

WESTERN STATE COLLEGE OF LAW
Fall 2014
Advanced Appellate Advocacy

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- *Before the first day of class, you must enroll in the Lexis Course Web Page titled “Advanced Appellate Advocacy – Fall 2014 – Roberts/Zhang.” We will use this web page to post material and to make class announcements throughout the semester. Please sign-up on the web page for automatic email alerts or check the web page regularly because you are responsible for all material and announcements posted on this web page.*

Course Objectives

The goal of this course is to prepare you to compete on the Western State College of Law Honors Moot Court Team – that means writing an outstanding appellate brief and demonstrating outstanding oral advocacy skills. To that end, the course will focus on both the procedural and substantive aspects of appellate practice and will further develop the research, writing and advocacy skills that you began to explore during LWR II.

Students will work on an Appellate Brief throughout the semester based on a case currently on appeal at the United States Supreme Court. Students will also participate in several in-class practice oral arguments, and will present a 12-minute Final Oral Argument before a panel of judges (the panel will include Honors Moot Court Team Members, Faculty, and “real” lawyers and judges) during the last week of class.

This class is designed to satisfy the Western State upper level writing requirement (ULWR), which is based on guidelines established by the American Bar Association. You must earn a 2.0 or higher on the Appellate Brief to obtain ULWR credit. The final grade in this course will be based on both the Appellate Brief (80%) and the Final Oral Argument (20%).

1. **Required Texts (bring to each class)**

- *A Practical Guide to Appellate Advocacy, 3d ed.*, by Mary Beth Beazley, Aspen (2010).
- *The Blue Book: A Uniform System of Citation*, 19th ed.

2. **Recommended Texts**

Making Your Case: The Art of Persuading Judges, by Bryan Garner and Antonin Scalia, Thompson (2008) (this text is on reserve at the library, and I highly recommend you read the book in its entirety.)

3. **Class Attendance, Participation and Grades**

- Attendance is mandatory. You are allowed to miss a maximum of two classes. You will

be required to sign-in at the beginning of each day of class. If you arrive late or leave early, you may be marked absent for the entire class. If you miss more than two (2) classes during the semester, you may be dropped from the class (See the Western State Attendance Policy, reprinted in the Student Handbook.) If you plan to miss a class, you should make arrangements with a classmate to get the notes.

- You must be prepared to meaningfully participate in each class. There is a significant difference between being unprepared and being unable to answer a particular question; you will never be down-graded for venturing an incorrect answer or asking a relevant question. You may have your final course grade increased by up to .2 to reflect consistent and outstanding contributions in class. We reserve the right to decrease the final course grade of any student by up to .2 if the student is consistently unprepared in class, fails to participate in good faith in any in-class group activities (including in-class practice oral arguments), fails to complete any graded or ungraded assignment on time and in good faith (including the 1-page oral argument critiques and reflection papers, outline and first draft of brief, and research results), or otherwise fails to conduct themselves in a professional manner in class (this includes, but is not limited to, using your computer or phone during class for non-class related activities, checking emails and texts during class, or otherwise acting in an unprofessional manner in any aspect of the class.) Any incomplete or late assignment, or any assignment that does not appear to have been completed with a good faith effort, will result in a decrease in the student's final grade.
- Your final grade in the course will be based upon: (a) 80% will be based on your final appellate brief; and (c) 20% will be based on your final oral argument.
- All assignments are to be submitted to us at the start of class. Your Appellate Brief is due at 4 p.m. on October 20th. A hard copy of the Appellate Brief must be submitted directly to me, and also uploaded to Safe Assign, by the due date and time. Both the hardcopy and the softcopy must be timely in order to comply with the due date. A late assignment is one handed in to us, or uploaded to Safe Assign, any time after it is due, even if it is late by one minute.

5. **Formatting Requirements for all written assignments, except Appellate Brief:**

- Typewritten, double-spaced, Times New Roman 12-point font.
- One-inch margins for the top, bottom, left and right margins. Note that if you are using Microsoft Word, you must set the margins to one-inch each, as the default setting for the left and right margins is 1.25 inches.
- Each page must contain a page number in the center of the footer.
- All citations must conform to the Bluebook 19th edition format.

6. **Formatting Requirements for Appellate Brief:**

- Rules for the Final Appellate Brief will be posted on the Lexis Course Web Page.
- The Final Appellate Brief must also comply with the Rules of the Supreme Court of the United States (adopted and effective, 2013), posted on the Lexis Course Web Page.
- All citations must conform to *The Bluebook* 19th edition format.

READING ASSIGNMENTS

Class 1 **August 25**

- Introduction to Course
- Overview of Appellate Procedure & Ethical Considerations.
- Moot Court Competitions

Read: *Beazley* pp. 1-14; 145-165

No Class on Monday, September 1 – Labor Day

Class 2 **September 8**

- Overview of the Appellate Brief - focus on the QP, SOR, SOC, SOA, & point headings
- Moot Court Competitions

Read: *Beazley* pp. 14-20; 33-59; 167-192.

Class 3 **September 15**

- Discuss Research Approach
- The Standard of Review
- *Students receive brief problem*

Read: *Beazley* pp. 61-67; 101-133; 192-198.

Class 4 **September 22**

- Discuss Initial Research Results
- Making Effective Policy Arguments

Read: *Beazley* 68-69.

Class 5 **September 29**

- In lieu of class this week, students must a 20-minute appointment with Professor Zhang to discuss their outlines; Students must bring a draft outline of the Argument Section to the meeting.

Class 6 **October 6**

- Introduction to Oral Arguments
- Formatting the Final Brief; Proofreading; Citations

Read: *Beazley* 253-275.

Due: First Draft of Argument Section Only; students must bring hard copy to class.

Class 7 **October 13**

- Oral Argument (in-class practice, including rebuttal)

Read: *Beazley* 199-218; 219-251.

Class 8 **October 20**

- No Class

Due: Final Draft of Appellate Brief Due (hardcopies of Brief must be submitted to Professors Lei Zhang and Lori Roberts, and a copy must be uploaded to SafeAssign by 4pm) (80% of final grade)

Class 9 **October 27**

- Oral Argument (in-class practice, including rebuttal)

Due: 1-page reflection paper re outline due

Class 10 **November 3**

- Guest Speaker

Class 11 **November 10**

- Oral Argument (in-class practice off-brief, including rebuttal)

Due: 1-page oral argument critique

Class 12 **November 17**

- Strategies for Moot Court Competitions – Moot Court Team Members

Due: 1-page oral argument critique

Read: *Beazley* 277-293.

Class 13 **November 24**

- Oral Argument (in-class practice, including rebuttal)

Class 14 **December 1**

- Final Oral Argument (20% of final grade)