

## APPELLATE LITIGATION SYLLABUS

**Professor:** Marguerite Butler

**Class:** ***Appellate Litigation***

**Time:** Tuesday and Thursdays 2:00 – 2:50 pm

**Course Category:** 2d year required course graded on the 2L curve

**Classroom:** LSB, Room 210

**Office Hours:** Tuesday and Thursday 11:15 am – 12:30 pm  
***AND by Appointment***

**Office:** LSB Room 243

**Telephone:** 713-313-1010

**E-mail:** mbutler1003@comcast.net

**TWEN Web:** Syllabus, distributed materials, announcements, and assignments are available on TWEN

### CLASS ATTENDANCE

- a. Class attendance is mandatory. You are entitled to 3 absences in this class. Refer to **The Student Rules of Matriculation** to confirm the law school's policy on absences and grade reductions for a two hour class.
- b. Attendance is taken daily.
- c. ***Come to class on time. Tardiness to class three times will result in one absence.***
- d. ***ALL ATTENDANCE POLICIES APPLY STARTING THE SECOND WEEK OF CLASS, January 22, 2019.***

**Textbooks:** Available at the TSU Bookstore

**1. Required:**

**Legal Writing: Examples and Explanations (2011)**

**Pollman *et al***

**Wolters Kluwer Law & Business**

ISBN 9780735597303

**Plain English for Lawyers 5<sup>th</sup> Ed.**

Richard Wydick

Carolina Academic Press

ISBN 1694601518

**Just Briefs (2013)**

**Oates *et al***

Wolters Kluwer Law & Business

ISBN-13: 978-1454805540

ISBN-10: 1454805544

**The Uniform System of Citations (Bluebook) 20th ed**

Harvard Law Review.

ISBN10: 600014329X

ISBN13: 9786000143299

**Texas Rules of Form, *most recent edition.***

***University of Texas Law Review. Access to; Do not purchase***

**2. Recommended:**

**The Winning Brief: 100 Tips for Persuasive Briefing in Trial and Appellate Courts**

Oxford University Press

ISBN 10019517075X

ISBN 139780195170757

## COURSE REQUIREMENTS

1. All students are required to read and be prepared to discuss, in class, the assigned materials, and are encouraged to read the supplemental materials.
2. Assigned readings are based on the expectation that students will devote at least three hours of work outside of the classroom in preparation for every one hour spent within the classroom.
3. Students will not be evaluated when called on in class. Nevertheless, when you are selected to answer questions, you may pass if you are willing to accept an absence for the class session.
4. Students are required to successfully complete a written memo and brief and an oral argument for this class. Each of these topics contain additional sub-components as further explained in this syllabus.
5. I will provide written instructions to complete each document and for the oral argument.
6. There is no final examination in this class. The last day of this class occurs on the Tuesday after the last oral argument for the class.
7. All assignments that are required to be posted on TWEN must meet the following criteria for me to read:
  - a. Type the entire document in Microsoft Word
  - b. Use Courier New 14 point font.
  - c. Set 1 inch margins on ALL four sides of your document.
  - d. The text of **ALL** documents must be double spaced **EXCEPT:**
  - e. ***Single space headings and subheadings that require more than one line of typing.***

## **COURSE DESCRIPTION:**

Appellate Litigation is a required second year legal WRITING course. It is designed to develop the writing skills that you learned in Lawyering Process I and II. You will write objective and persuasive legal documents including a memoranda and a brief. You will continue to use your legal methods, case analysis, problem analysis, statutory analysis and legal research skills.

After you write an objective legal memorandum and a persuasive appellate brief, you must present an oral appellate argument before a minimum of three legal practitioners who will judge your argument. Each student will prepare a draft and final memorandum and a draft and final brief on a legal problem. I will grade each assignment based on the specific criteria outlined for the assignment.

I will also judge your professional dress twice during the semester, during professionalism day and during your oral argument that is presented at the end of the semester.

## **LEARNING OUTCOMES:**

The course has two primary goals: First, the course is designed to improve the legal analysis skills of students. By the end of the course, students should be able to demonstrate written and oral legal analysis skills such as the capacity to pay careful attention to legal rules and key facts to explain how legal authorities apply to a RECORD that is used for all assignments during the semester using the IRAC and/or CRRAPC methods of legal analysis, to recognize and use legal terminology, and to use case law and principles to analyze new fact patterns.

Second, this course is designed to review and improve upon the legal writing skills that you developed in your first year writing course. These skills include but are not limited to writing a legal memoranda and conducting legal research. This course adds two additional skills which include writing a legal brief and participating in an oral argument before a panel of three or more judges at the end of the semester.

## TOP TEN APPELLATE LITIGATION COMPETENCIES –

**Every Student, After Completing This Course, Is Expected To Have the Ability To**

1. Write a professional memorandum of law. *Accomplished by writing a draft memorandum, reviewing the draft with me before submitting the final memorandum and writing a final memorandum.*
2. Write a professional Appellate Brief. *Accomplished by writing a draft brief, reviewing the draft brief with me before submitting the final brief and writing the final brief.*
3. Present a competent oral argument in a moot court environment based on the memo and brief problem researched and written during the semester. *Accomplished with in class exercises and make a final appellate oral argument before three judges.*
4. Distinguish between federal and state court hierarchy and authority; *Accomplished by distinguishing between state and federal cases and statutory provisions when doing the research for the memorandum and brief.*
5. Apply Bluebook rules for correct citations in their legal Memo and Appellate Brief. *Accomplished by completing CALI exercises, using these rules when writing the drafts and final drafts for the legal memorandum and appellate brief and reviewing bluebook rules not addressed in the CALI lessons, in class, and during student/professor conferences.*
6. Improve legal research skills, using both paper and electronic research sources for
  - a. all primary and secondary authorities,
  - b. rules of statutory interpretation and
  - c. standard of review

*Accomplished with lectures on these points and additional presentations by Lexis or Westlaw for on-line legal research*

7. Learn a competent research process where the student demonstrates that they have done their own work.

*Accomplished with class instruction on how to keep*

- a. *a legal research notebook that will be turned in after the oral argument at the end of the semester that includes all of the research used in all of the semester assignments and*
- b. *a research log for time spent on all semester assignments that is turned in every 15 days during the semester.*

8. Know the requirements for professional dress and to dress accordingly on the class professional day and for oral argument.

***Accomplished by discussing the requirements in class and requiring students to dress professionally on the class professional day and for the final oral argument.***

9. Understand the purpose and requirements of the Standard of Review AND apply those standards to the issues presented in an appellate brief.. ***Accomplished by requiring students to research and write about the standard of review and lecturing on the topic.***

10. Understand and learn the rules of court for writing briefs and making oral arguments. ***Accomplished by requiring students to research the rules of court for writing briefs and making oral arguments and discussing these rules along with a discussion about local court rules and the local class rules for writing a brief and completing the oral argument.***

## GRADING CRITERIA:

Memoranda	20%
Appellate Brief	45%
Professionalism Day	10%
Oral Argument	25%
Grand Total	100%

## CRITERIA FOR EACH GRADING CATEGORY:

				<i>Percentage of Final Grade</i>
<b>1.</b>	<b>Memorandum</b>	<b>Max 105 points</b>		<b>20%</b>
	b. Rough Draft <b>SUBMISSION</b>	5 pts		
	c. final submission	100 pts		
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<b>2.</b>	<b>Brief</b>	<b>Max 230 points</b>		<b>45%</b>
	a. Rough draft BRIEF	20 pts		
	b. rough draft <b>SUBMISSION</b>	5 pts		
	d. final BRIEF	100 pts		
	e. research notebook	100 pts		
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<b>3.</b>	<b>Professionalism Day</b>	<b>Max 100 points</b>		<b>10%</b>
	a. Professional Dress	60 pts		
	b. Essay	40 pts		
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<b>5.</b>	<b>Final Oral Argument</b>	<b>Max 270 points</b>		<b>25%</b>
	a. in-class activities	20 pts		
	b. final argument	100 pts		
	c. Moot Court Notebook	100 pts		
	d. Professional Dress	50 pts		
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<b>Grand Total</b>				<b>100%</b>

**Extra Credit/Penalty** points - no more than 10 points.

*Extra credit points are added to the grand total.*

Penalty points are subtracted from assignment..

**a. It is possible** that I will assign **all, some or none** of the extra credit points;

- b. If class attendance points are assigned, they will be assigned based on the extra credit points allocation;
- c. **At my discretion, two extra credit points may be given for exceptional class preparation and participation;**
- d. However when assigned;
  - 1. the assignment will be available for **ALL** students and
  - 2. **MUST** be submitted or done on or before the due date.
- e. ***NO INDIVIDUAL OR LATE EXTRA CREDIT ASSIGNMENTS WILL BE ACCEPTED;***
- f. Examples of extra credit are attendance at seminars, exceptional class participation etc., etc., etc.;
- g. **Each extra credit assignment is worth one or two points;**
- h. **YOU CAN ALSO LOSE POINTS** e.g.: unprepared for class, late to class, excessive absences. ***Max. 10 points;***
- i. If penalty points are assessed,
  - a. Two points are deducted for each incident. There is **no maximum** deduction.
  - b. *This rule does not apply to late papers, plagiarism and other egregious problems and errors such as these. It is possible to receive a zero on the assignment for these reasons.*

#### **PENALTIES FOR LATE ASSIGNMENTS:**

- The written memo, brief and oral argument assignment grades are based on a 100 point scale.
- An assignment is considered late if it is turned in after the assigned due date and time.
- **ALL graded late assignments receive a 20% point deduction for each twenty-four hour period that the assignment is late. You will sign these assignments in with my secretary, Misty Bishop, at the appointed due date and time.**
- A 24 hour period for late assignments begins after the assigned due date and time AND for every 24 hour period thereafter for a maximum of 4 days. On day five you will receive a zero for the assignment.
- You will not be able to submit any assignment for my review if it is not submitted on the assigned due date and time.
- You must turn each assignment in on time.
- I will not accept late assignments
- You cannot submit assignments for review if they are not submitted on the assigned due date and time.
- **I Will Not Accept nor evaluate an assignment if it is not submitted at the place or in the manner indicated in the assignment instructions.**
- **An assignment that is improperly submitted is late.**



### **ACADEMIC INTEGRITY:**

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code.

### **TITLE IX SEXUAL MISCONDUCT AND NONDISCRIMINATION POLICY:**

The Texas Southern University Sexual Misconduct and Nondiscrimination Policy is compliant with federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX. Texas Southern University's non-discrimination policies can be found at: <http://hr.tsu.edu/wp-content/uploads/2015/02/Sexual-Harassment-Title-IX.1.pdf>

### **DISABILITY POLICY:**

If you are a student with a documented disability who requires an academic accommodation, please contact the Asst. Dean for Student Development in the Office of Student Affairs, Room 223B Dean's Suite, 2d floor, Law School Building.

**CLASS CIVILITY RULES:** Merriam Webster Dictionary Definition: Characteristics of a state of civilization and *civilized* society; *especially* characterized by taste, refinement, or restraint. Marked by well-organized laws and rules about how people behave with each other. For example:

: polite, reasonable, and respectful


: pleasant and comfortable

This class will create a list of a minimum of 10 rules that will determine the expectation of behavior in and outside of the classroom.

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## THURGOOD MARSHALL SCHOOL OF LAW

**TEXAS SOUTHERN UNIVERSITY  
ACADEMIC CALENDAR 2018 – 2019**

<b>FALL SEMESTER 2018 (SEVENTY DAYS OF CLASSES)</b>		
Orientation	Monday-Friday	August 13-17, 2018
<b>First Day of Class</b>	<b>Monday</b>	<b>August 20, 2018</b>
Last Day to ADD/DROP	Wednesday	August 22, 2018
<b>Labor Day (NO CLASSES)</b>	<b>Monday</b>	<b>September 3, 2018</b>
<i>Purge of all unpaid course selections</i>	Wednesday	September 19, 2018
<b>Mid Term Examinations</b>	<b>Mon – Fri</b>	<b>October 15-19, 2018</b>
<b>Thanksgiving Holiday</b>	<b>Thurs – Fri</b>	<b>November 22-23, 2018</b>
Last Day of Classes	Wednesday	November 28, 2018
Last Day to Drop a Class	Wednesday	November 28, 2018
First Year Professors' Grades due	Wednesday	November 28, 2018
Reading Period (NO CLASS)	Thurs- Sun	November 29 – Dec 2, 2018
Final Examinations	Monday - Friday	December 3 - Dec. 14, 2018
Commencement Exercises	Saturday	December 15, 2018
<b>SPRING SEMESTER 2019 (SEVENTY DAYS OF CLASSES)</b>		
School Opens	Tuesday	January 2, 2019
First Day of Class	Monday	January 14, 2019
Last Day to ADD/DROP	Wednesday	January 16, 2019
<b>M L K Holiday (No Classes)</b>	<b>Monday</b>	<b>January 21, 2019</b>
<i>Purge of all unpaid course selections</i>	Wednesday	February 13, 2019
Mid Term Examinations	Mon – Fri	March 4– 8, 2019
Spring Break	Mon – Fri	March 11 – 15, 2019
<b>Spring Break (University Closed)</b>	<b>Wed-Fri</b>	<b>March 13- 15, 2019</b>
<b>Good Friday (No Classes)</b>	<b>Friday</b>	<b>April 19, 2019</b>
Last Day of Classes	Tuesday	April 30, 2019
Last Day to Drop a Class	Tuesday	April 30, 2019
First Year Professors' Grades due	Tuesday	April 30, 2019
Reading Period ( <b>No Classes</b> )	Wed – Sun	May 1 - 3, 2019
Final Examinations	Mon- Fri	May 6 – May 17, 2019
Hooding Ceremony	Friday	May 17, 2019
Commencement	Saturday	May 18, 2019

Please note that the calendar events and /or dates are subject to change.

Updated 8/2018