

## Writing for Criminal Defense

**Spring 2018**

Tuesday and Thursday – 4:00 – 5:30

Professor Jani Maselli

Lecture	Topic	Class Work	Assignment(s)
<b>Week One</b> January 16	-Introduction and Parameters -Writing and a criminal law topic -Brian Garner's Book – two presentations per person per semester on an assigned section	Discuss Codes and Rules Research refresher Assignment – why you are taking this class and what you hope to achieve by the end of the semester	
January 18	1. Bryan Garner presentation 2. Discussion of courts in Texas. 3. Strategies in defending someone	Motions to work on in class: Motion to appear <i>pro hac vice</i> Designation of Counsel Motion to Substitute counsel Motion to Withdraw	<b>Ungraded assignment due</b>

Week Two January 23	Discussion and editing of motions from prior class  Strategies in motion work	Writ for bond or bond reduction (why not a motion?)  Motion to modify conditions of bond	
January 25	Discussion and editing of motions from prior class	Motion for an examining trial  Challenge to the array of the Grand Jury  Motion for copy of GJ testimony  Motion to discover GJ names and background  Grand Jury Packet	Bryan Garner Discussion – Prologue – Rule 1
Week Three January 30	Motions to Suppress	Fourth Amendment litigation	Bryan Garner Rules 2-4  <b>Discussion of assignment one</b>
February 1		Motions to Suppress  Statements  Arrest  Illegally obtained evidence  Identification	Bryan Garner – Rule 5-7

Week Four February 6	Pretrial Issues	Motion to preserve evidence Motion for police officer to preserve rough notes Motion to inspect evidence Motion to have Defense Expert Inspect Evidence Motion to have Defense Expert present and to video State Forensic Expert testing Motion to reweigh/re-test evidence	Brian Garner - Rules 8-10
February 8		Motion to be present at lineup Motion for Blind Sequential Line up Motion to view identification procedures Motion for color copies or exact replicas of photos from line up Motion for a translator (deaf clients require three interpreters)	Bryan Garner - Rules 11-14

Week Five February 13	Evidence Refresher	<i>Theus</i> Motion  Request for Notice under 404(b), 609, 37.07	Bryan Garner – Rules 15-19
February 15		Motion to Admit CW's prior sexual conduct (TRE 412)  Motion to Admit CW's prior bad acts	Bryan Garner – Rules 20-22  <b>First Assignment Due</b>
Week Six February 20	Challenging Statutes	Motion to Withdraw Guilty Plea (remember plea must be voluntary – Brady v. United States)	<b>Second Assignment</b>  Bryan Garner – Rules 23-26
February 22		Defendant's Plea in Bar – double jeopardy, collateral estoppel  Defendant's Plea of Double Jeopardy  Pretrial Writs	Bryan Garner – Rules 27-31

Week Seven February 27		<p>Motion to preserve evidence</p> <p>Motion for police officer to preserve rough notes</p> <p>Motion to inspect evidence</p> <p>Motion to have Defense Expert Inspect Evidence</p> <p>Motion to have Defense Expert present and to video State Forensic Expert testing</p> <p>Motion to reweigh/re-test evidence</p>	Bryan Garner – Rules 32-38
March 1		<p>Motion to be present at lineup</p> <p>Motion for Blind Sequential Line up</p> <p>Motion to view identification procedures</p> <p>Motion for color copies or exact replicas of photos from line up</p> <p>Motion for a translator</p>	Bryan Garner Rules 39-43

Week Eight March 6		<p>Motion for Speedy Trial</p> <p>Motion for continuance</p> <p>Motion for Jury Questionnaire</p> <p>Motion for record from any previous hearing or trial</p> <p>Motion for Disclosure and transcripts and copies of intercepted oral or electronic or wire communications</p>	
March 8		<p>Motion to extend time limits for voir dire</p> <p>Motion to invoke the rule</p> <p>Motion in limine</p> <p>Motion for Deposition</p> <p>Motion to take testimony of a child witness</p> <p>Motion to test competency of a child witness (or elderly)</p> <p>Motion to Require Live Testimony of Child Complainant</p>	Bryan Garner – Rules 44-50
Week Nine March 20	Prosecutorial Misconduct	<p>Motion for <i>Brady</i> evidence</p> <p><i>Brady</i></p> <p><i>Agurs</i></p> <p><i>Giglio</i></p> <p><i>Bagley</i></p>	<p><b>Second Assignment Due</b></p> <p>Bryan Garner Rules 51-56</p>

March 22		<p>Motion to compel prosecution to learn of favorable evidence</p> <p><i>Kyles</i></p> <p>Motion for Government to Disclose any and all agreements for Government Witnesses</p> <p>Motion to Disclose and all benefits given to State's witnesses (hotel, meals, etc)</p> <p>Motion to Disclose Government Informants</p> <p>Motion to Disclose any reports prepared from another police agency (DEA and FBI)</p> <p>Motion for in camera review of State's "work product" file</p>	<p>Bryan Garner Rules 57-62</p> <p><b>Third Assignment handed out</b></p>
Week Ten March 27	<p>Brief Writing</p> <p>Typography for Lawyers</p> <p>Persuasion</p> <p>Strategy</p>		Bryan Garner – Rules 63-69
March 29		<p>Objections to jury charge</p> <p>Proposed jury charge</p> <p>Motion that each juror has a copy of the charge</p>	Bryan Garner – Rules 70-75
Week Eleven April 3	Post Trial	<p>Motions for New Trial</p> <p>Motion in Arrest if Judgment</p> <p>Court cost 103.008</p>	Bryan Garner – Rules 76-80
April 5	Brief problems – issues – the record		Bryan Garner – Rules 80-84

Week Twelve April 10		Oral argument  CCA – PDR’s .. work on PDR in class	Bryan Garner – Rules 85-88
April 12		Editing – brief issues – make up motions	Bryan Garner – Rules 89-93
Week Thirteen April 17		Certiorari – Supreme Court litigation  Writs – state and federal	Bryan Garner – Rules 94-97
April 19		Editing  Make up motions	Bryan Garner – Rules 98-100
Week Fourteen April 24	Writs and what is cognizable	Let’s fill out an 11.07 writ form	
April 26		Last class –practice oral arguments of the brief	<b>Final Brief Due</b>



Cell - 713.256.7726

### **Assignments**

There will be three graded writing assignments throughout the semester. The final brief will account for 50% of your grade. The other writing assignments will each account for 25% of your final grade.

### *Absences*

You have 5 absences without penalty. On your sixth absence, I will lower your final grade by one grade level and refer you to Student Services. Since this class requires we work together as a “firm,” your presence and participation is necessary not just for yourself, but for your colleagues and clients.

### *Assignments Due*

On the date an assignment is due, it is timely if presented printed out, stapled, and to me by 4:15 p.m. p.m. of the due date. It is not timely if presented after 4:15 p.m. on the due date. It is not timely if emailed to me on the due date.

If the assignment is presented within 24 hours from its due date and time, a reduction of 20% of the points earned will be deducted. If the paper is presented within one week of the due date, there will be a 50% deduction in points. After one week, the paper will not be accepted and a grade of 0 for that assignment will be assigned.

Real and true emergencies will be taken into consideration.

### *CAPS*

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. [http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)

### *Required Textbook*

*The Winning Brief* by Bryan Garner

Hardcover: 800 pages

Publisher: Oxford University Press; 3 edition (May 1, 2014)

Language: English

ISBN-10: 0199378355

ISBN-13: 978-0199378357

### *Participation*

This is not a class where you can sit back and take notes, although there will be times when that is required. This will be interactive with your colleagues. We will research together and write separately. We will present our findings to the class. We will edit our colleagues' papers.

### *Goal*

As future attorneys, rarely will your client ever present himself with his issue squarely insular and written as "Question Presented." This class will challenge you with writing effectively for the client when the answer is not always easily discernible or available.