

---

**Western State College of Law**

**Legal Writing & Research II  
Course Materials**

---

**Fall 2014**

**Western State College of Law**

## Legal Writing & Research II

### PURPOSE OF THIS COURSE

In Legal Writing & Research I, you were introduced to legal writing – a form of writing much different than most of you had encountered. Last semester, you learned how to research and write an *objective* legal document – the office memorandum. This semester we will reinforce those same research and writing skills but you will learn how to write *persuasive* legal documents – a settlement letter and an appellate brief. This course will culminate in your preparation of an appellate brief based on a fictional moot court case dealing with current legal issues. For this final project, you will also present an oral argument. Thus, by the end of this course, you will have the tools necessary to become skilled advocates, both oral and written.

This course will not only teach you to write persuasively and to present an effective oral argument, it will also assist you in mastering the skills you were introduced to in LWR I, including legal research and proper citation.

The focus of this course is advocacy, both oral and written. By requiring you to draft an appellate brief, this course specifically focuses on appellate advocacy. The skills required to draft an effective appellate brief, moreover, transfer to trial brief writing. Indeed, like a trial brief, the purpose of the appellate brief is to convince the appeals judge to rule in your client's favor. In today's legal landscape, as judges are becoming busier and busier, they must rely on the parties' briefs more and more. This means that a well-written, well-researched, concise, and accurate brief – a brief the judge can rely on as his source of authority for the case – is often the difference between your client winning and losing. Thus, it is vital to your future law practice that you master the writing skills taught in this course.

### RULES OF LWR II

This class is designed to lead you through the appellate process in an organized, step-by-step manner. Following the instructions below will eliminate much of the confusion in preparing your first major court document.

- I. **REQUIRED TEXTS:** Please purchase the following texts as soon as possible.
  - (1) Linda H. Edwards, Legal Writing: Process, Analysis, and Organization, 5th edition (Aspen 2010)
  - (2) The Bluebook – A Uniform System of Citation, 19th edition, Harvard Law Review (2010)
  - (3) Amy E. Sloan, Basic Legal Research, 5th edition (Aspen 2012)

**II. RECOMMENDED READING:** For students who would like additional guidance, you may purchase the following texts. They are on reserve at the library as well:

- (1) Richard Wydick, Plain English for Lawyers, 5th edition (Carolina Academic Press 2005)
- (2) Mary Barnard Ray & Jill J. Ramsfield, Legal Writing: Getting it Right and Getting it Written (5th ed., West 2010)

**HANDOUTS, READING, E-MAILS, WEB POSTINGS:** You are responsible for the information contained in all handouts, web postings, e-mails, and assigned reading. All reading must be completed by the date indicated on the Syllabus. If you stay on top of the assigned reading and strive to improve your writing early in the semester, completing your final brief will be much easier.

**III. ASSIGNMENTS:** The Syllabus provides all due dates for all assignments. **You will receive specific instructions and materials for each writing assignment in class.** If you have any questions about the assignments, please ask your instructor.

**All assignments are due at the start of class. You must upload each graded assignment to Safe Assign on your professor's Lexis Course Web Page in advance of the due date and time. You also must submit one (1) hard copy of each graded assignment at the time the assignment is due.**

**All other graded and ungraded assignments should be turned in directly to your professor in class, unless otherwise directed by your professor.**

**Failure to complete any graded assignment will result in a final grade of "0" in this course.**

**IV. GENERAL FORMAT REQUIREMENTS FOR WRITING ASSIGNMENTS, BOTH GRADED AND UNGRADED**

**Rules for all writing assignments:**

- (1) Assignments must be typewritten in black ink, double-spaced, on white, 8 ½ x 11 inch paper.
- (2) Text must be in "Times New Roman," 12-point font.
- (3) You must use one-inch margins for the top, bottom, left, and right margins. (Note that, if using Microsoft Word, you must set the margins to one-inch each, as the right and left margins are preset at 1.25 inches.)
- (4) Each page must be numbered, in the center, at the bottom of the page, using Times New Roman 12-point font. (Note that even if the text of your document is in Times New Roman, you must affirmatively change the font of your pagination.)

- (5) Pages must be left-justified.
- (6) You must print on only one side of the paper.
- (7) All papers must be bound in the upper-left hand corner with a staple.

Points will be deducted for assignments that do not conform to the Format Requirements. In addition, for consistent failure to conform with Format Requirements, points will be deducted at the end of the semester from the Professionalism grade for the course. (See Section IX.)

**V. FINAL APPELLATE BRIEF:** Your final project in this course will be to prepare a complete appellate brief. The following instructions apply to this final project:

- The final appellate brief consists of two separate issues. You will be responsible for researching and drafting the Argument section for only one of those two issues. Your instructor will randomly select which of the two issues you will address.
- You will conduct your own research for your specific issue.
- After you have completed your research, you will have a few weeks to prepare the first draft of the “Argument” section, with “Argument Headings.”
- After you submit your draft, you will revise your brief and incorporate the additional required sections necessary to constitute a completed brief that could be filed in federal court. During this time, you will receive substantial feedback from your instructor, both in class and during individual conferences. **You will use a blind grading number on this Final Brief. Please get your blind grading number from the faculty secretary.**

**REQUIRED SECTIONS FOR FINAL APPELLATE BRIEF:** The order of sections shall be as follows:

Appropriately Colored Front Cover (containing Caption)  
Table of Contents (numbered as page “i, ii, iii,” etc.)  
Table of Authorities (numbered as page “ii, iii, iv,” etc.)  
Caption (begin numbering with page “1”)  
Question(s) Presented  
Standard of Review  
Statement of the Case  
Statement of Facts  
Summary of Argument  
Argument (addressing only your particular issue)  
Conclusion  
Certificate of Service  
Appendix (only if necessary)  
Appropriately Colored Back Cover

**For a model appellate brief, please follow the example in the Appendix of the Edwards text. Unlike the Edwards example, however, you will replace the “Jurisdiction” section with a section entitled “Standard of Review.” You will also NOT include a section entitled “Statute Involved.” Finally, note the pagination for the Tables must follow the specific instructions as stated above.**

**SUBMITTING FINAL APPELLATE BRIEF:** For the final draft of the final brief, you must:

- Submit one hard copy of the brief, including an appropriately colored cover sheet, in either red card stock (for appellee) or blue card stock (for appellant). The cover sheet must contain the Caption. You must also use the same colored cover for the back sheet of your brief. See Fed. R. App. P. 32. This copy must be properly bound. You may have your briefs professionally bound (for example, at Kinko’s.) *Please use ONLY either spiral or tape binding.* Sample briefs with these bindings are on reserve in the WSU library.
- You must also upload the Final Appellate Brief to SafeAssign on your professor’s Lexis Course Web Page in advance of the due date and time. Instructions regarding how to submit your paper to SafeAssign using a blind grading number will be given to you by your instructor.

**ORAL ARGUMENTS:** After you turn in your final appellate brief, you will be scheduled to argue your client’s position on Saturday, November 22. Each student will be graded separately on his or her final oral argument.

**PRACTICE ORAL ARGUMENTS:** To help you prepare for the final oral argument, we will practice arguments in class throughout the semester. The in-class practice arguments are designated as “Ungraded Assignments,” subject to the penalties set forth below.

Only after the final appellate briefs are submitted, you may practice your oral argument with other students outside of class.

**VI. ATTENDANCE REQUIREMENTS:** You should attend every LWR II class. **Western State’s policy is that, upon your fifth absence, you will fail this course and receive a grade of 0.0 (on the 4.0 scale).** See WSU Student Handbook, § 5.13.

**Evening Students and Day Students whose class meets once per week:** For purposes of the above attendance requirements, if you are absent for an entire, or substantially all, of a three hour class period, you will have accumulated two official absences. If, however, you are absent for just half of

a three hour class period (or a significant portion thereof), you will accumulate just one absence.

- VII. LATE PAPERS – GRADED ASSIGNMENTS:** As a professional, you are responsible for handing in all assignments on time. A late paper is one handed in any time after it is due. If you hand in a paper one minute after the deadline, it is late. (In law practice, courts often will not accept late papers. Further, missing a court deadline is considered legal malpractice, for which you could be sanctioned and sued.)

**Prior to the start of class, (1) all graded writing assignments must be uploaded to Safe Assign AND (2) a hard copy must be submitted.**

**If either the assignment is uploaded late to Safe Assign or the hard copy is submitted late, penalties are the following:**

- If EITHER the assignment is uploaded late to Safe Assign OR the hard copy is submitted late, but the assignment is uploaded or submitted during the class period, the grade on the assignment is **reduced by 5 points.**
- If BOTH the assignment is uploaded late to Safe Assign AND the hard copy is submitted late, but the assignment is uploaded to Safe Assign and the hard copy is submitted during the class period, the grade on the assignment is **reduced by 9 points.**
- If EITHER the assignment is uploaded late to Safe Assign AND/OR the hard copy is submitted late, after the class period ends, the grade on the assignment is **reduced by 13 points.**
- In the event that a graded assignment is submitted more than 24-hours late, the professor may deduct additional points from the student's final grade on that assignment.

If you have an unforeseeable emergency involving a serious illness, an accident, or some other comparable emergency, contact your instructor as soon as possible. Your instructor, at her *sole discretion*, may extend your due date to provide you with enough time to deal with your emergency.

Because the Legal Writing & Research professors are experienced professionals, the Director of Legal Writing & Research will not review or alter the decisions of each individual professor regarding the designation of a paper as "late" and/or the designation of an absence as excused or not excused.

- VIII. UNGRADED ASSIGNMENTS:** In addition to the Graded Writing Assignments, in LWR II, you must complete several Ungraded Assignments.
- Any assignment designated as an "**Ungraded Assignment**" on the Syllabus must be completed prior to the designated class period.
  - For written Ungraded Assignments, you must bring a hard copy of each assignment to class.
  - Ungraded Assignments are due at the start of the class period designated on the Syllabus.

- If you are absent for the class in which a written Ungraded Assignment is due, you must submit your Ungraded Assignment to your professor **prior to the start of class** to receive credit and avoid a grade deduction.
- Note that for the practice oral arguments, there is no way to make up the assignment if you are absent, and this will count as a missing assignment.

- IX. PROFESSIONALISM:** In addition to the assignments noted on the syllabus, 10% of your final grade is based on Professionalism. This grade will be assigned in the sole discretion of the LWR-II professor at the end of the semester based on the student's overall professionalism demonstrated in all aspects of the course. Professionalism is distinct from compliance with the Honor Code. Professionalism includes, but is not limited to, the following:
- Timely and good faith completion of Ungraded Assignments
  - Regular and punctual class attendance
  - Assignments which reflect thoroughness, diligence, and attention to detail
  - Preparedness and constructive participation in class
  - Courteousness in class and in all communications

Conversely, points will be deducted for (but are not limited to) the following breaches of professionalism:

- Tardiness
- Absences
- Incomplete, late, or sloppy work, including failure to follow Course Materials Format Requirements
- Lack of preparation or participation in class
- Failure to show courtesy to the instructor and/or peers during class or in any communications
- Inappropriate attire, such as wearing hats, hoods or sunglasses in class
- Inappropriate use of electronic devices, such as checking email, social networking sites, or the internet during class; or failing to turn off cell phone or utilizing cell phone during class

**Note that any form of videotaping, recording, or taking photos of any material from class is inappropriate without the prior approval of your instructor.**

- X. FACULTY:** The LWR II courses are taught by a dedicated group of professionals, all of whom have substantial experience in teaching and in the art of advocacy. Instructors will be available during their announced office hours and for individual appointments. Follow your individual instructor's directions for making appointments.
- XI. QUESTIONS ABOUT THE COURSE:** If you have questions about the course, contact your LWR II professor. If you have a conflict with your LWR II

professor, first try to resolve the conflict directly with your professor. If you are unable to resolve the problem, please contact the Director of Legal Writing & Research, Lori Roberts, at loroberts@wsulaw.edu, or the Assistant Director of Legal Writing & Research, Eunice Park, at epark@wsulaw.edu.

**XII. HONOR CODE:** In addition to the requirements below regarding academic honesty, you will be expected to comply with the guidelines presented in the LWR I Plagiarism Workshop:

- (1) In all aspects of this class – including research and writing, meetings with your instructor, and class attendance – you are strictly bound by the Honor Code.
- (2) All work in this course must be your own. This means that you must do your own research, writing, proofreading, and editing/revising. For the writing assignments, you may not discuss the problem or your research with any other person, including another student, a professor, or a lawyer. If you need help in drafting or revising your writing assignments, please see your instructor.
- (3) In preparing for your final oral arguments only, after November 14th, you may discuss oral arguments with other students, and you may practice arguing with other students.
- (4) Be especially careful not to plagiarize. Paraphrasing or quoting from a case or a secondary source without properly acknowledging the source or without including quotation marks where such marks are necessary constitutes plagiarism. Thus, even if you are *paraphrasing* someone else's idea or argument, you must cite the source. (Note: this not only avoids plagiarism, it also gives your position greater credibility by showing that someone else has already asserted your view).

**What to Cite?** In both this course and in law practice, you must always include a proper **pinpoint citation** for any court's holding, reasoning, or argument. The same rules of citation apply to all other primary legal authority, such as statutes, rules, and regulations. You must also include a proper citation for any argument or data obtained from a law review article or other secondary source. As a general rule, when in doubt, cite.

- (5) Unless specifically instructed otherwise, you may not read another student's work (including a present or past student) and you may not allow another student to read your work. Do not accept, read, or use any papers from students who have already taken this course.

**XIII. LEXIS COURSE WEB PAGE:** Prior to the first day of class, you must enroll in your professor's Lexis Web Course. To do so, go to [www.lexisnexis.com/lawschool](http://www.lexisnexis.com/lawschool) and use your Lexis ID to sign in. From the

course catalog, find your professor's LWR II course and enroll. If you have any questions, please contact the LexisNexis helpline.

We will use the Lexis Web Course for a variety of purposes including distributing assignments, posting additional learning materials, posting class wide messages, and answering common questions. **You will be responsible for all material that is posted on the Lexis Web Course.**

Good luck this semester, and enjoy!