

SYLLABUS
LAWYERING SKILLS II
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 searching

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:

- Linda H. Edwards, *Legal Writing: Process, Analysis, and Organization* (7th ed., Wolters Kluwer 2018). ISBN 9781454895916
- Eric P. Voigt, *Legal Research Demystified: A Step-By-Step Approach* (Carolina Academic Press 2019). ISBN 9781531007836
- Coleen Barger, *ALWD Guide to Legal Citation* (6th ed., Wolters Kluwer 2017). ISBN 9781454887768

recommended texts:

- Richard C. Wydick & Amy E. Sloan, *Plain English for Lawyers* (6th ed., Carolina Academic Press 2019). ISBN 9781531006990
- Kent C. Olson, *Legal Research in a Nutshell* (13th ed., West Academic Publishing 2018). ISBN 9781640208049, on reserve in the law school library, call number KF240.C542018

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

<u>LS §</u>	<u>writing professor</u>	<u>research professor</u>	<u>teaching assistants</u>
2	Melissa Marlow 9:00-10:15 (R164)	Alicia Jones	Anna Calvert Megan Fugate Maureen Jenner
1	Melissa Marlow 11:00-12:15 (R164)	Alicia Jones	Anna Calvert Megan Fugate Maureen Jenner

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 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. 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 TWEN site or in class. Additional materials supplementing the research textbook will be posted on the TWEN site as well. Your Lawyering Skills professors 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 are 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 brief: 25
- appellate brief: 35
- oral argument: 5
- professionalism: 2

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

* 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 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 conference, the final research practicum 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, 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, 618-453-3135.

Weekly Class Schedule

Week 1

Tuesday, January 14

class topic: introduction to Lawyering Skills II; introduction to pleadings & trial brief
prepare for class: Edwards, 209-216
handed out: trial brief assignment

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.

Friday, January 17

1-3 study block- finding secondary sources for trial brief

Week 2

Tuesday, January 21

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 Edwards, 217-228, 277-295, App. D
hand in: trial brief secondary source list, in correct citation form
handed out: sample trial brief

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).

Friday, January 24

1-3 study block- finding primary sources for trial brief

Week 3

Tuesday, January 28

class topic: negotiation

prepare for class: TBD

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

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.

Friday, January 31

1-3 study block- write trial brief rough draft in preparation for conference, research exercise

Week 4

Tuesday, February 4

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

prepare for class: Edwards, 229-257

Thursday, February 6 – Wednesday, February 12

required writing conferences

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

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.

Friday, February 7

1-3 study block- TAs will hold a citation lab, plus provide feedback on citation for the trial brief

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 trial brief by 4:00p.m.

Week 6

Tuesday, February 18

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

prepare for class: Edwards, 259-275, App. E & F; 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://lawteaching.org/lawteacher/2008fall/lawteacher2008fall.pdf>

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>

Friday, February 21

1-3 study block- appellate brief front pages, research for appellate brief source list

Week 7

Tuesday, February 25 (*BOTH SECTIONS ATTEND BOTH CLASSES)

9:00 class topic: argument section of appellate brief; standard of review

prepare for class: 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

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).

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: All Lawyering Skills classes cancelled)

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 conferences, Edwards, 299-317

Wednesday, March 18 – Tuesday, March 24

required writing conferences

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

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

Friday, March 20

1-3 study block- TAs will answer questions on appellate briefs

Week 10

Tuesday, March 24

class topic: effective oral argument

prepare for class: Edwards, 319-329

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

Thursday, March 26

class topic: oral argument nuts & bolts

Friday, March 27

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

Friday, March 27

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

Week 11

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.

Friday, April 3

1-3 study block-prepare for practice and graded rounds

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 – Thursday, April 16

oral arguments

schedule TBD