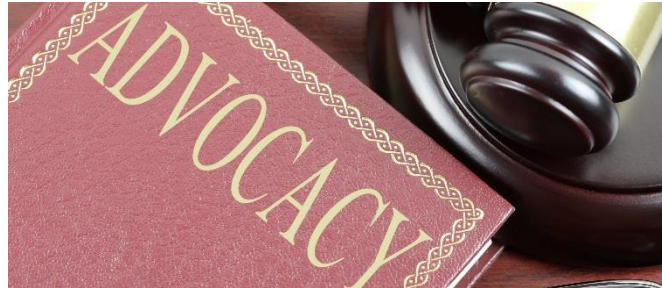


ADVANCED APPELLATE ADVOCACY “AAA”

Syllabus | Fall 2024 | LAW 638-3| Toepke



Contact Info

Prof. Carly Toepke

Email: carly.toepke@siu.edu

Office: 0248 (across from elevator)

Office hours: Walk-in Wednesdays 1:00-2:00 pm or by appointment (in person or Teams). Also, whenever my door is open, you're welcome to come in.

Class Meetings

Tuesday: 3:15-4:30pm

Thursday: 3:15-4:30pm

Room: LSAR 108

I. Course Description, Overview & Learning Outcomes¹

Welcome to AAA! This course is designed to provide you with an opportunity to continue to practice the art and science of appellate advocacy – both written and oral. The course is also precursor for selection to the Moot Court Board. As part of this course, you are required to participate in the SIU Intramural Moot Court Competition (IMCC) as a member of a two-person team, where you will write a brief and present oral argument. You will then individually write an appellate brief assigned during the semester, which will be the major basis for the course grade. The rest of the student's grade will be based on in-class assignments and presentations, completion of all assignments, and participation/professionalism. This course will require at least 42.5 hours of total work per credit.

The course includes instructions in oral advocacy, written advocacy, and the appellate court process. The bulk of the course is focused on persuasive writing skills. These skills are transferable between appellate brief writing, pretrial motions, and trial motions. 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 learning outcomes:

- Continue your practice of both large and small scale organization techniques, persuasive writing style, and Bluebook citation format;
- To develop a deeper ability to analyze complex law and facts in order to present a persuasive written and oral argument;
- To develop greater confidence as a public speaker;
- To demonstrate professionalism in advocacy and development of professional self-identity, including collaborating with others (as permitted, see below for limitations), showing respect to the court and other counsel, complying with court rules, and meeting deadlines;

The first requirement of this course is to complete the team brief for the IMCC and participate in the oral rounds of the competition. A separate set of Rules for the Competition will be posted on D2L. You must download those and familiarize yourself with them. We will not be reviewing those Rules in class, just as in moot court competitions where it is the competitor's – not the coach's – responsibility to follow the rules. The IMCC will be held on September 20 and 21 (preliminaries) and September 27 and 28 (elimination rounds). You must be available all of those days. The IMCC counts

¹ The syllabus is likely to change as the semester progresses depending on the speed at which we move through content. Please check D2L to make sure you have the most updated syllabus. If there are any changes to the syllabus, they will be announced.

as a pass/fail graded assignment for the course, but there are bonus points for top performers. More information on the oral portion will follow.

Another requirement of this course will be to work with the National Health Law Moot Court Competition (HLMC) briefs. The class will be responsible for grading the technical portions of the HLMC briefs. You will receive instruction from a member of the Moot Court Board on Bluebook citations and format requirements for the briefs. Barring unexpected scheduling problems, scoring sessions will take place during 2 regular class sessions (October 29 and 31). There will be no unexcused absences allowed during these sessions.

Shortly before the HLMC, selections will be made for the Moot Court Board. New Board Members will be assigned to one of the national competition teams that compete during the Spring semester. New Board Members will be required to assist with the HLMC on November 1 and 2 and must be available all day, both days.

After the IMCC, you will receive a new problem and prepare an appellate brief, in stages, based on that problem. This is called the Graded Brief. This is your individual project that will be due later in the semester

II. Assigned Materials

- Required
 - Mary Beth Beazley, *A Practical Guide to Appellate Advocacy* (6th ed.) **** (5th ed. is also allowed)**
 - *The Bluebook: A Uniform System of Citation* (21st Edition)
 - Other readings will be distributed as required
- Recommended
 - Consulting the [The Redbook: A Manual on Legal Style](#) is advisable as you are polishing your writing. *Prof. Toepke has copies of The Redbook available for 3-hour loan in her office.*

III. Grading & Assessment Methods

Mandatory Pass/Fail Graded Assignments:

- IMCC brief and oral argument
 - o *Note: winners of the oral competition will be given extra points overall (1st: 3 pts, 2nd: 2pts; 3rd: 1pts). Team members writing the best brief and second place brief will each receive (3) and (2) extra points overall respectively.*
- HLMC brief grading session
- First Draft Graded Brief
- In class assignments, citation exercises, self-editing exercises
- *Note: All pass/fail assignments must be satisfactorily completed in a timely fashion to receive a passing grade in the course. While “graded” for completion, these assignments can affect your final grade. Assignments can receive -0 to -10 points as discussed in each assignment task sheet. Points are deducted when requirements are not met and/or requisite effort is not displayed in the submission. Those points will be deducted from your final grade.*
 - o *A -0 score, therefore, is the best available score.*

Graded Assignments

- Detailed Outline Graded Brief – 8pt
- Second Draft Graded Brief – 12 pts
- Final Graded Brief – 65 pts
- Possible other assignments – 10 points

Attendance, Participation & Professionalism

- Active participation and professionalism – 5pts
- *Note: If a student is not prepared to discussed assigned materials when called upon or fails to actively participate in class activities, the student will be marked absent for that class, and the student’s grade may be lowered.*

IV. Assignments

There will be a variety of assignments during the semester: readings, writing assignments, in-class group and individual assignments, written briefs (partial and full), and oral arguments. See below for due dates. These are subject to change if we need to spend more time on a particular concept. The syllabus will be updated and posted on D2L as needed.

All written assignments come with detailed instructions and, unless otherwise noted, must be submitted on D2L as a MICROSOFT WORD DOC on the due date. Usually, the due date is 10:00 a.m. the due date, but the syllabus and D2L will reflect any differences. You will receive feedback that reflects your performance with detailed suggestions for improvement. Failure to complete any assignment fully can affect whether you receive a passing grade for the course.

V. Assignment Due Dates & Late Assignments

Just as in the court, due dates and times are firm and are strictly enforced. All assigned projects are due as noted on below schedule or as announced in class. If a student repeatedly submits late assignments, I will alert the Office of Student Affairs, which will then contact the student directly.

I will grant extensions only in limited cases and only if requested at least 24 hours in advance, barring emergencies beyond your control. If any written assignment, which includes outlines, drafts, assignments, citation exercises, or otherwise is late without a granted extension, three penalty points against total semester points will be imposed for each such late assignment at the moment it is late. If handed in more than an hour past the deadline, three additional points for each 24 hours thereafter until all semester points are exhausted.

Unexcused late attendance to any oral argument round (competition or practice) or the HLMC brief scoring session will result in the same points penalty. Late IMCC briefs are subject to the sanctions listed in the Competition Rules. An unexcused failure to turn in an IMCC brief or participate in oral arguments, or unexcused failure to attend the HLMC brief scoring session, will result in a **failing grade for the course.**

VI. Attendance

Our class meets twice a week on Tuesday and Thursday from 3:15-4:30 pm. As specified in the Rules of the Southern Illinois University School of Law, “regular attendance to class meetings in all courses is expected and required of all students in accordance with the rule to be announced by the professor at the beginning of each course. Attendance will be taken in class and attendance records will be kept. Violation of this rule shall subject the student to penalties”

Students may have no more than a maximum of four absences (partial or total) for any reason. The attendance requirement is not subject to modification by a professor, nor may a professor excuse an absence. If the absences allowed under this provision have been exhausted, the Associate Dean for Academic Affairs may grant leave and relief from the regular attendance requirement in extraordinary circumstances, including but not limited to: (1) military service; (2) representing the law school at a moot court, mock trial, law review, or official function; (3) jury duty; (4) religious observances; (5) the birth of a child; (6) the death of an immediate family member to include grandparents; (7) major non-elective surgery or a prolonged hospital stay; or (8) to comply with federal or state antidiscrimination laws, other applicable laws, or SIU policies.

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 failing grade for the course as these are required.

If a student is not prepared to discuss assigned materials when called upon or fails to actively participate in class activities, the student will be marked absent for that class, and the student’s grade may be lowered.

VII. Recording Policy

For the benefit of students who are unable to attend a particular class due to an unavoidable circumstance, it is my hope that class sessions will be recorded and made available for viewing. I will post the class PowerPoint slides each week to D2L. These recordings and materials are not to be shared with students outside 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.

VIII. General Guidelines & Collaboration Policy

You must do your own work on the assignments. The actual expression of your responses to the assignments must be your own. Do not copy anyone's answers or share your work with others. Copying answers violates the Honor Code.

As we will discuss in class, plagiarism results when you use another's work and submit that work as your own. This rule applies not only to copying work by other students, but also to copying language and ideas from other sources, including treatises and cases. How to avoid:

1. Acknowledge direct use of a source's words with quotation marks and a citation.
2. Acknowledge any paraphrase of a source's words with a citation.
3. Acknowledge direct use of a source's idea with a citation.
4. Do not copy/use someone else's response to the assignment.

A. Dishonest Citation

You will be penalized for dishonest citation. Dishonest citation means—

- Citing a source that does not support the proposition asserted.
- Altering or omitting language in a quotation without indicating the alteration or omission. If you quote, you must quote exactly or indicate alterations and omissions.
- Quoting a commercial summary or research aid as if it is the underlying source.

B. "Talk" collaboration

You may talk with me about assignments, and it is also permissible to discuss ideas or questions about assignments with other students. You may not—

- write an assignment jointly (*except IMCC with your partner or in-class group work*)
- edit another student's writing (*except IMCC with your partner*)
- copy anyone else's work
- read another student's writing before it is turned in or before you turn in your assignment (*except IMCC with your partner*)

This ban on collaboration includes obtaining written materials from any other person or generated artificial intelligence and/or communicating with any other person about an assignment. This ban on collaboration applies to both graded and ungraded exercises. If you violate the ban on collaboration policy, you can be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. When in doubt about how to proceed, ask me.

IX. Laptops and Cell Phones

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 D2L 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 (except for 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.

X. Accessibility Statement

SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to ensure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreements for each course to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations

XI. Course Standards

When you became a lawyer, you entered a profession requiring ethical behavior, professional competence, the ability to meet deadlines, and an awareness of rules. You will be expected to maintain these standards in AAA.

A. Failure to Follow Instructions Counts against You

Each assignment has detailed instructions. If you are uncertain about what to do, do not guess. Seek clarification or discuss the assignment with me.

B. Lateness Counts against You

Due dates and times are firm and are strictly enforced. Late assignments will receive a point deduction (see above). If a student repeatedly submits late assignments, I will alert the Associate Dean for Academic Affairs, which will then contact the student directly.

XII. Technology & D2L

Assignments, announcements, and other notices will be posted on the D2L platform. You are responsible for familiarizing yourself with the information posted and discussed on D2L prior to the examination.

XIII. AI Tools Policy

In this class, it is a violation of the honor code to misrepresent work that you submit or exchange with your instructor, including work produced by a generative AI tool such as ChatGPT, by characterizing that work as your own. In this class, you may not use generative AI for any writing task, including without limitation for generating text or images, outlining, grammar checks, revision to achieve a certain word count, or revision of organization.

This ban on collaboration includes obtaining written materials from any other person or generated artificial intelligence and/or communicating with any other person about an assignment. This ban on collaboration applies to both graded and ungraded exercises. If you violate the ban on collaboration policy, you can be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. When in doubt about how to proceed, ask me.

XIV. Course Plan & Assignments

The below course plan will list the readings and assignments due on each class day. Dates marked in light pink are *outside* of normal class meetings. Assignments must be submitted in Word Document format through D2L. This plan is likely to change. Updates will be posted on D2L and announced in class.

	Topic	Reading Due	Assignment Due
Week 0			
August 1	IMCC Partners finalized		
August 2	IMCC Problem Released		
Week 1			
August 20	Introduction to AAA & Standard of Review	Ch. 1 (skim) Ch. 2	
August 22	Research Plan & Understanding the Issues	Ch. 3	
Week 2			
August 27	Large Scale Organization & Drafting Your Argument	Ch. 4.1 (only) Ch. 5 Review Beazley Appendix (Sample Briefs)	
August 29	Cont. & Finding Your Theme		
Week 3			
September 3	Oral Arguing – What it is, and what it is not	Ch. 13	Joint Draft of IMCC Argument Section Due
September 5	Moot Courting	Ch. 14	“5 Best Arguments” Assignment Due – Submit D2L & Print and bring to class
Week 4			
September 7		<i>Graded Brief Distributed – Read Problem for 9/10</i>	IMCC Brief Due

	Topic	Reading Due	Assignment Due
September 10	Oral Argument Openings in theory	Read Graded Brief Problem	
September 12	Oral Argument Openings in practice		IMCC Oral Arg. Opening Due – Present in Class
Week 5			
September 17	Oral Argument Practice all week times TBA – <i>no class meetings</i>		
September 19	Oral Argument Practice with 3L all week times TBA – <i>no class meetings</i>		
<i>September 20</i>	IMCC Prelims Round 1(all must attend)		
<i>September 21</i>	IMCC Day Prelims Round 2 (all must attend)		
Week 6			
September 24	Research Lab Graded Brief	<i>Reading TBA</i>	
September 26	Fine Tuning Oral Argument & Rebuttal	<i>Reading TBA</i>	
<i>September 27</i>	IMCC Day Quarter & Semifinals		
<i>September 28</i>	IMCC Day Final Round (all must attend)		

WEEKS 7 – 14 will be posted in the coming weeks. Other important assignment dates to anticipate:

- Oct 1: Detailed Outline Due – Graded Brief
- Oct 8: First “Macro” Draft – Argument Section Only – Graded Brief
- Oct. 25: Second “Micro” Draft – Graded Brief
- Nov. 24: Final Draft – Graded Brief

This Syllabus incorporates by reference the [Provost Syllabus Attachment](#) and the below Law School Syllabus Attachment.

SYLLABUS ATTACHMENT

SIU SIMMONS LAW SCHOOL – Fall 2024

EMERGENCY PROCEDURES: We ask that you become familiar with **Emergency Preparedness @ SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts, visit <http://emergency.siu.edu/>.

DISABILITY POLICY. SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to ensure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Please send approved accommodations to your faculty through the DSS online portal.

SALUKI CARES and COUNSELING & PSYCHOLOGICAL SERVICES (CAPS). 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) 453-2461, or siucares@siu.edu, <https://salukicare.siu.edu/>. Associate Dean Sheila Simon ssimon@siu.edu or (618) 536-8321 is available at the Simmons Law School to help students access university resources. Additionally, counseling services are available through CAPS ([Counseling and Psychological Services \(CAPS\) | Student Health Services | SIU](#)). A counselor is at the law school every Wednesday from noon until 4:30pm in Room 268 for drop-in appointments.

SAFETY AWARENESS FACTS AND EDUCATION Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here: <http://safe.siu.edu>