Introduce yourself to your professor and your classmates with a post in the</p>	<p>Introduction to Appellate Writing</p> <p>Our Case</p> <p>Research</p> <p><b>Exercise:</b> Case timeline exercise</p>

	<p>Introductions discussion forum on your section's TWEN page.</p> <p><b>Draft:</b> Timeline of relevant events from the record with page number references</p>	
Week of August 30	<p><b>Read:</b> Project 2 Memo (on TWEN)</p> <p>The secondary sources, cases, and statutes found in your research</p> <p><b>Draft:</b> Summary of elements/inquiries relevant to each issue; notes for reporting on your research</p> <p>Your professor will let you know where, when, and how this class meeting will occur.</p>	<p>Devising an Appellate Strategy</p> <p><b>Exercise:</b> Report on your research, the substantive legal issues involved in the case, and your plan for brief drafting.</p> <p><b>Project 1 Submission:</b> Within 48 hours after the scheduled end of class, each student must send a follow-up email to the professor summarizing the discussion and detailing agreed upon next steps.</p>
Week of September 6	<p><b>Read:</b> Fed. R. App. P. 28 &amp; 32</p> <p><u>An Advocate Persuades</u>, Chapter 11: Constructing Appellate Briefs Chapter 1: The Nature of Persuasion Chapter 9: Refining Persuasive Arguments</p> <p>Sample Briefs posted on TWEN</p> <p>Project 3 Memo (on TWEN)</p> <p><b>Draft:</b> Issue statements for both issues on appeal</p>	<p>Persuasive Briefs</p> <p>Issue Statements</p> <p>Point Headings and Argument</p> <p>Writing Process – Outlining and Drafting</p> <p><b>Exercise:</b> Peer editing of issue statements</p> <p><b>Project 2 Submission:</b> Within 48 hours of the scheduled end of class, students submit draft issue statements on both issues via TWEN</p>
Week of September 13	<p><b>Read:</b></p>	<p>Argument</p>

	<p><u>An Advocate Persuades</u>, Chapter 6 Themes for Persuasive Arguments Chapter 9, parts (V) and (VI)</p> <p><u>A Lawyer Writes</u>, Chapter 7, section 7.3 (on TWEN)</p> <p>Project 4 and 5 Memos (on TWEN)</p> <p>Sample Briefs (on TWEN)</p> <p><b>Draft:</b> Point headings for both issues on appeal. Print two copies and bring to class.</p> <p>Bring your laptop/tablet to class for the attribution exercise.</p>	<p>Theme</p> <p>Correct and complete attribution</p> <p><b>Exercise:</b> Attribution exercise.</p> <p>Peer editing of point headings.</p> <p><b>Project 3 Submission:</b> Within 48 hours of the scheduled end of class, students must submit point headings via TWEN.</p>
Week of September 20	<p><b>Read:</b> <u>An Advocate Persuades</u>, Chapter 12 Statements of Fact and of the Case</p> <p>Sample Briefs posted on TWEN</p> <p><b>Draft:</b> Statement of the Case, properly citing the record</p>	<p>Statement of the Case</p> <p><b>Exercise:</b> Peer editing of Statement of the Case</p> <p><b>Project 4 Submission:</b> Within 48 hours of the scheduled end of class, students must send a draft Statement of the Case via TWEN.</p>
<b>Sunday, September 26 – P5 Due</b>	Submit your Project 5 <b>before 11:00 p.m.</b> on Sunday, September 26.	
Week of September 27	<p><b>Read:</b> <u>An Advocate Persuades</u>, Chapter 13 Editing and Polishing for Persuasion Chapter 9, parts (III) and (IV)</p> <p>Effective Drafting materials (on TWEN)</p> <p><b>View:</b> Editing Tips &amp; Tricks</p>	<p>Understanding and incorporating feedback</p> <p>General Feedback on Projects 1-4</p> <p>Editing Process</p> <p><b>Exercise:</b> Effective drafting</p>

Week of October 4	<b>Read:</b> Sample Briefs posted on TWEN  Project 6 Memo	Summary of the Argument  Project 5 Group Discussion
Week of October 11		Individual Meetings– students meet individually with instructors to discuss feedback on Project 5
<b>Sunday, October 17 – P6 Due</b>	Submit your P6 <b>before 11:00pm</b> on Sunday, October 17.	
Week of October 18	<b>Read:</b> <u>An Advocate Persuades</u> , Chapter 14 Presenting Oral Argument  Appellate Practice materials posted on TWEN  Project 7 Memo (On TWEN)  <b>View:</b> Oral Argument Tips	Oral Advocacy – preparing for and delivering oral argument  Effectively communicating with courts and colleagues in the virtual environment  Real World Appellate Practice
<b>Sunday, October 24 Appellant’s Brief Released</b>		
Week of October 25	<b>Read:</b> <u>An Advocate Persuades</u> , Chapter 11, part (II)  The record  <b>Draft:</b> Statement of the case and point headings from the appellee’s perspective.	Introduction to Appellee’s Brief  <b>Exercise:</b> Discuss the record, this time focusing on facts critical to the appellee’s case. Also consider how point headings can be drafted to persuade from the appellee’s point of view.  <b>Project 7 Submission:</b> Within 48 hours of the scheduled end of class, students must submit a draft Statement of the

		Case and point headings for the appellee's brief via TWEN.
Week of November 1	<p><b>Read:</b> Appellant's Brief (on TWEN)</p> <p>Project 8 Memo (on TWEN)</p> <p><b>Draft:</b> Summary of legal arguments made in target brief on each issue.</p> <p>Summary of misstatements/inaccuracies of fact and law in target brief.</p>	<p>Substantive discussion of the Appellant's brief and potential arguments</p> <p><b>Exercise:</b> In small groups, consider how each of the arguments in the target brief might be effectively and respectfully rebutted.</p>
Week of November 8	<p><b>Watch:</b> TOA/TOC Videos</p> <p><b>Draft:</b> Create a skeleton appellee's brief containing the necessary tables and certificates, properly formatted.</p>	<p>Technological tips and tricks</p> <p>Review of persuasive techniques</p> <p>Professional formatting and other formalities</p>
Week of November 15		Professor's Choice
<b>Wednesday, November 24</b> <b>P8 Due</b>	P8 Due <b>before 11:00 p.m.</b> November 24.	