

WESTERN STATE COLLEGE OF LAW
Spring 2024
Legal Writing & Research II

Professor Robert Somers
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- **Before the first day of class, you must enroll in the Lexis Classroom Page titled “Legal Writing & Research II –Spring 2024 – SOMERS.” 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.**
- **Please email me at rsomers@wsulaw.edu to make an appointment during my office hours.**

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, 21st edition, Harvard Law Review (2020)

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 professor. 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.
- (8) Papers must be submitted as an attachment via email in Microsoft Word format. Students are able to get a free Microsoft account using their school email address at <https://www.microsoft.com/en-us/education/products/office>

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 Turnitin AND (2) a hard copy and/or emailed Word attachment (depending on the specific instructions of the assignment) must be submitted to your professor.

If either the assignment is uploaded late to Turnitin or the hard copy/emailed copy is submitted

late, penalties are the following:

- If either the assignment is uploaded to Turnitin or the hard copy is submitted after the class period begins, the grade on the assignment is reduced by 5 points, so long as the assignment is both uploaded to Turnitin and hard copy is submitted before the end of class.
- If either the assignment is uploaded late to Turnitin or the hard copy is submitted after the class period ends, the grade on the assignment is reduced by 10 points immediately upon the end of class, and an additional 3 points per hour thereafter (e.g., if class ends at 10:45 a.m., a paper submitted at 11:45 a.m. will receive a 13-point deduction, and a 16-point deduction at 12:45 p.m., etc.).

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 have an electronic copy available prior to the start of class, and be ready to either share your screen or email the copy to your professor, as directed.
- 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 email your Ungraded Assignment to your professor prior to the start of class to receive credit and avoid a grade deduction.

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:

- You will conduct your own research for the 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 feedback from your instructor in class.

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
Conclusion
Certificate of Service
Appropriately Colored Back Cover

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

- You must upload the Final Appellate Brief to Turnitin, email a Word document to your professor in advance of the due date and time, and submit a hard copy that is printed and bound (velo or spiral binding) with the appropriate colored cover and back page.

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.” 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, 20% of your final grade is based on Professionalism. This grade will be assigned in the sole discretion of the 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, reflecting thoroughness, diligence, and attention to detail. (up to 75 pts).
- Regular and punctual class attendance; Preparedness and constructive participation in class; Courteousness in class and in all communications. Good faith effort in all Oral Argument practices. (up to 25 pts).

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, is that 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. 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 Marisa Cianciarulo at mcianciarulo@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, or the Associate Dean for Academic Affairs, Paul Arshagouni at parshagouni@wsulaw.edu.

POLICY ON GENERATIVE AI USE IN LEGAL WRITING AND RESEARCH:

Generative Artificial Intelligence (AI), a technology known for creating novel content based on given input, is now a prominent feature in many professions, including the legal community. It is capable of being a powerful tool when used responsibly and ethically. As law students, it is essential to understand that while generative AI can aid in various tasks, it should not replace the fundamental skills required for legal research and writing. These skills, including thorough analysis and critical thinking, are core to your legal education and cannot be fully replicated by any AI. The Honor Code governing our academic community requires each student to conduct their own legal research and writing. While generative AI can provide a significant assistive function, it is crucial that your work represents your individual intellectual effort. Thus, unless explicitly authorized by your legal writing professor, the use of generative AI in any component of this course is prohibited. We encourage you to recognize the value of generative AI to aid legal professionals, but only once the fundamental skills have been mastered. This policy aims to ensure that students gain a solid understanding and ability in legal writing and research first, thereby enabling them to use generative AI appropriately and effectively in the future.

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) Do not use Generative Artificial Intelligence (AI) in any manner that violates the Honor Code and/or constitutes plagiarism.

- (6) 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.
- (7) In preparing for your final oral arguments only after November 8th, you may discuss oral arguments with other students, and you may practice arguing with other students.

SYLLABUS

January 18

- Shifting to Persuasion; Plan Research for Settlement Letter

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

January 23

- Discuss Research Process (librarians); Writing a Settlement Letter

*All students must attend Westlaw training during the week of January 15th
Details will be posted on Lexis Classroom Page*

January 25

- Discuss Research Results;

Due: Research Results: (1) case briefs of at least 2 relevant cases; (2) outline of any relevant statutes (Ungraded Assignment – 5pts)

January 30

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

Read: *Rambo* §5.6; §15.3, §15.4

*All students must attend Lexis training during the week of January 22nd
Details will be posted on Lexis Classroom Page*

February 1

- Citation Review; Finalizing the Settlement Letter and Client Email

Read: *Rambo* Ch. 27 & 29

February 6

- Advocacy Negotiation Exercise

Due: Settlement Letter & Client Email (15% of final grade)

February 8

- Introduction to the Appellate Brief Process & Brief; Judge as Reader

Read: Clyde H. Hamilton, Effective Appellate Brief Writing, 50 S.C. L. Rev. 581 (1999); *Rambo* Ch. 13 & 14; Material for Final Appellate Brief (posted on Lexis Classroom Page)

February 13

- Discuss Appellate Brief Assignment & Research Plan

February 15

- Drafting a Persuasive Rule and Statement of Case and Facts for a Brief; Argument Paradigm

Read: Rambo Ch. 15 & 20

February 20 – No Class – Legislative Day, Monday classes meet instead of Tuesday classes

February 22

- Discuss Research Results; Using Cases Effectively in Brief Writing (Re/A)

Due: Summary of 6 most important authorities for use in Appellate Brief (Ungraded Assignment – 5pts)

February 27

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

Read: Rambo Ch. 16, 17, & 18

February 29

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

March 5 & 9 – Semester Break – No Class

March 12

- Oral Argument (Ungraded Assignment);

March 14

- Large Scale Organization of the Brief; Addressing Adverse Authority and Opposing Arguments; Summary of Argument

Read: Rambo Ch 22

Due: Outline of Argument Section (Ungraded Assignment – 5pts)

March 19

- In-Class Review of Draft Statement of Facts and Question Presented;

Due: Draft Statement of Facts and QP (Ungraded Assignment – 5pts)

March 21

- Oral Argument (Ungraded Assignment)

March 26

- Guest Speaker;

March 28

- Finalizing the Appellate Brief - Editing & Revising; All of the other parts of the brief

(Table of Contents, Certificate of Service, Conclusion, etc.); Perfecting Citations
Read: *Rambo* Ch. 33
Due: First Draft of Argument section of Final Appellate Brief (with Argument headings)
(Ungraded Assignment – 5pts)

April 2 & April 4

- In lieu of class, students will be scheduled to attend mandatory conferences

April 9

- Oral Argument (Ungraded Assignment)

April 11

- Moot Court Members Panel

Due: Final Draft of Appellate Brief (45% of final grade) TurnItIn, & Hardcopy.

April 16

- Interview with a Lawyer Presentations/Paper (Ungraded Assignment – 50 pts);

Due: Interview with a Lawyer Reflection Presentations/Paper (Ungraded Assignment – 50 pts);
In addition to class this week, students must schedule a 2-hour (minimum) oral argument practice with at least 1-other student in the class (a group of 3-4 is preferable.)

April 18

- Oral Argument (Ungraded Assignment)

April 23 & April 25

1L Moot Court Competition Final Oral Arguments

- In lieu of class on April 23 & April 25, each student will be scheduled to present his/her/their 10-minute Final Oral Argument (20% of final grade)

***OPTIONAL: 1L MOOT COURT COMPETITION - FINAL ROUNDS –
TUESDAY, APRIL 30TH 9AM – 12PM***

Expectations for Students in Zoom Sessions:

- **Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.**
- **Arrive to class early and dressed as you would to attend an in-person class.**
- **Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.**
- **Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.**
- **Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.**
- **If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.**
- **If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.**
- **Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.**
- **Sign into Zoom with the name under which you are registered for class. If you prefer to be called by a different name or nickname, please notify your professor in advance so you are not marked absent.**
- **Unless your professor instructs you otherwise, mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions.**
- **Zoom classes are not YouTube or Netflix. You should be actively engaged in answering questions, taking notes, writing down questions you wish to ask later during class or during office hours, etc. This will not only help you stay engaged and participating in class, it will also help your learning in the online format.**
- **If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you will resolve that technological issue before your first class session and**

consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.

- **Zoom has a number of tools available to you as a student: yes/no symbols, raise hand and thumb icons, share screen (with permission of the professor), chat windows, etc. Please familiarize yourself with those tools before class so that you can use them as requested by the professor. Your professor will inform you about the ways in which you should use these tools in that particular class.**
- **Professors may use a number of interactive functions in Zoom to engage with students, e.g., polling questions, breakout rooms, as well as asking you to share your screen, type in the chat window. Like being called on in a live classroom, you are expected to participate fully in these activities and functions, i.e., answer polling questions, speak with your classmates in breakout groups, share your screen as requested, etc.**

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.