

**SYLLABUS**  
**LAWYERING SKILLS II**  
**Spring 2019**

**learning objectives:**

At the end of the semester, each student will be able to:

- write a brief to a federal District Court
- write a brief to a federal Court of Appeals
- conduct a basic case settlement negotiation
- give an appellate oral argument
- find relevant case law, legislative history materials, administrative regulations, agency decisions and guidance materials, court rules, jury instructions, forms and other practitioner materials--making effective use of secondary sources and finding aids in addition to full text search

**course description:**

This semester, you will learn and practice additional fundamental lawyering skills. You will receive further instruction in LexisAdvance, Westlaw, Bloomberg Law, and Internet legal research. You will also learn how to research legislative history, administrative law materials, and lawyers' practice aids, such as form books and litigation aids. You will have additional practice in the basic conventions of written legal analysis, primarily focusing on persuasive legal writing, while completing a trial brief and an appellate brief. In addition, you will be introduced to the skills of negotiation and appellate oral argument.

**required texts:**

- Helene Shapo, Marilyn Walter, & Elizabeth Fajans, *Writing and Analysis in the Law* (6th ed., Foundation Press 2013), ISBN 1609302726
  
- Kent C. Olson, *Legal Research in a Nutshell* (13<sup>th</sup> ed., West Academic Pub. 2018), ISBN 978-1-64020-80409, and materials in companion website, [libguides.law.virginia.edu/nutshell13](http://libguides.law.virginia.edu/nutshell13)
  
- Richard C. Wydick, *Plain English for Lawyers* (5th ed., Carolina Academic Press 2005), ISBN 1594601518
  
- For Prof. Marlow's sections: Coleen Barger, *ALWD Guide to Legal Citation* (5th ed., Wolters Kluwer L. & Bus. 2014), ISBN 9781454828754
  
- For Prof. Munson's sections: *The Bluebook: A Uniform System of Citation* (20<sup>th</sup> ed. 2015), ISBN 9780692400197

Additional required materials and information for the assignments will be distributed through the Lawyering Skills II D2L site and in class.

<b><u>LS §</u></b>	<b><u>writing professor</u></b>	<b><u>research professor</u></b>	<b><u>teaching assistants</u></b>
1	Melissa Marlow 11:00-12:15 (R251)	Alicia Jones	Anna Calvert Megan Fugate
2	Valerie Munson 11:00-12:15 (R206)	Nolan Wright	Garrett McDowell Zach Sandifer
3	Melissa Marlow 9:00-10:15 (R251)	Alicia Jones	Anna Calvert Megan Fugate
4	Valerie Munson 9:00-10:15 (R206)	Nolan Wright	Garrett McDowell Zach Sandifer

**class schedule:**

Each Lawyering Skills section has two class meeting times scheduled for each week. Generally, the Tuesday meeting will cover writing topics, and the Thursday meeting will cover research topics. Many of the class meetings will include opportunities to work in smaller groups.

**attendance:**

Attendance is **mandatory** for all scheduled class meetings and other scheduled activities, and it is recorded by signing the attendance sheet. The absence of a signature on an attendance sheet is conclusive evidence of absence. Each student will be allowed up to two unexcused absences without penalty. Any student with more than two unexcused absences will face sanctions, which may include grade point penalties, course grade reduction, and withdrawal from the course. Any student who misses a class is responsible for obtaining from classmates all material covered during the class. No deadlines will be extended based on a student's absence from a class. This policy applies to all regularly scheduled class sessions listed in this syllabus, as well as other required activities scheduled during the semester (e.g., required Lexis training sessions, required writing conferences, scheduled oral arguments, etc.).

**assignments:**

Along with shorter assignments, you will write a trial level memorandum of law (a brief addressed to the trial court) and an appellate brief. Your research skills will be assessed in separate research exercises and a research examination, as well as within the context of your writing assignments. Details regarding the research exam will be distributed separately. As you work on the various assignments, please do not hesitate to check with your Lawyering Skills professors or teaching assistants whenever questions or uncertainties arise.

For readings assigned in the textbooks to prepare for class, you do not need to prepare any exercises found in those textbooks. Written assignments are specified separately below, and additional short assignments may be announced on the course D2L site or in class. Additional materials supplementing the research textbook will be posted on the D2L site as well. Your Lawyering Skills professors will assume you have read the assigned reading before the class session for which it is assigned.

**grading:**

Based on a maximum raw score of 100 points for the entire course, the maximum number of points you may earn on each assignment toward your final course grade is:

- trial brief secondary source list: 2
- trial brief primary source list: 2
- writing conference #1: 3
- trial brief: 20
- appellate brief source list: 2
- writing conference #2: 3
- appellate brief: 30
- research exam: 30
- oral argument: 5
- professionalism: 3

When you submit a written assignment via D2L to be graded, please submit it one time only. Your professor will grade the first version you submit of a written assignment. At the end of the semester, your writing professor will add up your points to arrive at your course raw score. Then she will curve the raw scores for all of her students, following the required grade median and required grade distribution for all first-year courses at the School of Law, to arrive at your final course grade.

**professionalism:**

Lawyers are professionals, and part of what you will be learning in the Lawyering Skills course is how to handle yourself professionally in the context of your legal education and your newly acquired legal skills. Your professors will base the professionalism part of your grade on your timely completion of all LS pass-fail and graded assignments, drafts, and re-writes; your

attendance and active participation in class; your adherence to the course policies; and how you conduct yourself in person and by e-mail, with your classmates, the TA's, and the professors. For example, surfing the Internet in class, e-mailing an LS professor during the time you are in another professor's class, or coming to class late would all be unprofessional conduct. This is not an exhaustive list of unprofessional conduct. Before you act, please consider whether you would say or do what you want to say or do in front of a judge or in a meeting with a senior attorney in a law office.

### **minimum requirements:**

You must complete every assessed assignment in the course to pass the course. "Every assessed assignment" includes the shorter writing assignments, the shorter research assignments and exercises, the graded trial brief, the graded appellate brief, the research exam, and the oral argument. Do not hesitate to ask your Lawyering Skills professors or the TA's if you have questions or you find yourself confused as you work on the assignments.

Lawyering Skills II is a three credit hour course. The American Bar Association standards require you to spend at least 9 hours of your time each week on the course. The classroom component is scheduled for 2 ½ hours each week. Note that this amount of time is purposely less than the 3 hours each week that most three credit hour classes meet in the classroom. The course focuses on attaining various lawyering skills, so a good deal of the learning occurs as you work through the exercises and assignments outside the classroom and when you talk to your professors and TA's. At first, you should expect to spend 6 ½ hours on your work outside of the classroom for this course each week. Toward the end of the semester, some classroom time will be canceled, to allow you to spend more time on your work outside the classroom.

### **classroom electronics:**

The basic rule during class is simple: **no electronic grazing**. This rule applies to your use of laptops, smartphones, iPads and other tablets, and all other mobile or wireless devices. When permitted, such use is limited to class note taking and other tasks authorized by your professor, such as following along as your research professor walks the class through the steps of using an electronic source of law. Unauthorized use of electronics may result in a loss of the privilege of using them in class for the remainder of the semester. Unauthorized use during class includes texting, e-mailing, gaming, shopping, and accessing sites not related to the classroom topic. Please turn off cell phone ringers and texting functions before class begins.

### **recording:**

Students may not record the class sessions without the professor's permission. If you feel you need a recording of a class session due to exceptional circumstances, ask well in advance for permission.

### **emergency procedures:**

SIUC is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, you should become familiar with the SIUC emergency response plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in campus buildings, at <http://www.bert.siu.edu>, at <http://www.dps.siu.edu>, and in the Emergency Response Guidelines pamphlet. You should know how to respond to each type of emergency. Instructors will guide and direct students in the classroom if an emergency affects your location. Follow their instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will assist your instructor if you need to evacuate or shelter in the building.

### **accommodations & assistance:**

The SIU Disability Support Services office determines and provides academic support services for students with permanent and temporary disabilities. To receive accommodations, go to the DSS office, <http://disabilityservices.siu.edu/>. There you will have an interview, have your documentation reviewed, and complete a Disability Accommodation Agreement. Give that agreement to the School of Law Registrar, who arranges classroom and exam accommodations. If you do not have documentation, you should still start at DSS for assistance.

*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 is a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. You can reach Saluki Cares at 618-453-5714, [siucares@siu.edu](mailto:siucares@siu.edu), or <http://salukicare.siu.edu/index.html>. Assistant Dean Judi Ray will also help you access university resources. You can contact her at [judiray@siu.edu](mailto:judiray@siu.edu), 618-453-3135.

### **Week 1**

#### **Tuesday, January 15**

class topic: introduction to Lawyering Skills II; introduction to pleadings & trial brief  
prepare for class: Shapo, pp. 349-370  
handed out: trial brief assignment

#### **Thursday, January 17**

Class topic: legal research refresh—sources, process, and the purpose of citation

Prepare for class:

- Olson, Ch. 1, Sections 1-1 through 1-5, and 1-7;
- Legal research flowchart (for visual learners; created by Sarah Glassmeyer at CALI), [http://lawlibguides.luc.edu/ld.php?content\\_id=28056878](http://lawlibguides.luc.edu/ld.php?content_id=28056878)
- PowerPoint Introduction to Research Process & Strategy (fall semester review), posted on D2L
- Introduction to Basic Legal Citation, <https://www.law.cornell.edu/citation/>, Sections 1-100, 1-200, 1-300, and 1-400

## **Week 2**

### **Tuesday, January 22**

class topic: introduction to persuasive legal writing; persuasive statement of facts; Q and A on trial brief research

prepare for class: read pleadings & highlight points in dispute and Shapo 376-383

hand in: trial brief secondary source list, in correct citation form

handed out: sample trial brief

### **Thursday, January 24**

Class topic: Search basics and strategy—focusing on case law research

Prepare for class:

- Olson, Ch. 1, Section 1-6
- Wash U Law Library Research Guide, Searching Bloomberg Law, Lexis Advance, and Westlaw, <http://libguides.law.wustl.edu/LRMSearchingIntro>
- Indiana Univ. Jerome Hall Law Library Research Guide, Search Strategies: Westlaw, Lexis Advance, Bloomberg Law, <http://law.indiana.libguides.com/c.php?g=19856&p=112600>

## **Week 3**

### **Tuesday, January 29**

class topic: negotiation

prepare for class: TBD

hand in: trial brief primary source list, in correct citation form and outline of issues

### **Thursday, January 31**

Class topic: Searching for legislation and evidence of legislative intent

Prepare for class:

- Olson, Ch. 4, 93-120 (review); Ch 5, 123-150 (new material)
- *Federal Legislative History Research: A Practitioner's Guide to Compiling the Documents and Sifting for Legislative Intent*, §§ A, B, and G, available at <http://www.llsdc.org/federal-legislative-history-guide>

#### **Week 4**

##### **Tuesday, February 5**

class topic: argument organization in trial brief; Q&A on trial brief writing

Research Exercise 1, legislative history research, available for download on D2L at 1 p.m.

##### **Thursday, February 7 – Wednesday, February 13**

required writing conferences, schedule TBD

bring to conference: full draft of trial brief, written list of questions

##### **Thursday, February 7**

Class topic: Searching for legislation and evidence of legislative intent- cont'd

Prepare for class: Readings assigned for week 3 not yet completed

#### **Week 5**

##### **Tuesday, February 12**

class topic: citations & quotations

prepare for class: Shapo, pp. 512-515

Hand in via D2L by 5:00 p.m.: Research Exercise 1, legislative history research

##### **Thursday, February 14**

Class topic: Searching for administrative regulations and documents created during the rule making process

Prepare for class: Olson, Ch. 6, 155-169; supplementary materials posted on D2L

##### **Friday, February 15**

hand in by 4:00 p.m. via D2L: trial brief

#### **Week 6**

##### **Tuesday, February 19**

class topic: introduction to appellate brief; front pages; record on appeal

prepare for class: Shapo, pp. 397-399, 402-408; Kenneth Chestek, *The Plot Thickens: The Appellate Brief as Story*, 14 J. Legal Writing 127 (2008), available for download at

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=998388](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=998388)

<http://lawteaching.org/lawteacher/2008fall/lawteacher2008fall.pdf>

handed out: appellate brief assignment

Research Exercise 2, regulatory agency research, available for download on D2L at 1 p.m.

### **Thursday, February 21**

Class topic: Searching for administrative agency decisions and guidance material  
Prepare for class: Olson, Ch. 6, 170-183 <http://www.llsdc.org/federal-legislative-history-guide>;  
supplementary materials posted on D2L

### **Week 7**

#### **Tuesday, February 26 (\*BOTH SECTIONS ATTEND BOTH CLASSES)**

9:00 class topic: argument section of appellate brief; standard of review  
prepare for class: Shapo, pp., 445-447, 452-455, 465-469; Amanda Peters, *The Meaning, Measure, and Misuse of Standards of Review*, 13 Lewis & Clark L. Rev. 233 (2009) (Parts I, II, and III).  
hand in, at beginning of class: draft front pages of appellate brief; appellate brief source list

Hand in via D2L by 5:00 p.m.: Research Exercise 2, regulatory agency research

11:00 class topic: summary of the argument; point headings  
prepare for class: Judith Fischer, *Summing It Up with Panache: Framing a Brief's Summary of the Argument*, 48 John Marshall L. Rev. 991 (2015); Shapo pp. 435-443

### **Thursday, February 28**

Class topic: Searching for court rules, jury instructions, and related explanatory material

Prepare for class:

- Olson, Ch. 7, 187-206

- Loyola (Chicago) School of Law Jury Instruction Research Guide, available at  
<http://lawlibguides.luc.edu/c.php?g=610797&p=4239759>

### **Week 8** (MIDTERM WEEK: All Lawyering Skills classes cancelled)

### **spring break**

Monday, March 11 – Friday, March 15

### **Week 9**

#### **Tuesday, March 19**

class topic: Q&A on appellate briefs

prepare for class: finalize rough draft in preparation for required conferences

Research exercise 3, court rules, jury instructions, and practice aids research, available for download on D2L at 1:00 p.m.

#### **Wednesday, March 20 – Monday, March 25**

required writing conferences, schedule TBD

bring to conference: full draft of appellate brief, written list of questions



**Thursday, March 21**

Class topic: Searching for forms and other materials for handling the nuts and bolts of day to day legal practice

Prepare for class: To be assigned

**Week 10**

**Tuesday, March 26**

class topic: effective oral argument

prepare for class: Shapo, pp. 479-495

Hand in via D2L by 5:00 p.m.: research exercise 3, court rules, jury instructions, and practice aids research

**Thursday, March 28**

class topic: oral argument nuts & bolts

**Friday, March 29**

hand in by 4:00 p.m. via D2L: appellate brief

**Week 11**

**Tuesday, April 2**

Class topic: research review

**Thursday, April 4, 8:30 a.m. – 12:00 p.m.**

Research exam for all sections- Room TBD

**Week 12**

**Monday, April 8 – Friday, April 12**

oral argument practice rounds

schedule TBD

**Week 13**

**Monday, April 15 – Wednesday, April 17**

oral arguments

schedule TBD