

**WESTERN STATE COLLEGE OF LAW**  
**Spring 2018**  
**Legal Writing & Research II**

**Professor Lori 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 2018 – 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 Monday & Wednesday from 9 a.m. – 12 p.m. Please email me at [loroberts@wsulaw.edu](mailto:loroberts@wsulaw.edu) to make an appointment during my office hours. You may also drop-in anytime that 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**

In this course, You will have an opportunity to learn, practice, and be assessed in each of the following learning outcomes:

- 1) Communication – oral and written.
- 2) Legal Analysis;
- 3) Legal Research;
- 4) Advocacy of Legal Argument;
- 5) Other Practical skills, including legal citation and oral presentation and advocacy.

**REQUIRED TEXTS**

- Teresa J. Reid Rambo & Leanne J Pflaum, Legal Writing by Design, 2d edition (Carolina Academic Press 2013)
- The Bluebook – A Uniform System of Citation, 19th edition, Harvard Law Review (2015)

## **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  
Statement of the Case and Facts  
Summary of Argument  
Argument (addressing only your particular issue)  
Conclusion  
Certificate of Service  
Appropriately Colored Back Cover

**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.

**Out of Class Preparation:**

You should expect to spend between 4-10 hours per week for out-of-class preparation. The expected out-of-class preparation time is not evenly distributed across every week of the semester; periods of more intense preparation are compensated for by less time required at other parts of the semester. Students should review the syllabus and plan accordingly, noting weeks with longer reading assignments, the due dates for the various graded and ungraded assignments, office conferences, and quizzes.

**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

- 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 Students Services Suite 119. 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 Dean Allen Easley at [aeasley@wsulaw.edu](mailto:aeasley@wsulaw.edu) or (714) 459-1168. 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 12th, you may discuss oral arguments with other students, and you may practice arguing with other students.

## SYLLABUS

### **January 19**

- Introduction to Course; Shifting to Persuasion; Plan Research for Settlement Letter; Discuss Research Process; Writing a Settlement Letter

Read: Read Sample Settlement Letter (posted on Lexis Course Web Page); *Rambo* Ch. 27 & 29; Read Instructions for Settlement Letter and Client Email (posted on the Lexis Course Web Page.)

*Students attend Lexis training during the week of January 22*

### **January 26**

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

Read: *Rambo* §5.6; §15.3, §15.4

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

*Students attend Westlaw training during the week of January 29*

### **February 2**

- Finalizing the Settlement Letter and Client Email; Guest Speaker

Read: *Rambo* Ch. 33

### **February 9**

- Introduction to the Appellate Brief; Judge as Reader; Discuss Research Plan for Final Appellate Brief; Drafting a persuasive Rule and Statement of Facts for a brief; Argument Paradigm

Read: Clyde H. Hamilton, Effective Appellate Brief Writing, 50 S.C. L. Rev. 581 (1999); *Rambo* Ch. 13, 14, 15 & 20

Due: Settlement Letter & Client Email Due (20% of final grade)  
Read Material for Final Appellate Brief (posted on Lexis Web Page)

### **February 16**

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

Read: *Rambo* Ch. 16, 17 & 18

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

### **February 23**

- Using Cases Effectively in Brief Writing (Re/A); Oral Argument (Ungraded Assignment)

Read: *Rambo* Ch. 22

## **March 2**

- Large Scale Organization of the Brief; Addressing Adverse Authority and Opposing Arguments; In-Class Review of Draft Statement of Facts and Question Presented; Citing Supporting Authority within the Appellate Brief.

Due: Draft Statement of Facts, QP due (Ungraded Assignment) & Outline of Argument Section (Ungraded Assignment)

## **March 9**

- Oral Argument (Ungraded Assignment); Summary of Argument; Editing & Revising

Read: *Rambo* Ch. 19

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

## **March 16 – No Class – Spring Break**

## **March 23**

- All of the other parts of the brief (Table of Contents, Certificate of Service, Conclusion, etc.); Oral Argument (Ungraded Assignment)

Read: *Rambo* Ch. 21

## **March 30**

- Mandatory Conferences

## **April 6**

- Finalizing the Appellate Brief; Oral Argument (Ungraded Assignment)

Read: *Rambo* Ch. 24

## **April 13**

- Moot Court Members Panel; Moot Court Competition Prep.; Oral Argument (Ungraded Assignment)

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

## **April 20**

- Oral Argument (Ungraded Assignment)

## **April 27**

**1L Moot Court Competition Oral Arguments** -- each student will be scheduled to present his/her 10-minute Final Oral Argument (20% of final LWR II grade)

**\*\* 1L Moot Court Competition Finals - May 1st - Darras Moot Court Room - 9am – 12pm**



**Argosy University**

**Institutional Learning Outcomes:**

**1. Analytical Reasoning**

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

**2. Effective Communication**

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

**3. Information Competency**

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

**4. Interpersonal Effectiveness**

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

**5. Personal and Professional Integrity and Ethical Behavior**

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

**6. Professional Competence**

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession

## **Western State College of Law – Programmatic Learning Outcomes**

**Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:**

**(1) Doctrinal Knowledge**

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

**(2) Practice Skills**

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

**(3) Legal Analysis**

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

**(4) Legal Research**

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

**(5) Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

**(6) Advocacy of Legal Argument**

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

**(7) Client Sensitivity and Cultural Competency**

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

**(8) Legal Ethics**

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.