

Appellate Advocacy
Fall 2021—University of Houston Law Center
Course # 5344 Section # 27112
4/5/2021 syllabus subject to change

Course Description

The course focuses on the use of judge-centric communication techniques in an appellate court context. All students must present three oral arguments, complete an appellate brief to a Texas court of appeals, and complete a petition for review to the Supreme Court of Texas. Regular attendance for the full class time is important. There is no final exam.

At the end of this course, students will have acquired understanding of and/or facility in:

- Developing professional judgment and sensitivity to the selection, development, and delivery of winning legal arguments to judges in cases of varying procedural postures pending in trial and appellate courts of all kinds.
- Doctrinal and statutory analysis, including close reading of cases, statutes, legislative history, and precedents.
- Application of the law to the facts in the context of a class problem.
- Mastery of the substantive legal issue raised by the class problem.
- Understanding the key role of jurisprudential principles and values.
- Effective oral advocacy, particularly anticipating likely questions and developing concise responses.
- Approaching oral argument from a judge's perspective, focusing on objectivity, credibility, and the greatest weaknesses of the advocate's arguments and the opponent's greatest strengths.
- Clear, concise, and compelling legal writing.
- Legal research, client communication, and case theory and planning.
- Ethical and professional issues inherent in appellate practice.
- Critiquing their own work, learning from experience, and processing others' critiques of written work product and oral argument performance.
- Texas appellate judicial processes.
- Rules of briefing and oral argument under the Texas Rules of Appellate Procedure.
- Applying these audience-driven communication techniques in non-judicial contexts.

Class Logistics

Time & Place August 23, 2021—November 29, 2021
Mondays, 4:30-7:30 p.m.
Meeting Room: TBD

Some portion of the lectures and class meetings will be conducted online.

Adjunct Professors Randy Roach
rroach@roachnewton.com

Amy Schumacher
amyjschumacher@gmail.com
713-822-1750 (mobile)

Julia Peebles
juliampeebles@gmail.com

Other assisting adjuncts will participate depending on the number of registered students.

Student Drop-In Roach: By appointment
Hours Schumacher: TBD
Peebles: TBD

Textbooks

Recommended:

The Bluebook: A Uniform System of Citation (Harvard Law Review Ass'n et al. eds., 20th ed. 2015).

The Greenbook: Texas Rules of Form (Texas Law Review, 14th ed. 2018).

Manual of Usage and Style (Texas Law Review, 14th ed. 2017).

Additional readings will be posted online.

Grading

Students earn final grades by completing two major writing assignments, giving three oral arguments, and participating in class. To pass the class, students must complete the appellate brief, the petition for review, and all assigned oral arguments. Grades are weighted as follows:

Writing	40%
Oral Arguments	40%
Participation <i>(includes attendance, class engagement, minor writing assignments, etc.)</i>	20%

At the end of the semester, raw scores are assigned a letter grade according to the law school's grading policy.

We will provide rubrics for all written assignments and oral arguments. Students should review the rubrics before turning in assignments or giving oral arguments.

Writing Assignments (40%)

We will be working with the same class problem all semester. Half of the class will represent one party; the other half will represent the opposing party. Students will prepare two major writing assignments: a brief to a Texas court of appeals and a petition for review to the Supreme Court of Texas. Shorter, ungraded writing assignments may also be assigned; these will count toward participation.

All writing assignments are due by 4:30 p.m. on the day due in PDF format. Absent exceptional circumstances, all late assignments are penalized three points per day.

The brief and the petition should be long enough to develop arguments adequately. As in the real world, brevity—without sacrificing content—is a virtue. The brief and petition are subject to the upper limits provided by the Texas Rules of Appellate Procedure (15,000 words and 4,500 words, respectively), but the substantive sections of successful briefs in this class rarely approach those limits.

Details for all writing assignments will be provided in class and summarized in the assignment rubrics.

Oral Arguments (40%)

Students must present three oral arguments and observe other student arguments on their assigned days. At least two of the oral arguments will be judged by one or more professors; one of the arguments may be peer-reviewed, depending on class size. All three are required to pass the class.

Each argument requires substantial preparation. The length of oral arguments ranges from 7-10 minutes, at the discretion of the adjunct professors serving as judges. Students should be prepared to present their arguments and to answer questions.

Students will receive oral feedback immediately after argument. Although the problem itself will not change throughout the class, students should revise their oral arguments to incorporate that feedback. The oral argument rubric and class discussions will provide more information on how the professors will evaluate the arguments.

Daily Work & Participation (20%)

Success in this class demands active, consistent participation. Your Daily Work & Participation grade depends on regular attendance, engagement in class discussions, and good faith efforts on all ungraded assignments and assessments.

Class Schedule
Subject to Change

Date	Subject
Class #1	Course Introduction/ Requirements/Syllabus Course Objectives: Helping Judges Do Their Jobs Appellate Brief and First Oral Argument Assigned
Class #2	Oral Argument—Argument in the Court of Appeals Standards of Review and Jurisdiction/Permissive Appeals Writing Briefs in the Court of Appeals: Mechanics & Strategies Ungraded Writing I Assigned
Class #3	Effective Headings: Crafting a Persuasive Table of Contents Discuss/Analyze Table of Contents Examples Reading/Writing Exercise Ungraded Writing II Assigned Ungraded Writing I Due
Class #4	Guest Speaker or Oral Argument Viewing First Argument Tips Telling a Story without Telling a Lie: Statement of Facts & Examples Reading/Writing Exercise Ungraded Writing II Due
Class #5	Student Oral Arguments I: Group A Issues Presented & Examples Ungraded Writing III Assigned
Class #6	Student Oral Arguments I: Group B Introduction to George Gopen Reader Expectations Second Oral Argument Assigned (record in assigned groups)
Class #7	Oral Argument Follow-Up/Lessons Learned Summary of the Argument Conclusion & Prayer Final Revisions/Common Mistakes/Team Brief Rubric Ungraded Writing III Due
Class #8	Oral Argument—Advanced Concepts Petition for Review Basics Appellate Brief Due Petition for Review Assigned
Class #9	Advanced Petitions for Review I (Practitioner Perspective) Reading/Writing Exercise Ungraded Writing IV Assigned Second Oral Argument Due
Class #10	The Role of Appellate Lawyers at the Trial Court Advanced Discussion: George Gopen Reader Expectations Ungraded Writing IV Due

Class #11	Student Oral Arguments III Group B A Better Petition for Review: Common Pitfalls
Class #12	Student Oral Arguments III: Group A Guest Speaker
Nov.22	Thanksgiving Holiday
Class #13	Career Possibilities in Appellate Law Guest Speaker: Panel Petitions for Review Due

Additional Miscellaneous Required Notices

Counseling and Psychological Services (CAPS)

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) 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. www.uh.edu/caps/outreach/lets_talk.html .

Sexual Misconduct Policy

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system’s Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:

<http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d7.pdf> (antidiscrimination)

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d8.pdf> (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Names and Pronouns

Chosen names and preferred pronouns (including non-binary ones such as they/them/their) must be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun, or if you have concerns about how I or your classmates address you.

***We will gladly honor your request to address you by an alternate name or gender pronoun. Please advise us of this preference early in the semester so that we may make appropriate changes to our records.*

Pandemic Operations Notices

Attendance via Zoom

Some or all of this class *may* be taught via Zoom. The Zoom link will be emailed to the students directly. If a class is taught via Zoom:

- You must be logged in with a computer (not a phone) with your video camera turned on and microphone muted. Your video must stay on for the entire class.
- You must put your first and last name as your Zoom title.

- You must present yourself professionally in the video stream, both in attire and in conduct.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible.

HyFlex Class:

Face Covering Policy (for courses with a potential face-to-face component)

To reduce the spread of COVID-19, the University [requires face coverings](#) on campus including classrooms for both faculty and students. Face coverings must cover your mouth and nose and be worn throughout the class session. A mask with a valve is not considered an adequate face covering and should not be used, as it can expel exhaled air, increasing the risk to others. Eating or drinking during class is discouraged and is not an excuse for removing the face covering for any extended length of time. For additional information on the use of face coverings, please see [Face Covering FAQs](#). Failure to comply with the requirement to wear a face covering in class will result in your being asked to leave the classroom immediately and a disciplinary referral through the Dean of Students Office. Requests for accommodations relating to the face covering policy may be directed to the [Center for Students with DisABILITIES \(CSD\)](#).

Required Daily Health Self-Assessment (required for courses with a face-to-face component)

Your presence in class each session means that you have completed a daily self-assessment of your health/exposure and you:

- Are NOT exhibiting any [Coronavirus Symptoms](#)
- Have NOT tested positive for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [COVID-19 Diagnosis/Symptoms Protocols](#) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](#) for what to do if you have potentially been exposed to COVID-19.