

**ADVANCED APPELLATE ADVOCACY**  
**Professor Anderson**  
**Fall 2019**

**Office No. 218**  
**Office Phone: 453-5634**  
**Office Hours: Wed. 1:30-3:00 p.m.**  
**and whenever my door is open**

## **SYLLABUS**

Welcome! This course is designed to provide you with an opportunity to gain mastery of the art and science of appellate advocacy, both in written and oral form. The course is also the precursor for selection to the Moot Court Board. As part of the course, you are required to participate in the SIU Intramural Moot Court Competition (IMCC) as a member of a two person team. You will then individually write an appellate brief assigned during the semester, which will be the major basis for the course grade. The anticipated schedule for the semester is set out on the attached calendar pages.

### **REQUIRED MATERIALS**

The following texts are required for this course:

Cheryl L. Anderson, *Advanced Appellate Advocacy Writing: A Workbook* (7th ed. 2019) (distributed via TWEN). :: Print a copy and bind it to bring to class ::

Michael R. Fontham, Michael Vitiello & David W. Miller, *Persuasive Written and Oral Advocacy In Trial and Appellate Courts* (3d or 4th ed.);

*The Bluebook: A Uniform System of Citation* (20th Edition).

The following text is highly recommended (it is a book you will want to keep):

Deborah E. Bouchoux, *Aspen Handbook for Legal Writers* (3d ed.) (2013).

### **COURSE DESIGN AND OBJECTIVES**

The course includes instruction in oral advocacy, written advocacy, and the appellate court process. The bulk of the course is focused on persuasive writing skills. While immediately applicable to appellate brief writing, these writing skills are important for a variety of legal writing applications, such as pretrial motions and trial briefing. The writing skills portion of the course will include exercises, short writing assignments, and appellate brief writing. The oral argument portion will involve a multi-round moot court competition. The course has the following objectives for students:

- To develop mastery of both large and small scale organization techniques, persuasive writing style, and Bluebook citation format;
- To further develop students' ability to analyze complex law and facts in order to present a persuasive written or oral argument;

- To develop greater confidence as a public speaker;
- To demonstrate professionalism in advocacy, including but not limited to preparing adequately, collaborating with others (as permitted, see below for limitations), showing respect to the court and other counsel, complying with moot court rules, and meeting deadlines.
- To enhance students' self-awareness of personal writing habits as part of the process of becoming life-long self-learners.

There will be several occasions where you will be expected to critique your own writing and that of your classmates. In all respects, we will endeavor to keep the critique constructive.

The first requirement of the course is to complete the team brief for the IMCC and participate in the oral rounds of that competition. A separate set of Rules for the Competition is posted on TWEN; you should download those Rules and familiarize yourself with them if you have not. We will not be reviewing those Rules in class (just as in other moot court competitions where you must learn and follow the rules on your own). The IMCC will be held on September 20-21 (preliminaries) and September 27-28 (elimination rounds). You should plan now to be available on each of those days. The Competition counts as a pass/fail graded assignment for the course, but there are bonus points for top performers. More information on the oral portion of the Competition will follow.

After the Competition, you will receive a new problem which must be researched and an appellate brief prepared. This is your graded brief, and it is an individual project. See the attached calendar pages for the stages in which this brief will be written. The final draft is due Nov. 22.

An additional component of this course is work with the National Health Law Moot Court Competition briefs. The class will be responsible for scoring the technical portions of the Health Law briefs. You will receive instruction from a member of the Moot Court Board on proper Bluebook citation form and format requirements for those briefs. Barring unexpected scheduling problems, the scoring session will take place during a regular class session and there will be no unexcused absences allowed (see Attendance Policy below).

Shortly before the Health Law Competition, selections will be made for the Moot Court Board. Students selected will be assigned to one of the national competition teams that compete during in the Spring semester. New Board members will also be expected to assist with the Health Law Competition on November 1-2 and should plan to be here all day, both days.

## **WORKBOOK EXERCISES**

Our primary text will be the Advanced Appellate Advocacy Writing workbook. The reading assignments are posted on the attached calendar. You are expected as part of the course requirements to prepare every exercise in the Workbook in the assigned reading and bring a printed copy of your work to class. If you miss a class, it is your responsibility to determine from a colleague whether there were any Workbook exercises that were handed in or that need to be handed in for the subsequent class. Repeated failure to prepare Workbook exercises will be subject to point penalties determined in my discretion.

## **TWEN**

We will be using The West Education Network (TWEN) throughout the semester to post notices, supplement class materials, etc. You are required to sign up for TWEN within the first week of classes. Anything posted on TWEN constitutes notice to you of any changes or additions to this course.

## **EVALUATION**

The bulk of the course grade will be based on the appellate brief that you individually prepare during the semester (not the IMCC brief). The detailed outline will count for 8 points, the second draft 12 points, and the final draft 65 points. There may be some additional short graded assignments during the semester, which will make up no more than an additional 15 points. In addition, the top three oralists in the IMCC will receive honor points, ranging from one (1) point for third place to three (3) points for first place, which will be added to the students' raw score for the semester. The team members writing the best brief and second place brief will each similarly receive three (3) and two (2) honor points, respectively.

There will also be several pass/fail graded assignments throughout the semester, including but not limited to the IMCC brief and oral rounds, the first draft of the graded problem, a set of citation exercises, several self-editing exercises, and the Health Law Moot Court brief grading session. All pass/fail assignments must be satisfactorily completed in order to receive a passing grade in the course.

## **ASSIGNMENT DUE DATES AND LATE ASSIGNMENTS**

All assigned projects are due as noted on the attached calendar or as announced in class (class announcements take precedence). If the project is due on a class day, it is due at the start of class that day. If it is due on a non-class day, it is due as noted on the syllabus or assignment sheet.

I will grant extensions only in limited cases and then **only** if requested at least twenty-four hours in advance (barring emergencies beyond your control). If any written assignment, which includes outlines, drafts, self-editing exercises, and citation exercises, is late without an extension, five penalty points against total semester points will be imposed for each such late assignment at the moment it is late and five points each 24 hours thereafter until all semester points are exhausted.

Unexcused late attendance to any oral argument round (competition or practice) or the Health Law Moot Court brief scoring session will result in the same points penalty. I may also impose this or some penalty on late Workbook assignments or failure to prepare such assignments as directed. Late IMCC briefs are not subject to the five point sanction but are subject to the sanction listed in the Competition Rules. An unexcused failure to turn in an IMCC brief, participate in oral arguments, or participate in the HLMC scoring session, will result in a failing grade for the course.

### **FORMAT RULES FOR GRADED BRIEF**

The graded brief should comply with the format set out in the Rules for the Intramural Competition briefs unless otherwise announced in class or in the assignment memo.

### **COLLABORATION POLICY**

The default rule in this class is that you must do all assignments, including pass/fail and workbook assignments, on your own, without sharing your work with anyone other than me, my AAA teaching assistant(s), or my secretarial assistant, Cynthia Heisner, and without using any other person's work product. This rule prohibits sharing research or research suggestions, issue spotting, outlines, or drafts, etc., and proofreading by anyone not permitted by the professor. Do not leave your research, outlines, or drafts, etc., where others may use them without permission. This rule also applies to using someone else's materials from past classes, including materials from the Workbook. Violation of this policy may result in a failing grade and referral for proceeding under the School of Law Honor Code.

The IMCC joint brief and oral arguments are not subject to this policy to this limited extent: you may and should work closely with your partner throughout the IMCC, and you may work with others to provide feedback on oral argument practices after the brief is turned in. Other modifications to the collaboration policy will be as announced in class.

### **ATTENDANCE**

Because of the unique nature of this course, the regular attendance rules do not apply. You will be allowed up to **250 class minutes** (not classes) of absences from formal class sessions (this represents about 20% of the formal class sessions). The minutes are counted based on the announced length of the class as posted on the calendar below. You will not be permitted to miss any required IMCC rounds or the Health Law brief scoring session, absent extraordinary circumstances. Any student who fails to comply with this rule will be withdrawn from the class and will receive a W(0.0) grade.

The grade sheet is distributed at the beginning of class and then collected. No one coming into the classroom after I have started the class will be permitted to sign the sheet unless you have obtained my permission in advance of class, except in emergency situations.

If an ungraded written assignment is assigned, such as a Workbook exercise, you may claim

attendance credit for the related class only if you have prepared the assignment or made other arrangements with me prior to that class.

**Once class has started, you are expected to remain in the classroom unless there is an emergency or you have been granted an accommodation through the Associate Dean's office.** Having to use the restroom is not an emergency unless you are ill. Leaving class in-session without permission will be counted as an absence and may result in denial of re-entry into the classroom for the rest of the class session. If you need accommodations of this policy, please consult the disability services policy at the end of this syllabus.

Due to FERPA, attendance records cannot be posted publicly. It is each student's responsibility to keep track of their absences. I have instructed my assistant to allow you to cross-check the attendance sheets yourself but to do no more than that. Please do not bother her about your absences total unless you receive a notice that you have exceeded your limit and you feel it is in error. I do not provide warning letters that you are close to exceeding your limit of absences.

**Recording Policy:** Our class sessions may be recorded by the Law School but only those students with my permission or a disability accommodation are allowed to access any such recordings. I allow non-accommodated students to review recorded sessions of this class in very limited circumstances only, such as a medical emergency, family funeral, or a school-related commitment (*e.g.*, court hearing for clinic client) that cannot be rescheduled. Absent an emergency, you should contact me to arrange for recording a class before you miss the class. All other recordings of the class are prohibited. Unauthorized recordings and unauthorized access to recordings will be governed by the School of Law Honor Code, § II.E.1.g.

## **COMPUTER AND CELL PHONE POLICY**

Computers in any form are permitted in class for note-taking purposes, to look up the text of cases, statutes and materials relevant to what is being discussed in class, to look at material posted on the AAA TWEN pages, and when you are explicitly instructed that you may use your computer for a class activity. You may **not** use your computer for any other activity, including but not limited to surfing the web, using social networking, checking or sending email, and reading or sending instant or text messages. Any student using a computer for an impermissible purpose during class will be marked absent for that class session and will have his or her computer privileges suspended for the remainder of the semester (with the exception of preparing the graded brief). For purposes of this rule, "computer" should be defined broadly.

Cell phones should be shut off and placed away where they cannot be seen (absent prior approval). They may not be used for any purpose that would not be permissible if done on a computer. You may be asked to check your phone at the podium if you violate this rule.

## PROFESSOR'S INTELLECTUAL PROPERTY

The AAA Workbook, Powerpoint slides, lectures, and other class materials are copyrighted by the professor and may not be disseminated in any form without the professor's permission. Students have permission to share class materials with other students currently enrolled in the course, consistent with the Collaboration policy set out above.

**FINAL CAVEAT: This syllabus is subject to change as the course proceeds, as circumstances warrant, and in my sole discretion. It will be supplemented by handouts during the semester. If you have any questions about what is required in this class, you should ask me. You should never "assume" if the circumstances appear ambiguous.**

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*Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.*

*Saluki Cares: The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or [siucares@siu.edu](mailto:siucares@siu.edu), <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu), and her phone number is 618-453-3135.*

*Emergency Procedures. Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at [www.bert.siu.edu](http://www.bert.siu.edu), Department of Safety's website [www.dps.siu.edu](http://www.dps.siu.edu) (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.*

*Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.*

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<h1>August 2019</h1>						
				1	2	3
4	5	6 <b>Legend:</b> WB=AAA Workbook PW=Persuasive Writing and Oral Advocacy text	7	8	9	10
11	12	13	14	15	16	17
18	19	20 WB 1-18 (bring copy of completed metacognition exercise); Standards of Review PW Ch. 10, IL Bar J. article posted on TWEN  <b>100 minute class</b>	21	22 Finish Standards of Review; Large Scale Organization part 1 PW Ch. 1, § 3.5, WB 19-32  <b>75 minute class</b>	23	24
25	26	27 <b>Joint draft of IMCC Argument section due;</b> Large Scale Organization part 2 WB 33-51  <b>100 minute class</b>	28	29 Introductory sections WB 52-57  <b>75 minute class</b>	30	31

Sunday	Monday	Tuesday	Wednesda	Thursday	Friday	Saturday
<h1>September 2019</h1>						
1	2	3 <b>IMCC briefs due; graded brief problem dist'd;</b> Oral Argument PW Ch. 7 (add'l readings assigned in class)  <b>75 minute class</b>	4	5 Oral Argument cont'd  <b>75 minute class</b>	6	7
8	9 ORAL	10 ARGUMENT	11 PRACTICE	12 ROUNDS	13 WEEK	14
15	16	17 Fine Tuning Oral Argument; Rebuttals  <b>50 minute class</b>	18	19 <b>No class meeting</b>	20 <b>IMCC Prelims Round 1</b>  All attend	21 <b>IMCC Prelims Round 2</b>  All attend
22	23	24 <b>Research lab for graded problem</b>	25	26 <b>No class meeting</b>	27 <b>IMCC Quarter and Semi-finals</b>	28 <b>IMCC Final Round – all must attend</b>
29	30					



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<h1>October 2019</h1>						
		1 <b>Detailed Outline Due;</b> Effective Case Analysis WB 58-77 PW § 2.14, 2.17  <b>75 minute class</b>	2	3 <b>No Class</b>	4	5
6	7	8 <b>First Draft of Argument Due</b> (three hard copies); <b>Self-editing exercise;</b> WB Pt 9  <b>75 minute class</b>	9	10 Finish Case Analysis; Contrary Authority WB 78-83;  <b>75 minute class</b>	11	12
13	14	15 Transitions, Citations, Quotations WB 84-93; Questions Presented, Point Headings WB 94-104; <b>100 minute class</b>	16	17 <b>Bluebook training session &amp; Quiz</b>  <b>50 minute class</b>	18	19
20	21	22 Statements of the Case WB 105-113  <b>75 minute class</b>	23	24 <b>HLMC scoring session</b>  <b>75 minute class</b>	25	26
27	28	29 Finish Statements of the Case; Summary of the Argument; Other Sections of the Brief WB 114-118  <b>75 minute class</b>	30	31 <b>Second draft due</b> (two complete copies and one copy of just the QP, SOC and SOA); <b>self-editing exercise</b> <b>50 minute class</b>		

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<h1>November 2019</h1>						
					1 National Health Law Moot Court Competition - new Board members attend	2 National Health Law Moot Court Competition - new Board members attend
3	4	5 Effective Writing Style part 1 WB 119-127  <b>75 minute class</b>	6	7 Effective Writing Style part 2 WB 128-138  <b>75 minute class</b>	8	9
10	11	12 Effective Writing Style part 3; wrap- up.  <b>50 minute class</b>	13	14 Self-editing exercise  <b>75 minute class</b>	15	16
17	18	19 <b>No Class</b>	20	21 <b>No Class</b>	22 <b>Final Brief due by 4:00 p.m. per instructions on assignment memo</b>	23
24	25	26  Thanksgiving Break Week	27	28	29	30