

**Legal Argument Formulation:  
Appellate Advocacy**

Political Science 104K  
Spring 2018  
Class time: Tuesdays 5-7:50 pm  
Classroom: Social Sciences Building 104

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Office Hours: Wednesday 11:30-1:30

**Course Description and Goals**

This course examines the role that legal arguments have in the US court system. Students will utilize legal reasoning and research skills to craft arguments in both written and oral formats, and then participate in a moot court final.

This course will teach students fundamental concepts of legal practice in American courts of appeal focusing on the two elements of appellate advocacy: written and oral advocacy. Students will learn basic appellate procedure and legal analysis necessary to argue cases orally and in written format before a judge.

The ability to argue and write persuasively and effectively is a skill that many lack. Often, individuals turn to a training in legal education to attain these skills. Legal careers take many forms, but the ability to write and argue is a commonplace to all fields therein.

In this course, you learn how to write persuasively, work in teams, and make oral arguments. At the end of the day, you will have a writing sample that you can use for future employment, grad school, etc. There will be hands-on training, but in return expect a heightened level of professionalism and dedication.

**Course Format and Requirements**

The course is a simulation of a second-year law school class. The following is required:

- (1) Prepare for every class by reading and digesting the assigned material.
- (2) Actively participate in class discussions.
- (3) Work in teams (your final grade depends on your peers' evaluation of you).
- (4) Write an appellate brief with your team.
- (5) With your partner, orally argue your brief in front of a panel of judges.
- (6) Attend every class, with the exception of a pre-arranged conflict.

In particular, during the course of the quarter, you will spend weeks 1-4 learning what an appellate case is, how to brief cases, and write persuasively. During weeks 5-7, you will work with partners to prepare a simulated appellate response, tell a persuasive story, craft persuasive arguments, and present those stories and arguments in an appellate brief (to be due Week 10). Weeks 8-9 will focus on practice oral arguments and developing your public speaking skills.

One-on-one meetings are encouraged to go over your written appellate briefs and oral arguments.

Your work will culminate in a final appellate brief and a series of oral arguments in front of panels of noted jurists during finals.

### **Required Readings**

There is one required textbook for this class. We recommend you buy it ahead of time from Amazon or any other online vendors, to get a competitive price.

Effective Appellate Advocacy: Brief Writing and Oral Argument by Carole C. Berry  
4th edition 978-0314908759 *Available on Reserves*

We will have all additional PDFs available for you to read on the TED course website.

Some usage of the text from POLI104J will be incorporated and provided in PDF form for those that do not have the text.

Synthesis: Legal Reading, Reasoning, and Writing. By Deborah A. Schmedemann & Christina L. Kunz, (4th ed. 2014) ISBN: 978-1-4548-0865-7. *Available on Reserves*

### **Student Participation**

Students must participate in class. You will be asked to share your homework responses, issue statements, and case summaries with the entire class. The only way to effectively learn how to analyze cases and write persuasively is to actively engage with one another. This requires you to come to class prepared. When reading and written assignments are due, it is because I expect you to share your work with your peers. If this seems burdensome to you, I recommend you enroll in another course.

*You are encouraged to bring laptops to class.* Yes, you read that correctly. This is because a great deal of legal research happens in online law libraries. However, you are expected to conduct yourselves with professionalism, to pay attention, and to only access materials relevant and necessary to the course.

## **Course Format**

- Class session will involve lecture and practice of concepts; some will have a guest
- Students are expected to complete assigned exercises at home and submit before class on TritonEd
- Considerable time outside of class to readings, assignments, and research, typical of the law school experience.
- Students should be prepared having read the moderate course assigned reading before class; this enables active participation in course discussion and activities
- The second portion of the course will require regular work with a group, who will ultimately prepare a final presentation together
- Attendance is expected at all course meetings with exception of pre-arranged conflict
- From Professor you can expect: (1) checklists/rubrics for each assignment; (2) <12 hour reply to forum posts/emails during the week

## **Teamwork**

Weeks 5-10 of the course require you to work with 2-3 of your peers, who will be randomly assigned to your team. The expectations are an equitable distribution of work and effort. The end of course grade will include peer evaluations of your contribution to both the oral and written group assignments. You are expected to meet as a group during the second half of the quarter and I HEAVILY suggest you meet outside class times this aspect of the course is important as it will prepare you to work well with others in your professional or post-graduate experiences.

### **E-Mail/Course TritonEd Discussion Forum:**

- Before e-mailing Professor about any assignment, course expectation, or general question, please check the TritonEd Discussion Forum.
- Questions will be answered within 36 hours (excluding weekends)
- Participation in writing or responding to forum posts will be viewed favorably when deciding grades (if you wish, you can post questions anonymously to TritonED)
- If a question is inappropriate for the forum, e-mail the professor or TA directly indicating that you are student from POLI104K. Be sure to use your @**ucsd.edu** e-mail address for office course correspondence.
  - If the question might be had by other students, I will post the question (identifying information omitted) to the forum to aid classmates

### **University Policy on Integrity of Research**

The *University Policy on Integrity of Research* aims to encourage and maintain the highest ethical standards in research. The policy reaffirms the University's commitment to integrity in research:

Integrity of scholarship is essential for an academic community. The University expects that both faculty and students will honor this principle and in so doing protect the validity of University

intellectual work. For students, this means that all academic work will be done by the individual to whom it is assigned, without unauthorized aid of any kind. Instructors, for their part, will exercise care in planning and supervising academic work, so that honest effort will be upheld (<http://www-senate.ucsd.edu/manual/appendices/app2.htm>).

Please uphold these standards. Be especially careful not to plagiarize. Plagiarism is defined in the Merriam-Webster dictionary as follows: “to steal and pass off (the ideas or words of another) as one’s own: use (another’s production) without crediting the source; intransitive senses: to commit literary theft: present as new and original an idea or product derived from an existing source.” Please note that it is also against University policy to submit the same paper for credit in more than one course. This is self-plagiarism. You should also familiarize yourself with the materials available on the website for UCSD’s Academic Integrity Office: <http://students.ucsd.edu/academics/academic-integrity/index.html>.

#### How Not to Plagiarize

Following are two sites that discuss the wrongdoing of plagiarism and tell you how to avoid it:

[http://sshl.ucsd.edu/plagiarism\\_old/Tips-PP-Brochure-09Apr10.pdf](http://sshl.ucsd.edu/plagiarism_old/Tips-PP-Brochure-09Apr10.pdf)

<http://www.indiana.edu/~istd/>

#### Useful Resources

Student Counseling, Health, and Well-Being Central Office & Urgent Care: 858-534-3755

Writing Center: 127 Mandeville Telephone: 858-534-4911

course guide: <http://ucsd.libguides.com/poli104k>

Oyez.org – recordings and transcripts of all Supreme Court arguments

ScotusBlog.com – written brief filings of all Supreme Court cases

Annelise Sklar; Social Science Collection Coordinator at Geisel: [ASklar@ucsd.edu](mailto:ASklar@ucsd.edu)

**She is willing to host daytime/afternoon sessions on all the resources, so if a group of you wanted further tutorials on the legal search engines, do not hesitate to send her an e-mail.**

### Grading

15 pts	Homework (Submit via TritonED before course meeting time) <ul style="list-style-type: none"><li>• Each class will have brief follow-up HW; participation expected</li><li>• Week 1 assignment facts v. law</li><li>• 19 fIRACs due Week 6</li></ul>
25 pts	In Class Midterm Exam (Week 4)
5 pts	Peer Review of 2 Other Memos (During Week 9)
25 pts	Written Appellate Memorandum (Final draft turned in end of Week 10)
25 pts	Oral Argument to be <i>judged by a panel of judges</i> (Final June 14)
5 pts	Participation (Evaluation of your work by <b>your partner &amp; attendance</b> )

Final Grades will be assigned by the above formula; You are responsible for ensuring your grades are accurately reported. I reserve the right to up-grade to account for either exceptionally high or low performance on an assignment. I reserve the right to down-grade to account for lack of excused (or emergency) course absence.

\*There will be no Extra Credit offered for this course

\*\*There will be no curves for assignments as when implement, curves have the potential to bring students grade down

A+	100-97
A	96.9 - 93
A-	92.9 - 90
B+	89.9 - 87
B	86.9 - 83
B-	82.9 - 80
C+	79.9 - 77
C	76.9 - 73
C-	72.9 - 70
D+	69.9 - 67
D	66.9 - 63
D-	62.9 - 60
F	Below 60

**\*\*This course will center on a case regarding an allegedly abused child and an alleged unconstitutional inappropriate search and seizure of the child. There is not alternative assignment possible. If you do not feel comfortable working with such a case, I would recommend choosing another course to fulfill your graduation requirements. \*\***

### Course Outline

Readings (subject to revision – you will be notified within 2 weeks of changes): As per Academic Senate Guidelines rule 760, a 4-credit course is equivalent to 12 hours work per week, 3hrs of which will consist of course time, and the other 9 hours on course readings, homework, and long term assignments.

#### **Week 1: Introduction to the Appellate Process - April 3, 2018**

Required Reading: Berry 1.0-1.1 Initial Considerations and Standards of Review; 2.0-2.2 Who Can Appeal & Types of Appeal

Guest Speaker: Darin Wessel, Discussion on Warrant Requirements

Assignments Due: *None*

HW Assigned: Berry Chapter 1: Exercise I & II (Upload before next class) & Fact v Law assignment (Upload before next class)

#### **Week 2: Persuasion Discussion – April 10, 2018**

Required Reading: Syntheses Chapter 11; Persuasion In the Law (PDF on TritonED) & Jaffee v. Redmond case

Guest Speaker: Michael Devitt, USD School of Law, Moot Court Adviser

Assignments Due: Chapter 1: Exercise I & II; Fact v Law Assignment

HW Assigned: Chapter 4 – Berry Exercise I; Exercises from Synthesis Chapter 11 (Upload before next class)

#### **Week 3: Legal Note-Taking: fIRAC review & CRuPAC- April 17, 2018**

Required Reading: Synthesis Chapter 7 & CRuPAC (PDF on TritonED)

HW Assigned: 19 fIRAC/CruPAC (due Week 6)

Assignment Due for upload: Chap 4 – Berry Exercise I; Exercises 11/12, Synthesis Chap 11

#### **Week 4: Midterm & Parts of a Brief - April 24, 2018**

Required Reading: Synthesis Chapter 13 ; Parts of a Brief (PDF on TED)

Assignments Due: *Midterm in Class*

HW Assigned: Berry Chapter 5, Exercises I, II, III

**Week 5: Preparation for Appellate Brief Writing – May 1, 2018**

Required Reading: Berry Chapter 5 Preparation for Brief Writing

Required Reading: USD Law Appellate Advocacy Problem

Required Reading: *Template for USD Law Appellate Advocacy Problem (that your group will fill out and turn in eventually)*

Assignment due for upload: Berry Chapter 5, Exercises I, II, III

**Week 6: Writing Opening Brief - May 8, 2018**

Required Reading: Berry Chapter 6 Writing the Opening Brief (both editions ~30 pages)

Required Reading: Berry Chapter 7 Appellee and Reply Brief (both editions ~14 pages)

Assignments Due for upload: CRuPAC/IRAC Assignment

HW Assigned: Berry Chapter 6, Exercises I, II, III

**Week 7: Meeting with Coaches - May 15, 2018**

Assignment Due for upload: Berry Chapter 6, Exercises: I, II, III

**Week 8: Preparing Oral Arguments - May 22, 2018**

Required Reading: Berry Chapter 9 Preparation for the Oral Argument

Required Reading: Berry Chapter 10 Presentation of the Argument

HW Assigned: Flip-Card and Oral Argument Outline

Assignment Due for Upload (May 28<sup>th</sup>, 11:59pm): Draft Written Group Brief

**Week 9: Presenting Oral Arguments/Coaches - May 29, 2018**

Assignments Due for Upload (also bring to class): Flip-Card and Outline

Assignment Due for Peermark (June 2nd, 11:59pm): Two Peer Reviews

HW Assigned: Synthesis Chapter 14 Exercises (draft your oral argument)

**Week 10: In Class Oral Arguments Practice - June 5, 2018**

Location: Rady School of Management Classroom XXX

Assignments Due for Upload (also bring to class): Synthesis Chapter 14 (draft argument)

**Final Oral Arguments - June 14, 2018**

Location Rady School of Management Classroom XXX

Assignments Due for Upload Evaluation of Self and Partner

Assignments Due for Upload *Final Written Briefs*

**\*\*\*1 group meeting with Professor Required**