

SYLLABUS
LAWYERING SKILLS II
Sections 3 and 4
Spring 2020

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 have additional practice in the basic conventions of written legal analysis, primarily focusing on persuasive legal writing, while completing a trial court brief and an appellate brief. In addition, you will be introduced to the skills of negotiation and appellate oral argument. 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. And you will receive an introduction to Fastcase and Casemaker, research platforms widely available as part of bar membership in the United States.

Course Management Webpage:

Course related information, materials, and drop boxes for assignments are located on the Lawyering Skills II Sections 3 and 4 TWEN page.

Required Texts:

- Helene Shapo, Marilyn Walter, & Elizabeth Fajans, *Writing and Analysis in the Law* (7th ed., Foundation Press 2018), ISBN 9781531007003
- Richard C. Wydick, *Plain English for Lawyers* (5th ed., Carolina Academic Press 2005), ISBN 1594601518

- The Bluebook: A Uniform System of Citation (20th ed. 2015), ISBN 9780692400197
- Eric P. Voigt, Legal Research Demystified: A Step-by-Step Approach (Carolina Academic Press 2019). ISBN 9781531007836

Recommended Texts:

- Kent C. Olson, Legal Research in a Nutshell, Thirteenth edition (West Academic Publishing 2018) ISBN 978-1-64020-804-9, on reserve in the SIU School of Law Library, call number KF240.C54 2018

General Class Schedule:

Each Lawyering Skills II section typically has two class meeting times scheduled for each week as listed below. Generally, the Tuesday class meeting will cover writing topics, and the Thursday class meeting will cover research topics. Many of the class meetings will include opportunities to work in smaller groups. Please note there may be exceptions to the Tuesday-writing and Thursday-research arrangement in the syllabus, particularly toward the end of the semester.

Tuesdays

- § 4 Prof. Valerie J. Munson, 9:00 a.m., room 206
Teaching Assistants: Garrett McDowell; Mary (Katie) Roesch)
- § 3 Prof. Valerie J. Munson, 11:00 a.m., room 206
Teaching Assistants: Garrett McDowell; Mary (Katie) Roesch)

Thursdays

- § 4 Prof. Nolan L. Wright, 9:00 a.m., room 206
Teaching Assistants: Garrett McDowell; Mary (Katie) Roesch)
- § 3 Prof. Nolan L. Wright, 11:00 a.m., room 206
Teaching Assistants: Garrett McDowell; Mary (Katie) Roesch)

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 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 solely 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 writing and research conferences, scheduled oral arguments, etc.).

Writing 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 (a brief addressed to an appellate court). You will also engage in a settlement negotiation (ungraded, in class) and an oral argument. As you work on the various assignments, please do not hesitate to check with your professor 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 TWEN site or in class. Your professor will assume you have read the assigned reading before the class session for which it is assigned.

Research Assignments:

There will be weekly assignments to prepare for sessions of the research portion of the class, often including online CALI lessons (including quizzes) in place of or in addition to assigned readings, and online exercises or quizzes separate from the CALI lessons, to be completed before class. The online lessons, exercises, and quizzes are designed to help students develop their understanding of the subject matter and identify problem areas so students and research faculty can focus attention where needed and maximize time for hands-on learning during class. As detailed below, class preparation, including completion of assigned exercises and quizzes in a timely manner, will count toward the raw scores earned in the research portion of the course. Your research skills and related knowledge about legal authority, sources, and methods will be assessed through those exercises and quizzes, within the context of the trial and appellate briefs that you will produce this semester, and through a final research practicum take home exam at the end of the semester.

Grading:

There is a total of 100 points available toward your raw score in the course, divided between the writing and research portions as follows.

Writing: Based on a maximum raw score of 67 points for the writing portion of the course, the maximum number of points you may earn on each writing assignment toward your final course grade is:

- trial court brief secondary source list:

1

• trial court brief primary source list and list of issues:	1
• writing conference #1:	2
• trial court brief:	25
• appellate brief source list:	1
• writing conference #2:	2
• appellate brief:	30
• oral argument:	5

When you submit a writing assignment via TWEN to be graded, please submit it in Word format and one time only. Your professor will grade the first version you submit of a writing assignment.

Research: Based on a maximum raw score of 33 points for the research portion of the course, the maximum number of points you may earn on each research assignment toward your final course grade is:

• Class preparation*	14
• Class participation	2
• Research conference	2
• Final Research Practicum Exam	15

* 1 point each for timely completion of each assigned CALI lesson, readings with end of chapter exercises, and quizzes posted on TWEN

At the end of the semester, your points will be added up to arrive at your course raw score. Then the raw scores for all students in Lawyering Skills II, Sections 3 and 4 will be curved, 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 course is how to handle yourself professionally in the context of your legal education and your newly acquired legal skills. Professional conduct includes timely completion of all pass-fail and graded assignments, drafts, and re-writes; active participation in class; adherence to the course policies; and conducting yourself appropriately in person and by e-mail, with your classmates, the TA's, and the professors. For example, surfing the Internet in class, e-mailing a 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 graded trial court brief, the graded appellate brief, research conference, final research practicum exam, and the oral argument. Do not hesitate to ask your professor 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 and Rules of Procedure governing law schools specify “not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time” for each credit awarded for the course. That is a minimum standard. Students typically find this course requires more time than that, as befits the nature and importance of the subject, and should plan accordingly.

Classroom Electronics:

The basic rule during class is simple: no electronic grazing. This rule applies to your use of laptops, phones, tablets, and all other mobile or wireless devices. Your writing professor prohibits all use of electronic devices during class, unless such use is expressly permitted. You should always bring a laptop or tablet with you to your research class sessions (or sit with someone who does and is willing to share it with you for hands-on work). When permitted, use is limited to class note taking and other tasks authorized by your professor, such as following along as the research professor walks the class through the steps of using an electronic source of law. Unauthorized electronics use during class may result in losing the use of the electronics for the remainder of the semester. Unauthorized use during class includes texting, emailing, gaming, shopping, and accessing other sites not related to the classroom topic. Please turn off phone ringers and texting functions before class begins.

Recording:

Lawyering Skills class sessions generally will not be recorded. Students may not record the class sessions without the professor’s permission. If you believe 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:

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.

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, <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, and her phone number is 618-453-3135.

Weekly Class Schedule:

Week 1

Tuesday, January 14

Class topic: introduction to Lawyering Skills II; introduction to pleadings & trial court brief

Prepare for class: Shapo, pp. 319-338

Handed out: trial court brief problem materials

Thursday, January 16

Class topic: Research process refresh – focus on researching a federal statutory problem.

Prepare for class:

- Skim/review Voigt, chapters 13, 14, 17, and 19 (you do not need to do the exercises at the end of these chapters again);
- Complete CALI lesson, Summary Judgment under Rule 56 (45 min. for entire lesson, but you can skip the portion on procedure), by David S. Welkowitz;
- Review trial brief problem materials.
- Prepare rough plan of attack; come prepared to begin research.

Week 2

Tuesday, January 21

Class topic: introduction to persuasive legal writing; persuasive statement of facts

Prepare for class: read pleadings and motion papers & highlight points in dispute and Shapo 343-351

Hand in through TWEN prior to class: trial court brief secondary source list, with correct citation forms

Thursday, January 23

Class topic: Case law refresh – finding and choosing case law precedent.

Prepare for class:

- Complete CALI lesson, *Introduction to Search Logic and Strategies* (45-60 min.), by Sarah E. Gotschall.
- Read Voigt, chapter 7, 121-143, and complete the end of chapter exercise.
- Skim/review Voigt, chapter 8 (you do not need to do the end of chapter exercise).

Week 3

Tuesday, January 28

Class topic: negotiation

Prepare for class: Suzanne Schmitz, “A Guide to Negotiating” (posted on TWEN)

Hand in through TWEN prior to class: trial court brief primary source list, in correct citation form and list of issues to be addressed in trial court brief.

Thursday, January 30

Class topic: Finding relevant regulations and related interpretive materials.

Prepare for class:

- Read “Administrative Law,” pp. 155-175, excerpted from *Legal Research in a Nutshell* 13th ed., by Kent C. Olson, posted in Required Supplemental Readings on TWEN.
- Complete designated portions of CALI lesson, *Researching Federal Administrative Regulations*, by Sheri H. Lewis. Specifically, the following portions: “Sources of Information – Code of Federal Regulations,” and “Updating Regulatory Information.” (Approx. 60 min. for the specified portions).
- Complete related pre-class quiz on TWEN.

Week 4

Tuesday, February 4

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

Prepare for class: Shapo 354-360

Thursday, February 6

Class topic: Using secondary sources to deepen your understanding, and potentially use as persuasive authority.

Prepare for class:

- Review: CALI Lesson, *Subject Specific Treatises* (30 min.), by Lisa Goodman.
- Complete CALI lesson, *Periodicals and Periodical Indexes* (45 min.), by C. Andrew Plumb-Larrick.

Wednesday, February 5 – Tuesday, February 11 – required writing conference, schedule TBD;
Bring to conference full draft of trial court brief and written list of questions

Week 5

Tuesday, February 11

Class topic: citations & quotations.

Thursday, February 13

Class topic: Legislative history research – searching for evidence of legislative intent.

Prepare for class:

- Complete CALI lesson, *How to Research Federal Legislative History* (60 min.), by Eric Voigt and Nancy P. Johnson.
- Complete CALI lesson, *Federal Legislative History Research - Compiled Legislative History* (30 min.), by Lee Peoples.

Friday, February 14

Hand in through TWEN by 4:00 p.m.: Trial Court Brief

Week 6

Tuesday, February 18

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

Prepare for class: Shapo, pp. 363-368, 368-373

Handed out: appellate brief assignment

Thursday, February 20

Class topic: Legislative history research continued.

Prepare for class:

- Complete CALI lesson, *Reading Legislative History* (30 min.), by Lorelle Anderson.
- Review online guide, *Researching (Illinois) Legislative History*, prepared by staff of the Illinois Legislative Reference Bureau, at <http://www.ilga.gov/commission/lrb/lrbres.htm>

Week 7

Tuesday, February 25 (*BOTH SECTIONS ATTEND BOTH CLASSES. NOTE ROOMS)

9:00 (Room 204; both sections)

Class topic: argument section of appellate brief; standard of review

Prepare for class: Shapo, pp., 406-407, 415-421, 424-431

Hand in through TWEN by beginning of class: draft front pages of appellate brief; appellate brief source list

11:00 (Room 202; both sections)

Class topic: summary of the argument; point headings

Prepare for class: Shapo pp. 376-384

Thursday, February 27

Class topic: Regulatory history research – searching for evidence of agency intent.

Prepare for class:

- Review online guide, *How to Trace Federal Regulations: A Research Guide*, at <https://blogs.loc.gov/law/2014/11/how-to-trace-federal-regulations-a-research-guide/>, by Barbara Bavis for In Custodia Legis, the Law Librarians of Congress blog.
- Review online guide, *Compiling a Federal Regulatory History*, at <https://libguides.law.gonzaga.edu/c.php?g=302157&p=2014573>, prepared by law librarians at the Gonzaga University School of Law.
- Complete related pre-class quiz on TWEN

Monday, February 24, through Friday, February 28

Required research conferences, schedule to be determined

Week 8 (MIDTERM WEEK: NO CLASS)**SPRING BREAK**

Monday, March 9 – Friday, March 13

Week 9**Tuesday, March 17**

Class topic: Q&A on appellate briefs

Prepare for class: finalize rough draft in preparation for required conference

Thursday, March 18

Class topic: Court rules, related interpretive materials, forms and other practice aids.

Class preparation:

- Read, “Court Rules and Practice,” pp. 187-206, excerpted from *Legal Research in a Nutshell* 13th ed., by Kent C. Olson, posted in Required Supplemental Readings on TWEN;

- Complete CALI lesson, *Researching and Working with Procedural Forms* (30-40 min.), by Shaun Esposito.
- Complete CALI lesson, *Researching and Working with Transactional Forms* (40 min.), by Shaun Esposito.

Monday, March 16, through Friday, March 20

Required research conferences, schedule to be determined

Wednesday, March, 18 – Tuesday, March 24

Required writing conference, schedule TBD.

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

Week 10 (No Research Class)

Tuesday, March 24

Class topic: effective oral argument

Prepare for class: Shapo, pp. 437-451

Thursday, March 26 (Auditorium)

Class topic: oral argument nuts & bolts

Friday, March 27

Hand in by 4:00 p.m. through TWEN: Appellate Brief

Friday, March 27

Download from TWEN, beginning at 5:00 p.m.: Practice Research Practicum

Week 11 (No Writing Class)

Tuesday, March 31

Class topic: Additional practitioner oriented resources.

Prepare for class:

- Complete CALI lesson, *Internet Legal Resources - Free Resources* (40-60 min.), by Resa Kerns, Cindy Shearrer, Todd Venie, Michelle Cosby, and Eric Voigt.
- Review the Fastcase User Guide 2018 ed. online at <https://www.fastcase.com/wp-content/uploads/2016/12/Fastcase-7-Complete-User-Guide-2018.pdf>. NOTE: students have access to Fastcase from a link on the SIU law library website but will need VPN authorization to access it from off-site. For information on VPN registration, see <https://oit.siu.edu/networkengineering/services/vpn/>
- Sign up for a free student Casemaker account at <http://www.casemakerx.com/home.aspx?> And review the online user guide at https://cdn.ymaws.com/www.ksbar.org/resource/resmgr/Files/casemaker_manual.pdf

Tuesday, March 31

Hand in by 7:00 p.m., through TWEN: practice research practicum

Thursday, April 2

Class Topic: Research Review

Prepare for class:

- Review final research exam logistics. posted on TWEN or transmitted by email.
- Make list of questions to bring to class about the practice practicum or how to complete similar research tasks.

Week 12

Monday, April 6 –Thursday, April 9

Oral argument practice rounds

Schedule TBD

Monday, April 6

Final Research Practicum Exam (take home) goes live at 5:00 p.m. on Exemplify.

Week 13

Monday, April 13, by 5:00 p.m.

Deadline to upload completed Final Research Practicum Exam on Exemplify, or hand it in person if submitting hard copy.

Tuesday, April 14 – Friday, April 17

Oral arguments

schedule TBD

Syllabus Attachment

Spring 2020

MISSION STATEMENT FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

SIU embraces a unique tradition of access and opportunity, inclusive excellence, innovation in research and creativity, and outstanding teaching focused on nurturing student success. As a nationally ranked public research university and regional economic catalyst, we create and exchange knowledge to shape future leaders, improve our communities, and transform lives.

IMPORTANT DATES *

Semester Classes Begin:.....01/13/2020
Last day to add full-term course (without Dean's signature):01/19/2020
Last day to withdraw from the University with a full refund:01/24/2020
Last day to drop a full-term course for a credit/refund:.....01/26/2020
Last day to drop a full-term course (W grade, no refund):03/29/2020
Final examinations:05/4—05/8/2020

Note: Please verify the above dates with the Registrar calendar and find more detailed information on deadlines at <https://registrar.siu.edu/calendars>. For add/drop dates that apply to shorter-than-full-term courses, please look at the Schedule of Classes search results at <https://registrar.siu.edu/schedclass/index.php>

SPRING SEMESTER HOLIDAYS

Dr. Martin Luther King, Jr. Birthday 01/20/2020
Spring Break 03/7—03/15/2020

DIVERSITY

Southern Illinois University Carbondale's goal is to provide a welcoming campus where all of our students, faculty and staff can study and work in a respectful, positive environment free from racism and intimidation. For more information visit: <https://diversity.siu.edu/#>

DISABILITY SUPPORT SERVICES

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 <https://disabilityservices.siu.edu>. You may request accommodations at any time, but timely requests help to insure 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.

MILITARY COMMUNITY

There are complexities of being a member of the military community and also a student, and military and veteran related developments can complicate academic life. If you are a member of the military community and in need of accommodations please visit Veterans Services at <https://veterans.siu.edu/>

STUDENT MULTICULTURAL RESOURCE CENTER

The Student Multicultural Resource Center serves as a catalyst for inclusion, diversity and innovation. As the Center continues its work, we are here to ensure that you think, grow and succeed. We encourage you to stop by the Center, located in the Student Services Building Room 140, to see the resources available and discover ways you can get involved on the campus. Visit us at <https://smrc.siu.edu/>

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: call(618) 453-2461, email siucares@siu.edu, or <https://salukicare.siu.edu/>

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: <https://safe.siu.edu>

MORRIS LIBRARY HOURS: <https://libguides.lib.siu.edu/hours>

ADVISEMENT: <https://advisement.siu.edu/>

SIU ONLINE: <https://online.siu.edu/>

WITHDRAWAL POLICY ~ Undergraduate only

Students who officially register for a session must officially withdraw from that registration in a timely manner to avoid being charged as well as receiving a failing grade for those classes. An official withdrawal must be initiated by the student, or on behalf of the student through the academic unit, and be processed by the Registrar's office. For the proper procedures to follow when dropping courses and when withdrawing from SIU visit: <https://registrar.siu.edu/students/withdrawal.php>

INCOMPLETE POLICY~ Undergraduate only

An INC grade may be assigned when, for reasons beyond their control, students engaged in passing work are unable to complete all class assignments for the course. An INC must be changed to a completed grade within one full semester (undergraduates), and one full year (graduate students), from the close of the term in which the course was taken or graduation, whichever occurs first. Should the student fail to complete the remaining course requirements within the time period designated, the incomplete will be converted to a grade of F and such grade will be computed in the student's grade point average. For more information visit: <https://registrar.siu.edu/grades/incomplete.php>

REPEAT POLICY

An undergraduate student may, for the purpose of raising a grade, enroll in a course for credit more than once. For students receiving a letter grade of A, B, C, D, or F, the course repetition must occur at Southern Illinois University Carbondale. Effective for courses taken Summer 2013 or later, only the most recent (last) grade will be calculated in the overall GPA and count toward hours earned.

This policy will be applied to all transferrable credit in that only the last grade will be used to calculate grade point average. Only those courses taken at the same institution are considered repeats under this policy. See full policy at <https://registrar.siu.edu/students/repeatclasses.php>

SIU's EARLY WARNING INTERVENTION PROGRAM (EWIP)

Students enrolled in courses participating in SIU's Early Warning Intervention Program might be contacted by University staff during a semester. More information can be found at the Core Curriculum's Overview webpage: <https://corecurriculum.siu.edu/program-overview/>

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: <https://emergency.siu.edu/>

CENTER FOR LEARNING AND SUPPORT SERVICES

Help is within reach. Learning support services offers free tutoring on campus and math labs. To find more information please visit the Center for Learning and Support Services website:

Tutoring : <https://cls.siu.edu/tutoring/>

Math Labs <https://math.siu.edu/courses/course-help.php>

WRITING CENTER

The Writing Center offers free tutoring services to all SIU students and faculty. To find a Center or Schedule an appointment please visit: <https://write.siu.edu/>

GRADUATE POLICIES

Graduate policies often vary from Undergraduate policies. To view the applicable policies for graduate students, please refer to the graduate catalog at <https://gradschool.siu.edu/about-us/grad-catalog/>

Need help with an issue? Please visit SALUKI SOLUTION FINDER at <https://solutionfinder.siu.edu/>

PLAGIARISM

See the Student Conduct Code <https://srr.siu.edu/student-conduct-code/>