

LAWYERING PROCESS II

Professor Shaundra Lewis

Spring 2018

COURSE GUIDELINES AND SYLLABUS

Mondays & Wednesdays
11:00 a.m. to 11:50 a.m. in Room 203

“If you see somebody who has written a sloppy brief, I’m inclined to think this person is a sloppy thinker. It is rare that a person thinks clearly, precisely, carefully and does not write that way. And contrariwise, it’s rare that someone who is careful and precise in his thought is sloppy in his writing.”

–Supreme Court Justice Antonin Scalia (deceased)

LAWYERING PROCESS II

COURSE GUIDELINES AND ADMINISTRATIVE INFORMATION

Welcome back! I look forward to working with you again this semester.

I. Primary Course Goal: Learning the “Tools of the Trade”

As you know, the primary goal of this course is to teach you a set of basic lawyering skills that are critical to the process of lawyering. We will build on the concepts and skills that you learned and practiced during the fall semester and will continue to hone your legal analysis skills. In addition, you will learn how to serve and write as an advocate representing one side in a dispute, where your purpose is not to explore but to persuade the court to decide the case for your client. In general, this spring semester will focus on the basics of the following skills:

1. Legal analysis and writing – including reading cases, narrowing and expanding holdings, using and distinguishing precedent, synthesizing cases, issue spotting, applying law to facts, interpreting statutes, developing and evaluating legal arguments, counseling clients and persuasive legal writing.
2. General writing skills –a review of grammar rules to ensure clarity, succinctness and well-written English in all work products.

The following provides a more detailed list of the student learning outcomes and objectives for this course. This list reflects the key lawyering skills that you acquired this past fall semester and will continue to learn, develop, and practice during this spring semester in Lawyering Process II. You will continue to hone these skills in your second and third year of law school.

1. Critical Reading and Thinking. Students will be able to:
 - a. Read, understand, and evaluate cases by:
 - i. Identifying the elements of a reported opinion: procedural facts, legally relevant facts, issue(s), holding(s), reasons and policies, legal rules, and disposition;
 - ii. Synthesizing a line of related opinions;
 - b. Read, understand, and evaluate statutes and regulations.
2. Legal Problem Solving. Students will be able to:
 - a. Identify legal issues in simple and complex fact situations;
 - b. Identify the relevant controlling and advisory legal authority and policy;
 - c. Use understanding of relevant legal authority to predict answers to the legal issues or questions presented;

- d. Identify potential alternatives to achieve the client's goal;
 - e. Identify unresolved legal and factual issues.
3. Legal Argument. Students will be able to make effective legal arguments by:
- a. Identifying the legal issues;
 - b. Identifying the relevant facts, authority (cases, statutes, and/or regulations), and policy;
 - c. Developing, elaborating, and evaluating legal theories relevant to the client's situation;
 - d. Accurately formulating and applying authority and rules (or principles of law) to the client's situation;
 - e. Supporting the client's position by analogizing to favorable facts, authority, and policy;
 - f. Distinguishing unfavorable facts, authority, and policy from the client's position;
 - g. Articulating clear inferences for factual support;
 - h. Identifying elements of statutory analysis (legislative history and canons of interpretation) relevant to the client's position.
4. Legal Drafting. Students will be able to:
- a. Identify the need and purpose of legal documents, assess the perspective of the recipient of the communication, and use reliable communication practices and principles;
 - b. Communicate and explain their analysis and position effectively in writing to colleagues, supervisors, clients, or judges by:
 - i. Organizing and expressing ideas with precision, clarity, logic, and economy;
 - ii. Using proper grammar, syntax, and punctuation;
 - c. Draft the following legal documents that communicate clearly and comply with applicable rules and formatting requirements:
 - i. Predictive memorandum;
 - ii. Client letter;
 - iii. Persuasive memorandum (trial motion brief).
5. Recognizing and Resolving Ethical Dilemmas and Professionalism.

- a. Students will be able to:
 - i. Employ strategies for working cooperatively and collaboratively with others;
 - ii. Employ strategies for allocating time, effort, and resources efficiently, completing tasks within time constraints, and meeting deadlines;
 - b. Students will be introduced to certain rules of professional responsibility and the nature and sources of these ethical standards and will begin to appreciate the mandate for professional and competent representation.
6. Legal Research and Citation. Students will be able to:
- a. Identify the need for legal research;
 - b. Articulate and implement a research plan that explores and examines relevant sources;
 - c. Memorialize research results in an appropriate format;
 - d. Monitor law changes affecting completed research;
 - e. Use book and electronic research tools;
 - f. Use proper legal citation format in accordance with the Bluebook or the Texas Rules of Form (Greenbook), whichever is applicable.

II. Course Methodology: “Learning by Doing”

As with the fall semester, the methodology of this course is based on the principle that the best way to learn lawyering skills is by practicing them. To the extent possible, participating in the course will be similar to working in a law practice. You will be learning by doing – by practicing each of these skills in class and through writing assignments. In addition to these assignments, you will also complete grammar assignments and other editing exercises designed to ensure your knowledge of basic grammar rules, to teach you the importance of legal style and to help you develop a keen attention to detail.

III. General Information

A. Contact Information

Office:	Rm. 226
Office Phone:	(713) 313-1348
Email:	sklewis@tmslaw.tsu.edu
Office Hours:	M W F 1:00 to 2:00 p.m.

B. Textbooks

The required textbooks for this course are:

Lawyering Process II Course Reader (photocopied materials posted online on TWEN)

Texas Rules of Form, 13th Edition (Texas Law Review)

Legal Analysis: 100 Exercises for Mastery

You still need the following textbooks for this course (from the fall semester):

A Lawyer Writes, 2nd Edition

The Bluebook, A Uniform System of Citation, 20th Edition

C. Class Meeting Times

This class meets on Monday and Wednesday from 11:00 a.m. to 11:50 a.m. in Room 210.

IV. Assignments

The reading assignments and discussion exercises are listed in the course syllabus under the day of the class for which they should be prepared. Any written assignments are listed under the day they are assigned and a separate due date will be listed, sometimes repeatedly as a reminder. Other assignments (see Section VI.A.2) are listed under the date they are due. The syllabus also provides the relevant time that the other assignments are due and the manner in which they should be submitted. For certain exercises, this information will be provided in the instruction sheet for the particular assignment.

V. Format Requirements

The following format requirements apply only to the draft and final briefs; these requirements are strictly enforced. Please follow these, unless your professor instructs otherwise.

- Papers should be typed using Microsoft Word in 12-point Times New Roman font and submitted on plain white, 8-1/2 x 11 inch paper (using one side only). Footnotes (if any) may be no smaller than 10 point font.
- Margins should be one inch on both sides and at the top and bottom, and no page may include more than 25 lines per page (including footnotes).
- Text should be double spaced. Footnotes should be single spaced.
- You may choose to place either one or two spaces between sentences, but please be consistent. Tabs, such as those used to begin a new paragraph, must be at least one half inch in length on your Word ruler.
- Each assignment should be consecutively paginated with a centered number at the bottom of each page. Footnotes should be in Times New Roman font; please note that the Word default is Courier font, so you will need to adjust your page numbers to Timers New Roman font.
- Please consider printing a hard copy of your assignment before turning it in, so you can confirm that you have followed these requirements.

- All pages of each assignment should be stapled together in the upper left-hand corner. All hard copy submissions should be printed on one side of the page and with good ink quality.

VI. Grading Policies and Procedures

A. General Grading Information

1. Course Format: Lawyering Process II is a two-credit course
2. Final Grade: Your final grade will be based on the following:

• Writing Assignment #1	15%
• Writing Assignment #2 Roughdraft	10%
• Writing Assignment #2 Final	25%
• Timed In-Class Statutory Final Exam (Essay)	30%
• Other Assignments	10%
• Oral Argument	5%
• Participation, Professionalism, and Attentiveness	5%
	TOTAL: 100%

“Other Assignments” may include citation assignments, quizzes, and others. This class is subject to TMSL’s mandatory curve for Lawyering Process, as reflected in the current Student Rules and Regulations.

A:	10-13%
B:	25-34%
C:	35-45%
D/F:	0-08%

3. Exam Numbers: Please use an exam number to submit assignments unless otherwise instructed; please use a fresh number for each major writing assignment. If you use your own name anywhere on the assignment (such as in the name of your Word document), you waive your anonymity and may lose points.

B. Late or Over-Length Assignments

1. Late Submission of Assignments: Late assignments are not accepted in this class. Please submit assignments before the deadline.

i. Assignments Submitted Using Westlaw’s TWEN: Assignments due on TWEN are due on the date and at the time indicated on the assignment, in the syllabus, or by me. Please see the additional guidelines below for writing assignments and other assignments.

2. Submission of Over-Length Writing Assignments: For each page or portion thereof that exceeds

the page limit for that assignment, your grade will be reduced by 10% before any other deduction. I will not review any pages that exceed the page limit. If your paper exceeds the mandatory number of lines per page or does not comply with the margin requirement, I will consider it to have exceeded the page limit and will adjust the score for the assignment accordingly.

C. Attendance: Class attendance is mandatory. Attendance will be taken at the beginning of each class. Per Article III, Section 9 of the Student Rules and Regulations, for this two-hour course, you will be permitted three (3) absences before your grade may be lowered. **Missing even one class, however, will cause you to lose access to important information.** Dismissal from class for misconduct or lack of proper preparation will result in an absence. Please see the Student Rules and Regulations for information on grade reduction and further details on absences.

D. Laptop and Smart Electronic Devices Misuse: Laptop computers may be used only for class-related note-taking and reference. I will rescind the privilege of laptop use, individually or collectively, if it is abused. Cell phones and similar devices must be turned off. If someone is caught misusing an electronic device in class, I reserve the right to confiscate that device and take it to the Dean's Suite where you can retrieve it for a \$20.00 fee.

E. Accommodations: Please contact Dean Mouton (Student Affairs) right away if you require any special accommodations regarding any of the assignments. You must contact Dean Mouton before the related assignment is due.

VII. Writing Advisors and Writing Center

This semester, you will continue to work with your assigned WA. The WA is available to assist you with mastering the lawyering skills learned in this class, particularly the skills of legal analysis and writing. Your WA will provide you with general feedback on certain assignments, namely the short writing exercises.

The WAs also staff the Lawyering Process Writing Center, which is located on the first floor of the library. If you have a question about an assignment, you may visit the Writing Center. You should ask the writing advisors discrete questions about legal analysis and writing. You cannot ask a WA to approve or sign off on any piece of writing, as your WA does not grade your paper. After an assignment has been graded, your WA may review the entire document with you if you have any questions. Notwithstanding your WA's assistance or any feedback that you receive from the Writing Center, you are ultimately responsible for your final work product. Please follow what is said in class over the advice of any WA.

VIII. Plagiarism

Plagiarism in *any* form is strictly prohibited. You may not plagiarize any other written work, including, but not limited to, another student's memorandum, a prior exemplar or sample memorandum, an internal legal memorandum, or any memorandum of points and authorities filed with any court. Any form of plagiarism will result in a grade of F and will be forwarded to the Dean for appropriate action. If you have any doubts about the definition of plagiarism, please ask me.

LAWYERING PROCESS II SYLLABUS

WEEK 1

MONDAY, JANUARY 8, 2018

Topic: Overview of Spring Semester; Final Exam Debriefing

Read: Reread all Writing Assignment # 3 Materials, including all cases, fact documents, and your memo.

Please bring all Writing Assignment # 3 materials to class.

WEDNESDAY, JANUARY 10, 2018

Topic: Exam Debriefing (cont'd); Legal Analysis Drill

Bring: Legal Analysis: 100 Exercises for Mastery for in-class legal analysis drill

WEEK 2

MONDAY, JANUARY 15, 2018

MLK Holiday—No class

WEDNESDAY, JANUARY 18, 2018

Topic: Client Advice Letters

** Writing Assignment #1—Client Letter Assigned
(Due **Monday, January 29, 2018**)

Read: Coughlin, A Lawyer Writes pp. 273-291 (“Client Letters”)

Due: **Orientation to Critical Thinking Exercise # 2 from Hill & Vukadin, Legal Analysis: 100 Exercises for Mastery on TWEN by 11:00 a.m.**

WEEK 3

MONDAY, JANUARY 22, 2018

Topic: Client Letters (cont'd); Client Service and Professionalism

Read: Course Reader (“Reader”) pp. 1-27 (“Advisory Writing: Advice Letter” through “How to Lose a Client in 10 Steps”)

WEDNESDAY, JANUARY 24, 2018

Topic: Professional e-mails

Read: Coughlin pp. 295-304 (“Professional E-mails”)
Hill & Vukadin pp. 13-19 (Chapter II titled “Introduction to Legal Analysis”)

FRIDAY, JANUARY 26, 2018

Due: Rule-Based Reasoning for Mastery Exercise 13 on TWEN by Friday at 5:00 p.m.

WEEK 4

MONDAY, JANUARY 29, 2018

Topic: Introduction to Persuasive Writing: Introduction & Statement of Facts

Read: Course Reader pp. 62-66 (“Civil Litigation Timeline”)
Course Reader pp. 28-45 (“Persuasive Writing Notes”)
Coughlin pp. 305-311 (“The Transition from Objective to Persuasive Writing”)

Due: Client letter on TWEN by 8:00 a.m. using your first anonymous exam #

Writing Assignment # 2 Assigned

WEDNESDAY, JANUARY 31, 2018

Topic: Statement of Facts (cont’d)

Read: Reader pp. 67-73 (“Fact Persuasion Techniques”: “Fact v. Fiction: Writing the Facts”)
Coughlin: pp. 338-345 (“C. Statement of Facts”)

FRIDAY, FEBRUARY 2, 2018

Due: Analogical Reasoning With Depth Exercise 37 in Hill & Vukadin, Legal Analysis: 100 Exercises for Mastery (On TWEN by 5:00 p.m.)

WEEK 5

MONDAY, FEBRUARY 5, 2018

Topic: Introduction to Argument Section

Read: Coughlin: pp. 312-316 (“The Argument: Presenting the Argument from Your Client’s Perspective”)
Reader pp. 45-57 (“Discussion Section—Overview” (read through “F. Rule Proofs” and stop at “F. Analysis”)

Reader pp. 74-93 (Hummel Fact Documents)

In-class exercise: Using a theme to create a favorable context. (*100 Exercises for Mastery Exercise 101*)—will be provided in class

WEDNESDAY, FEBRUARY 7, 2018

Topic: Argument Section (cont'd)—Persuasive Rules & Rule Proofs; Parentheticals

Read: Reader pp. 95-97 (“Burden Emphasis Techniques” & Persuasive Rule Proof Exemplar”)
Coughlin pp 316-323 (through 2. Developing persuasive case illustrations)
Supplemental Reading on TWEN (“Hummel Cases for Practice Problem”)
Reader p. 101 (“Parentheticals”)

FRIDAY, FEBRUARY 9, 2018

Due: Analogical Reasoning Exercise 51 on TWEN by Friday, Feb. 9 at 5:00 p.m.

WEEK 6

MONDAY, FEBRUARY 12, 2018

Topic: Argument Section (cont'd)—Developing Persuasive Arguments; Rebutting Anticipated Counter-Arguments; Point headings

Read: Reader, pp. 57-61 (“Analysis”)
Coughlin pp. 323-335 (“Addressing Weaknesses from Your Client’s Perspective”)

WEDNESDAY, FEBRUARY 14, 2018

Topic: Editing & Polishing

Read: Editing
Coughlin pp. 346-350 (“Editing and Polishing Your Brief”)

FRIDAY, FEBRUARY 16, 2018

Due: Analogical Reasoning With Depth Exercise 53 on TWEN by 5:00 p.m.

WEEK 7

MONDAY, FEBRUARY 19, 2018

Texas Citation Rules

Read: Texas Rules of Form (the “Greenbook”), pp. iii-v and 1-9

WEDNESDAY, FEBRUARY 21, 2018

Texas Citation Rules (cont’d)

Read: Texas Rules of Form, pp. 10-28

WEEK 8

MONDAY, FEBRUARY 26, 2018

Topic: Legal Analysis Revisited

Read: Coughlin pp. 325-346

WEDNESDAY, FEBRUARY 28, 2018

Topic: Legal Analysis Revisited

Read: Hill & Vukadin Analogical Reasoning With Depth Exercise # 57 & Cases for that Exercise (Outline Answer for in-class discussion)

WEEK 9—MIDTERM WEEK

MONDAY, MARCH 5, 2018

MANDATORY ONE-ON-ONE STUDENT CONFERENCES—NO CLASS

WEDNESDAY, MARCH 7, 2018

MANDATORY ONE-ON-ONE STUDENT CONFERENCES—NO CLASS

WEEK 10

MARCH 12, 2018 — MARCH 16, 2018 – SPRING BREAK

WEEK 11

MONDAY, MARCH 19, 2018

Topic: Statutory Interpretation; Basic Tools

Read: Coughlin pp.35-43 (“II. Reading Statutes”), pp. 175-177 (“Identifying Legislative Policy in a Statute”) and pp. 181-193

Due: **Writing Assignment #2 Roughdraft due on TWEN at 8 a.m.**

WEDNESDAY, MARCH 21, 2018

Topic: Statutory Interpretation (cont’d)

Read: Reader, Statutes and Legislative History Excerpt, pp. 129-126
Tennessee Valley Authority v. Hill – Reader, pp. 137-154

WEEK 12

MONDAY, MARCH 26, 2018

Topic: Deference to Agency Interpretation

Read: Chevron v. NRDC – Reader, pp. 155-169
Coughlin: p. 191 (“b. Agency Interpretations and Regulations”)

WEDNESDAY, MARCH 28, 2018

Topic: Writing a Statutory Analysis; Twardzik v. Funtime Sporting Goods Exercise

Read: Coughlin pp. 193-197 (“Drafting a Statutory Analysis”)
Reader pp. 167-76 (Statutory Interp. Materials for Twardzik v. Funtime)

Due: Outline of Statutory Analysis for Funtime Exercise

FRIDAY, MARCH 30, 2018

Due: **Hill & Vukadin Statutory Analysis for Success Exercise 65 on TWEN by 5:00 p.m.**

WEEK 13

MONDAY, APRIL 2, 2018

Topic: Oral Arguments

Read: Supplemental Reading on TWEN

Reader pp. 177-181

Listen to Oral Arguments (links will be provided by professor)

(In class prepare for argument)

Due: Writing Assignment # 2 (Persuasive Motion) Final Draft due on TWEN by 8:00 a.m.

WEDNESDAY, APRIL 4, 2018

Topic: Oral Argument Practice (cont'd)

Due: Outline of Your Oral Argument for WA # 2 (do not post on TWEN; bring to class)

WEEK 14

MONDAY, APRIL 9, 2018

Oral Arguments on WA # 2 in Class

WEDNESDAY, APRIL 11, 2018

Oral Arguments in Class

FRIDAY, APRIL 13, 2018

Due: Hill & Vukadin Statutory Analysis for Success Exercise # 73 on TWEN by 5:00 p.m.

WEEK 15

MONDAY, APRIL 16, 2018

Oral Arguments in Class

WEDNESDAY, APRIL 18, 2018

Practice Timed Statutory Exam in Class

WEEK 16

MONDAY, APRIL 23, 2018

Review of Practice Exam

WEDNESDAY, APRIL 25, 2018

FINAL EXAM—Timed Statutory Interpretation Essay Examination

Have a great summer!