

**WESTERN STATE COLLEGE OF LAW**  
**Spring 2015**  
**Legal Writing & Research II**

Professor Lori A. Roberts  
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- *Before the first day of class, you must enroll in the Lexis Course Web Page titled “Legal Writing & Research II – Spring 2015 – Roberts.” I 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 and check the web page regularly because you are responsible for all material and announcements posted on this web page.*
- *My office hours are Wednesday from 9am – 12pm and Friday from 12:30-2:00pm. Please email me at [loroberts@wsulaw.edu](mailto:loroberts@wsulaw.edu) make an appointment during my office hours. You may also drop-in to my office at any time, during my office hours or not, if I am on campus and available.*

**COURSE MATERIALS**

**OVERVIEW**

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, writing, and citation skills but you will learn how to write *persuasive* legal documents – a settlement letter, an appellate brief, and professional email. 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 a 10-minute oral argument. Thus, by the end of this course, you will have the tools necessary to become skilled advocates, both oral and written.

**OBJECTIVES**

LWR-I covers four basic components, each of which you must master to perform well in this course. These components are:

- 1) Legal Analysis and Reasoning;
- 2) Legal Writing;
- 3) Legal Research;
- 4) Legal Citation;
- 5) Advocacy – oral and written.

**REQUIRED TEXTS**

- Linda H. Edwards, Legal Writing: Process, Analysis, and Organization, 5th edition (Aspen 2010)
- The Bluebook – A Uniform System of Citation, 19th edition, Harvard Law Review (2010)
- Amy E. Sloan, Basic Legal Research, 5th edition (Aspen 2012)

### **RECOMMENDED TEXTS**

For students who would like additional guidance, you may purchase the following texts. Copies are on reserve at the library as well:

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

### **ASSIGNMENTS**

In order to receive credit for this class, you must complete every graded and ungraded assignment in good faith. Failure to do will result in a final grade of “0” in this course. If you have any questions about the assignments, please ask your instructor. You will not use a blind grading number for any assignments in LWR-II.

### **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 should be numbered, in the center, at the bottom of the page, using Times New Roman 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 NOT be right-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 to Format Requirements, points will be deducted at the end of the semester from the Professionalism grade for the course.

### **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. 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.

If you have an unforeseeable emergency involving a serious illness, an accident, or some other comparable emergency, contact your instructor as soon as possible. Traffic, printing problems, or preparation for another class do not count as an unforeseeable emergency. Your instructor, at her *sole discretion*, may extend your due date to provide you with enough time to deal with your emergency.

### **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 prior to 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.

**II. 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.

**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 federal 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.

**ORAL ARGUMENTS:** After you turn in your final appellate brief, you will be scheduled to argue your client’s position in class before a panel of “judges.” You will argue only the issue you were assigned for your brief. 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.

## **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-I 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
- Timely completion of CGL Lessons
- 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 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.

## **ATTENDANCE REQUIREMENT**

You should attend every class. WSCL written policy for students whose class regularly meets twice per week, upon your fifth absence, you will fail this course and receive a grade of 0.0 (on the 4.0 scale). *See* Student Handbook, § 5.13. For students whose class meets once per week, 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 only half of a three hour class period or a significant portion thereof, you will accumulate just one absence.

## **DISABILITY SERVICES STATEMENT:**

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the

Second Floor Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; [despinoza@wsulaw.edu](mailto:despinoza@wsulaw.edu). When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at [csheppard@wsulaw.edu](mailto:csheppard@wsulaw.edu) or (714) 459-1152. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

### **STUDENT SAMPLES**

On occasion, we use anonymous samples of work from current or past students as examples. Please let your professor know in advance if you do not wish for your work to be considered as an example.

### **QUESTIONS?**

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](mailto:loroberts@wsulaw.edu), or the Assistant Director of Legal Writing & Research, Eunice Park, at [epark@wsulaw.edu](mailto:epark@wsulaw.edu).

**HONOR CODE:** Because this is a writing course, we would like to clarify some aspects of academic honesty that are important to this class:

- (1) In all aspects of this class – including research and writing, meetings with your instructor, and class attendance – you are strictly bound by the WSCL Honor Code. Please read the Honor Code carefully so you know what it prohibits.
- (2) Unless otherwise indicated by your instructor, all work in this course must be your own. This means that you must do your own research, writing, proofreading, and revising. For both the research and writing assignments, you may not discuss the problem or your research with another law student, a professor, a lawyer, or anyone else (unless your LWR-II professor specifically indicates otherwise). If you need help drafting or revising your writing assignments, please seek assistance from your LWR-II professor.
- (3) Be careful not to plagiarize. Paraphrasing or quoting from a case or any other source without properly acknowledging the source or without including quotation marks where such marks are necessary constitutes plagiarism.
- (4) 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. You may not accept, read, or use any papers from students who have already taken this course.
- (5) Any violation of this Honor Code will result in the student receiving a "0" in the course as well as possible referral to the Honor Code Committee.

- (6) In preparing for your final oral arguments only, after April 10th, you may discuss oral arguments with other students, and you may practice arguing with other students.

## SYLLABUS

### **January 13**

- Introduction to Course; Shifting to Persuasion; Plan Research for Settlement Letter.

Read: Read Sample Settlement Letter posted on Lexis Course Web Page; Edwards: Chapter 16.

Due: "Six Word Essay" (assignment posted on Lexis Course Web Page) (Ungraded Assignment); Read Instructions for Settlement Letter and Client Email, also posted on the Lexis Course Web Page.

### **January 16**

- Discuss Research Process; Writing a Settlement Letter

### **January 20**

- Discuss Research Results

Due: Resuearch results Due: (1) case briefs of at least 2 relevant cases; (2) outline of any relevant statutes (Ungraded Assignment)

### **January 23**

- Developing and Emphasizing a Theme for Settlement; Persuasive Facts and Rules; Discuss Client Email

Read: Edwards Ch. 22

*All students must attend Lexis training during the week of January 26<sup>th</sup>.*

### **January 27**

- Finalizing the Settlement Letter and Client Email

### **January 30**

- Guest Speaker

Due: Settlement Letter & Client Email Dues (20% of final grade)

### **February 3**

- Introduction to the Appellate Brief; Judge as Reader; Discuss Research Plan for Final Appellate Brief

Read: Clyde H. Hamilton, Effective Appellate Brief Writing, 50 S.C. L. Rev. 581 (1999); Edwards: Chapter 17

Due: Read Material for Final Appellate Brief (posted on Lexis Web Page)

*All students must attend Westlaw training during the week of February 5*

### **February 6**

- Drafting a persuasive Rule and Statement of Facts for a brief; Argument Paradigm

Read: Edwards Ch. 18 pp 265-276

### **February 10**

- Drafting Questions Presented and Argument Headings; Introduction to Standards of Review; Introduction to Oral Argument

Read: Edwards Ch. 19, 21 pp 330-335

### **February 13**

- Discuss Research Results

Due: Summary of 6 most important authorities for use in Appellate Brief (Ungraded Assignment)

**February 17 – no class - legislative day (Monday classes meet today, rather than Tuesday classes.)**

### **February 20**

- Using Cases Effectively in Brief Writing (Re/A)

Read: Edwards Ch. 20, 21 321-328

### **February 24**

- Oral Argument (Ungraded Assignment)

### **February 27**

- Large Scale Organization of the Brief; Addressing Adverse Authority and Opposing Arguments; Conclusion.

Due: Outline of Argument Section Due (Ungraded Assignment)

### **March 3**

- Peer Review of Draft Statement of Facts and Question Presented; Citing Supporting Authority within the Appellate Brief.

Read: Edwards Ch. 23

Due: Draft Statement of Facts and QP due (Ungraded Assignment)

### **March 6**

- Oral Argument (Ungraded Assignment)

**No Class March 10 & 13 – spring break**

### **March 17**

- Summary of Argument

Due: First Draft Due: “Argument” section of Final Appellate Brief due (with Argument headings) (Ungraded Assignment.)



**March 20**

- All of the other parts of the brief (Table of Contents, Certificate of Service, etc.)

Read: Edwards Ch. 21

**March 24**

- Oral Argument (Ungraded Assignment)

**March 27**

- Mandatory Conferences

**March 31**

- Mandatory Conferences

**April 3**

- Editing & Revising

**April 7**

- Moot Court Members Panel; Moot Court Competition Prep.

**April 10**

- Finalizing the Appellate Brief

**April 14**

- Oral Argument (Ungraded Assignment)

**April 17**

- Oral Argument (Ungraded Assignment)

Due: Final Draft of Appellate Brief (50% of final grade)

**April 21**

- Oral Argument (Ungraded Assignment)

**April 21**

- In Lieu of Class this week, each student will be scheduled to present their 10-minute Final Oral Argument (20% of final LWR II grade)

**April 24**

- In Lieu of Class this week, each student will be scheduled to present their 10-minute Final Oral Argument (20% of final LWR II grade)

**April 28**

- Moot Court Competition – Final Rounds – Darras Moot Court Room (time TBD)