

## LRWA III - Appellate Writing

Welcome to Appellate Writing. In this two-credit course, you will refine your persuasive writing skills by writing two 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 on page 4 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) (First Edition), which you should already have from your LRWA II class. You also need the Federal Rules of Appellate Procedure and the First Circuit Local Rules, both of which are available for free online. Finally, you are expected to follow the Bluebook citation rules for practitioners in your written work product.

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, caselaw, statutes, secondary sources, and how the law applies to the facts of our case. 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 extracurricular activities, job interviews, moot court or trial advocacy competitions, journal responsibilities, and internship responsibilities added to the commitments you juggled during your first year. Pace yourself and manage your time so that you are not completing major assignments at the last minute.

## Written Assignment Requirements

During this semester you will work as appellate attorneys on a single case, first as counsel for appellants and then as counsel for appellees. 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 appellants' brief which you will incorporate into a full appellants' brief. Your final project will be to write a full appellees' brief.

For each written project, you must submit a Microsoft Word (.doc/.docx) file conforming to all requirements of the project memo. **Each 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:

Fall 2022 Driscoll P5 637A92V

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.

## Grading

Some projects are graded on an “Expanded Pass/Fail” basis. All others are 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 provided on the All Students TWEN page before 6:00 pm on Friday, September 9.**

You will also be graded on your professionalism throughout the semester. The professionalism evaluation includes: your completion of and performance on 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 Appellants’ Issue Statements                                                                                               | Expanded Pass/Fail | 5%     |
| Project 3: Draft Appellants’ Point Headings                                                                                                 | Expanded Pass/Fail | 5%     |
| Project 4: Draft Partial Appellants’ Brief (Issue Statements; Partial Argument)                                                             | 0-6 point scale    | 15%    |
| Project 5: Final Appellants’ Brief discussing both issues (Issue Statements, Statement of the Case, Full Argument)                          | 0-6 point scale    | 25%    |
| Project 6: Draft Partial Appellees’ Brief (Statement of the Case and Point Headings)                                                        | Expanded Pass/Fail | 5%     |
| Project 7: Final Appellees’ Brief (Issue Statements, Statement of the Case, Full Argument with appropriate cover, tables, and certificates) | 0-6 point scale    | 35%    |
| Professionalism                                                                                                                             | 0-6 point scale    | 5%     |

### Appellate Writing Sections

| Day       | Time   | Section Number | Professor         | Room |
|-----------|--------|----------------|-------------------|------|
| Tuesday   | 9:50am | 001            | Atkins            |      |
| Tuesday   | 6:05pm | 008            | Bokat-Lindell     |      |
| Tuesday   | 6:05pm | 014            | Figueroa          |      |
| Tuesday   | 8:10pm | 021            | Clemens           |      |
| Wednesday | 9:00am | 016            | Maldonado         |      |
| Wednesday | 9:50am | 002            | Hemmer            |      |
| Wednesday | 9:50am | 005            | Barnes            |      |
| Wednesday | 6:05pm | 009            | Martinez          |      |
| Wednesday | 6:05pm | 015            | Warren            |      |
| Wednesday | 6:05pm | 022            | Stoner            |      |
| Wednesday | 8:10pm | 017            | Robins            |      |
| Thursday  | 9:00am | 006            | Peyton            |      |
| Thursday  | 9:50am | 003            | Bayram            |      |
| Thursday  | 4:00pm | 018            | Sockett           |      |
| Thursday  | 8:10pm | 010            | Driscoll          |      |
| Thursday  | 8:10pm | 011            | Perry             |      |
| Thursday  | 8:10pm | 012            | Wagstaff          |      |
| Thursday  | 8:10pm | 013            | Brooker           |      |
| Friday    | 9:00am | 019            | Pusateri/Croswell |      |
| Friday    | 9:50am | 004            | Bowles            |      |
| Friday    | 1:50pm | 007            | Cohen             |      |
| Friday    | 3:00pm | 020            | Branch            |      |

### 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. In addition, each section may have additional class assignments or may change the order of topics at the discretion of the Professor. You are responsible for knowing your section-specific requirements.

| <b>Class Week/<br/>Due Date</b> | <b>Reading and Drafting Assignments to<br/>be Completed Before Class</b>                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>In Class Topics and Exercises</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Week of<br>August 22            | <p><b>Read:</b><br/>Syllabus &amp; Rules (on TWEN)</p> <p><u>An Advocate Persuades</u>, Chapter 5:<br/>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>Post:</b><br/>Introduce yourself to your professor<br/>and your classmates with a post in the<br/>discussion forum on your section's<br/>TWEN page.</p> <p><b>Draft:</b><br/>Timeline of relevant events from the<br/>record with page number references</p> | <p>Introduction to Appellate Writing</p> <p>Our Case</p> <p>Research Refresher</p> <p><b>Exercise:</b><br/>Case timeline exercise</p>                                                                                                                                                                                                                                                                                                                                                      |
| Week of<br>August 29            | <p><b>Read:</b><br/>Project 2 Memo (on TWEN)</p> <p>The secondary sources, cases, and<br/>statutes found in your research</p> <p><b>Draft:</b><br/>Notes for reporting on your research<br/>including a summary of<br/>elements/inquiries relevant to each<br/>issue with relevant cases.</p> <p>A work plan for completing your<br/>appellate brief</p>                                                                                                                                               | <p>Devising an Appellate Strategy</p> <p><b>Exercise:</b><br/>Report on your research, the<br/>substantive legal issues involved in<br/>the case, and your plan for brief<br/>drafting.</p> <p><b>Project 1 Submission:</b><br/>Each student must send a follow-<br/>up email to the professor<br/>summarizing the discussion and<br/>detailing agreed upon next steps.<br/>Use the required header for<br/>assignments as the subject line of<br/>your email. Professors will set the</p> |

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|                             | <p>Your professor will let you know where, when, and how this class meeting will occur.</p>                                                                                                                                                                                                                                                                                                                            | <p>deadline for submission for their sections.</p>                                                                                                                                                                                                                                                                                                                 |
| <p>Week of September 5</p>  | <p><b>Read:</b><br/> Fed. R. App. P. 28 &amp; 32</p> <p><u>An Advocate Persuades</u>, Chapter 11:<br/> Constructing Appellate Briefs<br/> Chapter 1: The Nature of Persuasion<br/> Chapter 9: Refining Persuasive Arguments</p> <p>Sample Briefs posted on TWEN</p> <p>Project 3 Memo (on TWEN)</p> <p><b>Draft:</b><br/> 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><br/> Peer editing of issue statements</p> <p><b>Project 2 Submission:</b><br/> Students must submit draft issue statements on both issues via TWEN in accord with the deadline set by their professor.</p> |
| <p>Week of September 12</p> | <p><b>Read:</b><br/> <u>An Advocate Persuades</u>, Chapter 6<br/> Themes for Persuasive Arguments<br/> Chapter 9, parts (V) and (VI)</p> <p><u>A Lawyer Writes</u>,<br/> Chapter 7, section 7.3 (on TWEN)</p> <p>Project 4 Memo (on TWEN)</p> <p>Sample Briefs (on TWEN)</p> <p><b>Draft:</b><br/> Point headings for both issues on appeal</p> <p>Bring your laptop/tablet to class for the attribution exercise.</p> | <p>Argument</p> <p>Theme</p> <p>Correct and complete attribution</p> <p><b>Exercise:</b><br/> Attribution exercise.</p> <p>Peer editing of point headings.</p> <p><b>Project 3 Submission:</b><br/> Students must submit point headings via TWEN in accord with the deadline set by their professor.</p>                                                           |

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| Week of<br>September<br>19                   | <p><b>Read:</b><br/> <u>An Advocate Persuades</u>, Chapter 13<br/> Editing and Polishing for Persuasion<br/> Chapter 9, parts (III) and (IV)</p> <p>Effective Drafting materials (on<br/> TWEN)</p> <p><b>View:</b><br/> Editing Tips &amp; Tricks</p> | <p>Editing Process</p> <p>Understanding and incorporating<br/> feedback</p> <p><b>Exercise:</b></p> <p>Debate<br/> Write in</p>       |
| <b>Sunday,<br/>September<br/>25 – P4 Due</b> | Submit your Project 4 – Draft Partial Appellants’ Brief <b>before 11:00 p.m.</b> on Sunday, September 25.                                                                                                                                              |                                                                                                                                       |
| Week of<br>September<br>26                   | <p><b>Read:</b><br/> <u>An Advocate Persuades</u>, Chapter 12<br/> Statement of the Case</p> <p>Sample Briefs posted on TWEN</p> <p><b>Draft:</b><br/> Statement of the Case</p>                                                                       | <p>Statement of the Case</p> <p><b>Exercise:</b></p> <p>Peer review of Statement of the<br/> Case</p> <p>Debate</p>                   |
| Week of<br>October 3                         | <p><b>Read:</b><br/> Sample Briefs posted on TWEN</p> <p>Project 5 Memo</p> <p><u>An Advocate Persuades</u>, Chapter 14<br/> Presenting Oral Argument</p>                                                                                              | <p>Summary of the Argument</p> <p>Project 4 Group Discussion</p> <p>Oral Advocacy preparing for and<br/> delivering oral argument</p> |
| Week of<br>October 10                        |                                                                                                                                                                                                                                                        | Individual Meetings– students meet individually with instructors to discuss feedback on Project 4                                     |
| <b>Sunday,<br/>October 16<br/>– P5 Due</b>   | Submit your P5 – Final Appellants’ Brief <b>before 11:00pm</b> on Sunday, October 16.                                                                                                                                                                  |                                                                                                                                       |
| Week of<br>October 17                        | <b>Read:</b>                                                                                                                                                                                                                                           | Oral Advocacy                                                                                                                         |

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|                                                                | <p>Appellate Practice materials posted on TWEN</p> <p>Project 6 Memo (On TWEN)</p>                                                                                                                                                                                          | Real World Appellate Practice                                                                                                                                                                                                               |
| <b>Sunday, October 23</b><br><b>Appellants' Brief Released</b> |                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                             |
| Week of October 24                                             | <p><b>Read:</b><br/><u>An Advocate Persuades</u>, Chapter 11, part (II)</p> <p>The Appellants' Brief</p> <p><b>Draft:</b><br/>Summary of legal arguments made in target brief on each issue identifying misstatements and inaccuracies of fact and law in target brief.</p> | <p>Introduction to Appellees' Brief</p> <p>Substantive discussion of the Appellants' brief and Appellees' arguments.</p>                                                                                                                    |
| Week of October 31                                             | <p><b>Read:</b><br/>Project 7 Memo (on TWEN)</p> <p><b>Draft:</b><br/>Statement of the Case and point headings for Appellees' brief</p>                                                                                                                                     | <p><b>Exercise:</b><br/>Peer review</p> <p><b>Project 6 Submission:</b><br/>Students must submit a draft Statement of the Case and point headings for the Appellees' brief via TWEN in accord with the deadline set by their professor.</p> |
| Week of November 7                                             | <p><b>Watch:</b><br/>TOA/TOC Videos</p> <p><b>Draft:</b><br/>Bring your draft Appellees' brief on your laptop/tablet for in class work</p>                                                                                                                                  | <p>Technological tips and tricks</p> <p>Review of persuasive techniques</p> <p>Professional formatting and other formalities</p>                                                                                                            |
| Week of November 14                                            |                                                                                                                                                                                                                                                                             | Professor's Choice                                                                                                                                                                                                                          |

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| <b>Wednesday,<br/>November<br/>23<br/>P7 Due</b> | P7 Due <b>before 11:00 p.m.</b> November 23. |  |
|--------------------------------------------------|----------------------------------------------|--|