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Course: Legal Research and Writing III (Litigation)

Semester: Spring 2014

Class Schedule: Tuesdays, 9:00-11:10

Room: Law Room 6

#### **RECOMMENDED TEXTS**

Wilson R. Huhn	The Five Types of Legal Argument, 2d ed.
David S. Romantz & Kathleen Elliot Vinson	Legal Analysis: The Fundamental Skill
Anthony Weston	A Rulebook for Arguments, 4th ed.
Matthew Butterick	Typography for Lawyers
William Strunk Jr. & E.B. White	The Elements of Style
Ward Farnsworth	Farnsworth's Classical English Rhetoric
Alan L. Dworsky	The Little Book on Oral Argument

## **LEARNING OUTCOMES FOR THE COURSE**

1. Confidence in performing legal research
2. Facility in discussing complex legal issues
3. Comfort with a litigation schedule
4. Refinement of legal analysis skills
5. Enhancement of persuasive writing skills
6. Development of oral advocacy skills

## **COURSE EXPECTATIONS**

### *HUSL Policies on attendance, lateness and preparation*

The program of instruction at the School of Law is based on an active and informed exchange between instructor and student and between student and student. Regular, prepared class attendance helps develop skills essential to the competent practice of law. A student who violates the attendance policy, including the instructor's specification of class expectation described below, may lose his or her right to take the exam in the course, to receive course credit or may receive other penalties described below and in Academic Rule 108. Persistent or frequent lateness or unpreparedness may also be the basis for reduction of the grade awarded in a course. *See Academic Rule 108 for further details.*

This is your last semester of LRW, so it will be more challenging. To the extent possible, I would like to simulate a professional legal environment in which you are a junior attorney assigned to a case and I am your supervising attorney. This simulation should inform all your actions throughout the semester: your attendance and participation in class; your level of professionalism; and your effort on each assignment. This semester's assignments will serve as the framework for our simulation and provide you with an opportunity to improve your legal skills.

Of course, we are not actually in a professional legal environment, and I am first and foremost your teacher. Please do not hesitate to contact me if you need assistance.

## **PLAGIARISM AND OUTSIDE-OF-CLASS DISCUSSION POLICY**

This syllabus incorporates by reference the plagiarism policies outlined in Academic Rule 114 (Code of Conduct) and the first-year LRW Student Manual.

In addition, you are not allowed to discuss the substance of a particular assignment with your classmates (or anyone else) before that assignment's deadline unless I give you express permission to do so.

## **ATTENDANCE POLICY**

I expect you to attend every class. You are permitted one unexcused absence; for each subsequent unexcused absence, I will deduct 5 percentage points from your semester

point total.

To receive an excused absence, you must email me in advance of the class you intend to miss (absent unforeseen circumstances) and present a valid excuse.

### **PUNCTUALITY POLICY**

I expect you to show up on time. I reserve the right to deduct up to 5 percentage points from your semester point total for excessive tardiness.

### **PARTICIPATION POLICY**

I expect you to participate in class discussion. I reserve the right to increase your semester point total by up to 5 percentage points for high-quality class participation.

### **PERSONAL TECHNOLOGY POLICY**

I expect you to use your personal technology, if you use any at all, for note-taking only. I reserve the right to deduct up to 5 percentage points from your semester point total for inappropriate use of technology.

### **ELECTRONIC COMMUNICATION POLICY**

I will use TWEN to distribute class materials and send emails. You are responsible for reading every TWEN posting and email.

Any emails you send to me should conform to the professional communication standards you learned in LRW I and II. These standards include:

- a subject line specific to the subject of your email;
- an appropriate salutation;
- an appropriate tone;
- full sentences;
- appropriate language choices; and
- an appropriate closing.

*Your email should also suggest an answer to your question or propose a solution to your problem.* I reserve the right to deduct up to 5 percentage points from your semester point total for unprofessional email communications.

## **LATE ASSIGNMENT POLICY**

*Written Assignments:* Assignments uploaded to TWEN (or emailed to me, depending on the assignment's instructions) after the appointed time and date, will receive a 10% point deduction for lateness. Assignments uploaded to TWEN after the appointed time on succeeding days will receive an additional 10% deduction for each day late (up to a 50% total deduction). All deductions will be rounded to the nearest whole number. You must complete every written assignment.

Failure to submit your Appellate Brief (Tutorial Version) at or before your tutorial will result in a 50% deduction on that assignment.

*Oral Assignments:* An unexcused failure to appear at a scheduled oral assignment will result in a 50% point deduction. You must complete every oral assignment.

*Extensions:* Under limited circumstances, such as illness or family emergency, I will consider granting you an extension to complete an assignment. Only Prof. Mary Trevor, the Director of Legal Writing, however, can grant you an extension to complete your Appellate Brief (Final Version). Please contact Prof. Trevor (mtrevor@hamline.edu) if you need such an extension. Absent an emergency, you must ask for an extension in advance of the assignment deadline. Computer problems are not a valid reason for an extension.

## **GENERAL OVERVIEW OF GRADED ASSIGNMENTS**

*Quick Turnaround Research Question:* This research assignment will be assigned and completed within the same class period. The goal of this assignment is to simulate a common practice experience in which a supervising attorney asks a junior attorney to quickly and concisely answer a legal question.

*Oral Research Presentation:* Before you submit your Appellate Brief assignment, you will formally present your research findings to me. The goal of this assignment is to simulate a typical interaction between a junior attorney and a supervising attorney. This interaction will require you to discuss complex legal issues and respond to rigorous questioning.

*Appellate Brief (Tutorial and Final Versions):* The major writing assignment of the semester will be an Appellate Brief. This assignment will require you to employ your research, analysis, and writing skills to persuade a court to adopt your client's position on two or more issues of law. The Appellate Brief assignment will be based on a mock case file from which you must extract the relevant facts and legal issues.

You will submit two versions of your brief. First, you will submit a Tutorial Version, which I will grade and discuss with you during your individual tutorial. This version is not a rough draft; rather, it is a version you would feel comfortable submitting to an attorney who employs you. It will include a completed statement of facts, standard of

review, summary of the argument, and argument section. Later, you will submit a Final Version, which should incorporate any suggestions gleaned from your tutorial and include the other required appellate brief sections.

*Appellate Oral Argument:* All students will participate in the Appellate Oral Argument exercise, which will be based on the Appellate Brief. For the Oral Argument, you will represent the same party that you represented in the brief.

### **GRADING COMPONENTS**

<i>Assignment</i>	<i>Points</i>	<i>Date</i>
Quick Turnaround Research Question	9	Tuesday, Feb. 4
Oral Research Presentation	9	Weeks of Feb. 18 & 25
Appellate Brief (Tutorial Version)	9	Weeks of Mar. 18 & 25
Appellate Brief (Final Version)	36	Mon., Mar. 31
Appellate Oral Argument	18	Week of Apr. 15
	<i>81 Total</i>	

### **GRADING CRITERIA FOR WRITTEN AND ORAL ASSIGNMENTS**

The specific instructions for each assignment will include the grading criteria for that assignment.

### **FORMAT OF WRITING ASSIGNMENTS**

The specific instructions for each assignment will include the format requirements for that assignment.

### **PASS/FAIL ASSIGNMENT POLICY**

I may ask you to complete various Pass/Fail assignments over the course of the semester. To receive a “Pass,” you must demonstrate a reasonable, good faith effort. If you receive a “Fail,” you must resubmit the assignment until you receive a “Pass.” If you fail to either submit a Pass/Fail assignment or ultimately achieve a “Pass,” I will deduct 5 percentage points from your semester point total for each such assignment.

## WEEKLY ASSIGNMENTS & DISCUSSIONS

Please note that these entries serve merely as a guide. I may change them if necessary. If I do make any changes, I will announce them as soon as possible. Reading assignments listed within parenthesis are highly recommended but not required. These recommended readings are on reserve at the library.

### **Week 1: Jan. 21**

*In-Class Activities and Discussion:*

- Introduction
- Explanation of Appellate Brief Assignment
- Explanation of Oral Research Presentation Assignment

*Reading:*

- None

*Assignments Due This Week:*

- N/A

### **Week 2: Jan. 28**

*In-Class Activities and Discussion:*

- Legal Research
- Analogical & Inductive Reasoning
- Email Communication
- Explanation of Quick Turnaround Research Question Assignment

*Reading:*

- Kristen Konrad Robbins Tiscione, *From Snail Mail to E-Mail: The Traditional Legal Memorandum in the Twenty-First Century*, 58 J. LEGAL EDUC. 32-60 (2008).
- (Romantz, Chap. 3)

*Assignments Due This Week:*

- N/A

**Week 3: Feb. 4**

*In-Class Activities and Discussion:*

- Quick Turnaround Research Question Assignment

*Reading:*

- N/A

*Assignments Due This Week:*

- Research Appellate Brief legal issues (secondary sources)
- Signup sheets for Client and Oral Research Presentation available after class on TWEN

**Week 4: Feb. 11**

*In-Class Activities and Discussion:*

- Introduction to Appellate Brief Writing
- Standard of Review
- Argument Section: Appeals to Authority
- Deductive Reasoning

*Reading:*

- (Huhn, Chaps. 1-6)
- (Weston, Chap. 6)
- (Romantz, Chap. 4)

*Assignments Due This Week:*

- Sign up on TWEN for Client/Oral Research Presentation by 12:00 p.m. on Mon., Feb. 10

**Week 5: Feb. 18**

*In-Class Activities and Discussion:*

- Argument Section: Appeals to Authority Cont.
- Argument Section: Policy Arguments

*Reading:*

- (Romantz, Chap. 6 & 7)
- (Huhn, Chap. 7)

*Assignments Due This Week:*

- Oral Research Presentations (Plaintiff-Appellant) this week

**Week 6: Feb. 25***In-Class Activities and Discussion:*

- Argument Section—Macro Organization
- Summary of the Argument

*Reading:*

- Problem: Hippie Juice
- Sample Appellate Briefs—Argument Sections

*Assignments Due This Week:*

- Oral Research Presentations (Defendant-Respondent) this week
- Signup sheet for Individual Tutorial available after class on TWEN

**Week 7: Mar. 4***In-Class Activities and Discussion:*

- Statement of Facts

*Reading:*

- Foley, B.J., Robbins, R.A., *Fiction 101: A Primer for Lawyers On How To Use Fiction Writing Techniques To Write Persuasive Facts Sections*, 32, NO. 2, RUTGERS L.J. 459 (Winter, 2001).

*Assignments Due This Week:*

- Sign up on TWEN for Individual Tutorial by 12:00 p.m. on Mon., Mar. 3

**Week 8: Mar. 11**

*Spring Break—No Class*

**Week 9: Mar. 18***In-Class Activities and Discussion:*

- Remaining Appellate Brief Sections
- Typography & Visual Rhetoric

*Reading:*

- Sample Appellate Briefs—Other Sections
- Robbins, Ruth Anne, *Painting with Print: Incorporating concepts of typographic and layout design into the text of legal writing documents* 2 J. ALWD 108 (2004)
- (Butterick book, in full (*skim*))

*Assignments Due This Week:*

- Individual Tutorials (Plaintiff-Appellant) this week
- Appellate Brief (Tutorial Version) due 24 hours before your scheduled tutorial

**Week 10: Mar. 25**

*In-Class Activities and Discussion:*

- Citation Form
- Grammar & Punctuation
- Rhetorical Figures

*Reading:*

- The Bluebook “Bluepages”
- (Strunk book, in full)
- (Farnsworth book, in full (*skim*))

*Assignments Due This Week:*

- Individual Tutorials (Defendant-Respondent) this week
- Appellate Brief (Tutorial Version) due 24 hours before your scheduled tutorial

**Week 11: Apr. 1**

*In-Class Activities and Discussion:*

- Introduction to Oral Argument
- Explanation of Appellate Oral Argument Assignment

*Reading:*

- (Dworsky book, in full)

*Assignments Due This Week:*

- Appellate Brief (Final Version) due by 12:00 p.m. on Mon., Mar. 31
- Signup sheet for Oral Argument available after class on TWEN

**Week 12: Apr. 8**

*In-Class Activities and Discussion:*

- Oral Argument Cont.

*Reading:*

- (Review Dworsky reading assignment from last week)

*Assignments Due This Week:*

- Oral Argument Group Practice this week
- Sign up on TWEN for Oral Argument by 12:00 p.m. on Mon., Apr. 7

**Week 13: Apr. 15**

*In-Class Activities and Discussion:*

-No Class (Graded Oral Arguments)

*Reading:*

-N/A

*Assignments Due This Week:*

-Graded Oral Arguments this week

**Week 14: Apr. 22**

*In-Class Activities and Discussion:*

-TBA

*Reading:*

-N/A

*Assignments Due This Week:*

-N/A