



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

COMPETITIVE BRIEF WRITING

COURSE 901/ SECTION 2

FALL 2019

THURSDAY

5-6:40

ROOM 105

ATTORNEY NICKOLAS A. SPENCER

TABLE OF CONTENTS

| | |
|---|----|
| The Professor | 3 |
| Concealed Handgun Policy..... | 4 |
| Course Books & Material..... | 5 |
| Course Description & Objective..... | 6 |
| Student Learning Outcomes..... | 7 |
| Grading | 9 |
| Accommodations | 10 |
| Participation, Attendance & Professionalism | 11 |
| Academic Calendar | 12 |
| Policies & Procedures | 13 |
| Reading Assignments..... | 14 |

THE PROFESSOR

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LOCATION: One Riverway, Suite 1700, Houston Texas 77098

OFFICE HOURS: Thursdays 3:00 p.m. – 5:00 p.m. (In the Adjunct Office)
(All other times by appointment only)

Biography:

Nickolas A. Spencer, J.D., MA. Managing Attorney. Nickolas Spencer is a lawyer and a Houston resident. His practice focuses primarily on Real Estate and Civil Litigation, with a heavy emphasis on investor issues. He is the founder and Managing Attorney at Spencer & Associates, PLLC. He earned his law degree from Chicago-Kent College of Law.

Nickolas Spencer is the President of the Houston Lawyers Association and is dedicated to the advancements of the legal community, both here in Houston and farther afield.



CONCEALED HANDGUN POLICY

As you know, the State of Texas has recently passed legislation permitting you to carry a *concealed* firearm on campus if you have a concealed license permit recognized by the State of Texas, subject to the rules and regulations of Texas Southern University's ("TSU's) Campus Carry Policy. Under TSU's Campus Carry Policy, I have the right to designate my office as a gun-free zone. I have elected to make my office a firearm-free space. Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun. For a complete list of the gun-free zones on this campus and the rules governing campus carry at our institution, please visit Texas Southern University's website at <http://www.tsu.edu/>. Please note that entering a gun-free zone on campus with a firearm, including inside my office, could not only lead to criminal prosecution but suspension or expulsion from school.

COURSE BOOKS & MATERIAL

1. *The Redbook (Second Edition)*

Bryan A. Garner

Thompson West

ISBN 978-0-314-16891-7

Recommended

COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION:

In this course, students will learn to draft appellate court briefs that would be competitive in any Moot Court Competition entered. This will be done by learning how to write professional briefs that would be acceptable if submitted to any appellate court in the land. As such receiving an “A” in this class requires that the final submission be of professional quality.

OBJECTIVE:

The objective of this class is to engage students’ innate ability of critical analysis to craft the very best arguments in the most persuasive way possible. Students will learn valuable skills that will connect the oratorical talent necessary to excel at appellate advocacy with the brief writing which is the appellate advocacy’s core. In this way students will learn valuable skills that should lead to successful careers in law school and in practice.



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THURGOOD MARSHALL SCHOOL OF LAW

STUDENT LEARNING OUTCOMES

By the completion of this course, students will be able to:

- Interact with the Poetry of Advocacy
 - Questions Presented
 - Developing a Theme
- Structure of a Brief
 - Headings and Sub-Headings
 - Road Map
 - Bookending Arguments
 - Clarity
 - Knowing Your Audience
- Engage with Facts
 - Organizing Facts
 - Persuasive Use of Facts
- Engage with Questions
 - Use of Contraception
 - Abortion
- Consider Style
 - Bon Mots
 - Brevity is Style
- Create Effective Conclusions
 - Bookending paradigms
 - Rebuttals
- How to Write Persuasively
 - Analogize and distinguish
- How to Manage the Editing Process
- How to Use Topic Sentences as Sign Posts
- How to Tell Stories

GRADING

GRADING & EVALUATION

| | |
|-----------------------|-----|
| Class Participation | 20% |
| Oral Arguments | 30% |
| Final Appellate Brief | 50% |

In addition, the final grades will be issued based on the final total calculations:

| | |
|----|----------|
| A | 100-94 |
| A- | 93-90 |
| B | 89-84 |
| B- | 83-80 |
| C | 79-74 |
| C- | 73-70 |
| D | 69-below |

ACCOMMODATIONS

Please see the Texas Southern University, Thurgood Marshall School of Law Accommodations policy located at this link:
<http://www.tsulaw.edu/academics/18SuAccommodationsInformationWeb.pdf>

PARTICIPATION, ATTENDANCE & PROFESSIONALISM

Please see the Texas Southern University, Thurgood Marshall School of Law 2018-2019 Student Rules and Regulations located at the following link: http://www.tsulaw.edu/student_affairs/2018-2019_Rules_and_Regulations.pdf



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TEXAS SOUTHERN UNIVERSITY ACADEMIC CALENDAR 2018 – 2019

FALL SEMESTER 2018 (SEVENTY DAYS OF CLASSES)

| | | |
|--|--------------------|-----------------------------|
| Orientation | Monday-Friday | August 13-17, 2018 |
| First Day of Class | Monday | August 20, 2018 |
| Last Day to ADD/DROP | Wednesday | August 22, 2018 |
| Labor Day (NO CLASSES) | Monday | September 3, 2018 |
| <i>Purge of all unpaid course selections</i> | Wednesday | September 19, 2018 |
| Mid Term Examinations | Mon – Fri | October 15-19, 2018 |
| Thanksgiving Holiday | Thurs – Fri | November 22-23, 2018 |
| 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 |

SPRING SEMESTER 2019 (SEVENTY DAYS OF CLASSES)

| | | |
|--|------------------|---------------------------|
| School Opens | Tuesday | January 2, 2019 |
| First Day of Class | Monday | January 14, 2019 |
| Last Day to ADD/DROP | Wednesday | January 16, 2019 |
| M L K Holiday (No Classes) | Monday | January 21, 2019 |
| <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 |
| Spring Break (University Closed) | Mon-Wed | March 11- 13, 2018 |
| Good Friday (No Classes) | Friday | April 19, 2019 |
| 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 (No Classes) | 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 May 2018



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POLICIES & PROCEDURES

Please see the Texas Southern University, Thurgood Marshall School of Law 2018-2019 Student Rules and Regulations located at the following link
http://www.tsulaw.edu/student_affairs/rules.html

READING ASSIGNMENTS

| | | Learning Objective | In Class Illustration | Complete Before Class Period |
|--------|---|--|--|--|
| Week 1 | | Introduction/The poetry of advocacy | Rumsfeld v. Hamdan dissent (Last Paragraph) | Read: 2018 Texas Young Lawyers Association Moot Court Problem (TYLA) |
| | | · Favorite Song exercise | | |
| | "Why should a sequence of words be anything but a pleasure?" Gertrude Stein's | · 90 Second Tell Them exercise | | |
| | | | | |
| | | Developing a theme | Barack Obama Speech New Hampshire Primary (3 minute excerpt) | |
| | | · Discussion on the use of themes in the speech | | |
| | | Questions Presented | | |
| | | · 12-682 SCHUETTE, ATT'Y GEN. OF MI V. COALITION TO DEFEND, ET AL. | | |



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Week 2

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| | Structure of a Brief | Teams Assigned | Read: 2018 Texas Young Lawyers Association Moot Court Problem (TYLA) |
| | · Headings and Subheadings | | Read: APPELLATE BRIEF WRITING: MAKING A BRIEF HELPFUL AND PERSUASIVE, Dubose, Robert |
| "The hallmark of good writing is structure." | · Clarity | | |
| | · The Rules create the structure | | |
| | | | |
| | Road Map | Miguel song "Sure Thing"; | |
| | Bookending Arguments | The West Wing Season 3 Episode 6, 2 minute clip starting at 24:00 | |
| | Know your audience | | |
| | · Discussion of the "Kennedy Court" | | |
| | · Modified Tell Them exercise, | | |
| | · Random assignment of concerns | | |



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| Week 3 | Campaign in poetry and govern in prose - Mario Cuomo | Facts | | Thick Outline for the TYLA Problem Read associated cases for TYLA Problem |
| | | · Statement of Facts | | |
| | | · Organization of Facts | | |
| | | · Application | | |
| | | Introduction | | |
| | | · Compelling themes begin with the introduction | | |
| | | · Spot Theme exercise using | | |
| Week 4 | It is easy to confuse what is with ought to be. Especially when what is has worked in your favor. Tyrion Lannister dance of Dragons | Questions | | Revised Thick Outline incorporating cases Ariz. Free Enter. Club's Freedom Club PAC v. Bennett, 564 U.S. 721, 766, 131 S. Ct. 2806, 2835 (2011). Parents Involved in Community Schools v. Seattle School District No. 1 |
| | | · Using the Questions to advance your argument | | |



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| | | Questions are opportunities | | |
| | | Discuss the Tyla Problem and the associated cases in depth | | |
| | | · Structuring the argument | | |
| Week 5 | | Stylistic considerations | Greatest Hits of Chief Justice John Roberts; Justice Kagan | Schuetz v. Coalition Appellee Brief |
| | “International law is the law which the wicked do not obey and the righteous do not enforce.” Abba Eban, then the Israeli ambassador to the United States | · Bon Mots that burnish the theme | | Begin working on First Draft of Argument Section |
| | | · Brevity is style | | |
| | | · "Danger Begets Rescue" | | |
| | | | | |
| | | Schuetz v. Coalition... | The Gettysburg Address; | |
| | | · Students Critique Oral Argument | Listen to Oral Argument before the Supreme Court (2 | |



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| | | | excerpts of 15 minutes) | |
| Week 6 | | Conclusions | | |
| | | · Bookending paradigms | | |
| | | · Summations | | |
| | | Rebuttals | Carpenter v. United States Oral Argument (15 minute excerpt) | |
| | | · Exercise in spontaneous rebuttals | | |
| | | · 5 students will give rebuttals to the Argument on Carpenter | | |
| Week 7 | "Reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself." 7 Rep. 69; per Willes, C.J., Davis v. Powell, Willes, 46, cited arg. 8 C.B. 786, [**42] (E.C.L.R. 65). | Persuasive Writing | | First Draft of Argument Section Due |
| | | · Analogize and distinguish | | |
| | | Questions | | |



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| | | Analogy and distinguish | | |
| Week 8 | “I have only made this letter longer because I have not had the time to make it shorter.” | Editing process | Collins v. Virginia Oral Argument (15 minute excerpt) | Drafts Returned |
| | | · Space | | |
| | | · Details | | |
| | | · Compliance with competition or Court rules | | |
| | | Dealing with oral gaffes. | Brief Trump v. Hawaii; | |
| | | · Corrections | Oral Argument Trump v. Hawaii; Letter of Petitioners | |
| | | · Apologies | | |
| Week 9 | | Topic sentences as sign posts | | |
| | The central conservative truth is that it is culture, not politics, that determines the success of a society. The central liberal truth is that politics can change a culture and save it from itself. | Speaking in Topic Sentences | Michael Dreeben Oral Argument. | |



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| | Daniel Patrick Moynihan | Students are randomly assigned two page sections of their brief to speak | | |
| Week 10 | | Story Telling | The West Wing Season 4 Episode 2, 2 minute clip | Final Briefs due |
| | | · Weaving a web of facts and law | | |
| | | · Context and themes | | |
| | | Avoiding overstatement | | |
| | | · Solicitor General Rules of Ethics | | |
| | | | | |
| Week 11 | | Spring Break | | |
| Week 12 | | Oral Arguments | | Final Briefs Returned |
| Week 13 | | Oral Arguments | | |
| | | Oral Arguments | | |
| Week 14 | | Oral Arguments | | |
| | | Oral Arguments | | |
| Week 15 | | Critiques and feedback from guest judges. | | |



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| | | Office Hours final paper | | |
| Week 16 | | Office Hours final paper | | |