

**MOOT COURT COMPETITION  
COURSE POLICIES AND ASSIGNMENTS  
FALL 2009**

Professors: Joel DiPippa & Heather Goodson

Class meetings, Wednesdays, 7:05-9:05 p.m.  
Classrooms: 505 (/Mitchell Courtroom) & 507 (/Alzheimer Courtroom)

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*\*\*Read these course policies and assignments carefully and attentively before the second class meeting, and again throughout the semester, as needed. We will not answer questions in class about matters that are set out in this document. If, however, you have read this document and are unsure what is meant or required by a stated policy or assignment, please contact one of us with your question **before** taking action.*

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**I. OFFICE HOURS AND CONFERENCES**

Time will be scheduled for office hours in the adjunct office on the Fifth floor. Prof. DiPippa will generally be available immediately preceding class. To see either of us at a different time (including evenings, for part-time students), please request an appointment. E-mail is always welcome and encouraged.

You are required to attend two conferences on early drafts of your brief; sign up for a conference slot via the sign-up sheets on TWEN (for more information about TWEN, see Part II below).

## II. COURSE MATERIALS AND ONLINE RESOURCES

The required texts are (1) Mary Beth Beazley, *A Practical Guide to Appellate Advocacy, Second Edition* (Aspen L. & Bus. 2006); and (2) the 18th edition of the *Bluebook* citation manual (available in the reference section of the law library, or buy your own). You will need certain supplies for this course as well: (1) *two new, unused* videotapes, each labeled with your name; and (2) colored highlighters in pink, green, yellow, and blue.

Additional course materials are posted throughout the semester on TWEN, which you may access at <http://lawschool.westlaw.com>. The TWEN pages for *Moot Court Competition* not only contain links to course materials, but also provide a forum for questions, answers, and discussion outside the classroom. Each section has a private, password-protected TWEN forum for its discussion of the competition problem, briefs, and oral argument. In addition, upon request, the professors will create a private, password-protected forum for any team, so that its members may share work on their brief.

You must have a current Westlaw password to use TWEN. See one of the Westlaw student representatives right away if you do not have an active password, or if you have any other problem accessing TWEN. Register for the Moot Court Competition TWEN course as soon as possible, and provide TWEN with an accurate and current e-mail address that you regularly check. All announcements, as well as electronic versions of the competition problem, the competition rules, and the oral argument schedules, will be posted there. Changes, if any, to the weekly class assignments will also be posted there.

## III. ATTENDANCE

Each Wednesday night, you will attend *two* classes, even though they take place consecutively. Personally initial the attendance roster circulated each Wednesday night at the beginning of each class hour. If you fail to initial the roster, you will be counted as absent, even if you arrived late (so be sure to find it and sign it!).

We expect you to attend every class; there are no excused absences. We strongly advise you to save your “cuts” for illness or true emergencies. It is better to come late than to miss one or both hours. ***If you miss more than four classes (two weeks)***, you will fail the course.

## IV. ELECTRONIC DEVICES, INCLUDING LAPTOP COMPUTERS

Please turn your cell phones and pagers off while you are in class (but contact your professor ahead of time if there is a compelling reason to have them on). Feel free to use your laptop computers while in class, as long as their use relates to what we are doing in MCC—we will sometimes do activities that laptops are particularly well suited for. If, however, we discover you web-surfing or doing non-moot-court work (or games!), your computer will be banned from the classroom for the remainder of the semester.

## V. COURSE GOALS

The goals of this course are for you to succeed in drafting a logical, accurate, and persuasive appellate brief, to work effectively as a team member, and to orally argue with confidence and conviction. While the course uses an interscholastic moot court problem as its basis, the skills you acquire will prove valuable in your future work as an appellate attorney. The course also functions as an in-house training course for UALR's moot court traveling teams (see below, **PART XI. INFORMATION ON INTERSCHOLASTIC COMPETITION**).

## VI. TEAM SELECTION AND TEAMWORK

In this course, you are a member of a two- or three-person team. Team members are randomly assigned at the second class meeting. Take advantage of the opportunities afforded you from teamwork and help your partner(s) to learn and improve; you'll receive the same benefit. Each team will decide how to divide the issues and the work, but each partner on the team must do a significant amount of research and writing. In other words, the written brief cannot be the product of only one (or mostly one) partner.

Team members are also partners for oral argument. Together, you will decide how to divide responsibility for the issues, the order in which you will speak, and when you represent the petitioner, which of you will handle the rebuttal argument.

## VII. RESEARCH, DRAFTS, AND COURSE GRADE

Your grade in this course is based on both team and individual efforts. Due to the nature of the course, we do not use anonymous grading. Fifty percent (50%) of your grade comes from the **team brief**. The other fifty percent (50%) of your course grade comes from your **two individual oral argument** scores (each worth twenty-five percent (25%)).

### A. *Research and Team Briefs: Macro, Micro, and Final Drafts*

Each partner receives the *same* final grade for the team brief. The brief is produced in three drafts. The first two drafts ("macro" and "micro") must indicate which partner researched and wrote (or is primarily responsible for writing) which section. The macro draft focuses on large-scale matters relating to the Argument, including issue identification, selection and use of authorities, application of law to facts, and organization. The micro draft contains all the required components and formatting of the final brief, and its substantive focus centers on making the brief a persuasive and reader-friendly document. The final draft is the well polished document you would be proud to submit in interscholastic competition. You will receive explicit criteria sheets for each draft of the brief.

*If a partner is not shouldering his or her part of the team's job, notify your professor as soon as possible (do not wait until the final draft is due!), and we will schedule a team meeting to discuss the problem and find a way to solve it.*

The first two drafts do not receive a "grade," per se, but you will receive specific feedback on them, and if they are notably weak in any important area, you may earn *negative* points to be

assessed against the final brief's score. It is to your team's advantage, therefore, for the partners to work together to make every draft and all parts of the briefs as strong as they can be. The best briefs will exhibit a high degree of quality and care in preparation, and will have been assessed few, if any, negative points from the early drafts.

### *B. Oral Argument: Practices; Scheduled Arguments (Graded); Judging*

Each partner earns his or her own *individual* grade for oral argument. With regard to oral argument, you will similarly go through a number of "drafts," i.e., non-graded practice opportunities. You will complete some in-class oral exercises during the early part of the semester, and your team will participate in two full practice arguments as part of the course requirements; one practice argument is based on the side you briefed (referred to as an "on-brief" argument), and the second takes the opposing side (the "off-brief" argument).

In addition to your role as advocate, you will also serve as a **judge** for the practice arguments and for at least one of the scheduled arguments between other teams. Your participation is a course requirement; this service is critically important. To do a good job, prepare thoughtful and challenging questions for the argument; following the argument, give thoughtful and constructive comments on the advocates' performance.

The practice arguments are not graded, but they will be videotaped and will receive critique. If, however, you are unprepared or significantly weak in performing any of your oral exercises, practice arguments, or judging responsibilities, you may earn *negative* points to be assessed against your oral argument grade. Preparation and effort will work to your advantage. You may conduct additional practice oral arguments against other teams if you wish, but such arguments must take place outside of class on your own time.

Your two graded arguments are scheduled against other teams in the class, who may be in either section; you will argue on-brief for one of these, and off-brief for the other. These arguments are also videotaped, and your professor will assign a grade to each argument based on your overall performance. The arguments are graded according to specific criteria which you will receive in advance, covering such matters as knowledge of the record, issues, and applicable law; organization and reasoning; ability to answer questions; delivery, style, and demeanor.

## **VIII. SUBMISSION OF BRIEFS; LATE PENALTIES**

Each draft of your brief (macro, micro, and final) is due no later than 7:00 p.m. on the specific date assigned below. More information about the submission of drafts and briefs is found in the **due date** sections of **PART XIII** below.

Late submission of court documents is a serious breach of a lawyer's professional responsibility. If your team's work (or any version thereof) is submitted late (even if it's 7:01 p.m.), the final brief grade will receive a *late penalty*.

The penalty for a late draft submitted *within the first hour* after it is due is a 5% deduction from the final brief's score. An additional 10 % reduction is assessed against the final brief score for

*each* subsequent twelve-hour period the brief is overdue. Multiple penalties are possible; with three drafts, you could work yourself into a negative hole. Don't do that.

In the event of an *emergency*, contact your professor as soon as possible so that he or she may determine whether to penalize or excuse your team's work for being late. **Caution:** Computer or printer problems are rarely, if ever, considered excusable emergencies.

## **IX. APPLICATION OF THE CODE OF STUDENT ACADEMIC CONDUCT TO THIS COURSE**

Learning to work as a team member presents you with different challenges and opportunities than you may previously have experienced in law school. Team members are permitted to—in fact, they **must**—discuss and exchange ideas and written materials concerning all aspects of the case, the briefs, and the oral arguments. Do not exchange any written materials with other teams, however, other than serving them with your brief as directed below or as otherwise directed by your professor.

The competition problems used in this course are often based on real cases being litigated in the appellate courts; therefore, relevant briefs, opinions, and oral arguments may be available online. May you read them? Of course you may—you may get some great ideas from them. But remember, we read these materials, too, and we will recognize them if they appear in your briefs. Do not reproduce any part of these materials in your own briefs without fully indicating quotations or paraphrases and providing full attribution to such sources.

Please note, however, that a discernible level of *over-reliance* on such materials in your written brief or oral argument will be viewed with disfavor. Finally, be aware that in the event that the United States Supreme Court conclusively decides any issue in the competition problem prior to the brief's deadline, we will direct you how to handle that precedent.

## **X. MOOT COURT COMPETITION CHAMPIONSHIP TOURNAMENT**

Following the scheduled arguments, teams will compete in a double-elimination championship tournament. Teams will compete in two preliminary rounds, arguing both on-brief and off-brief. The best-performing teams will advance; in these rounds argument roles will be determined by coin flip. Prizes will be awarded to the best oralist and to the writers of the best petitioner's brief and the best respondent's brief.

Tournament judges are invited from the ranks of practicing attorneys, law professors, judicial clerks, and judges. The outcome of the tournament has no effect on your grade in the course, but your tournament performance will almost certainly influence the decision whether you should be offered an invitation to join a future Moot Court traveling team.

## **XI. INFORMATION ON INTERSCHOLASTIC COMPETITION (MOOT COURT BOARD AND TRAVELING TEAMS)**

Students who excel in this course are eligible to be invited onto the Moot Court Board and to be considered as members of future UALR Moot Court traveling teams who compete in national and regional interscholastic competitions, representing our law school. Completion of this course does not necessarily mean, however, that you will receive an invitation to join a traveling team.

Invitations to join the Moot Court Board and a traveling team are limited in number and will be extended only to those individuals whose work *in this class* demonstrates outstanding ability in each of the following categories: (a) working effectively and diligently with a partner; (b) satisfying intermediate and final deadlines with appropriate levels of work product; (c) putting together well-organized, cohesive, logical, well-researched, persuasive, and cleanly formatted briefs; (d) orally arguing either side of a case with high levels of knowledge, earnestness, and mental quickness; and (e) delivering arguments with verbal fluency, physical confidence, and professional demeanor.

## **XII. STUDENTS WITH DISABILITIES**

It is the policy of UALR William H. Bowen School of Law to accommodate students with disabilities, pursuant to federal and state law. Any student with a disability who needs accommodation for classroom instruction or for exams should inform the instructor at the beginning of the course. The student must also notify the Associate Dean for Academic Affairs who will assist with the necessary accommodations. Students are also encouraged to contact the Office of Disability Support Services, which is located in the Donaghey Student Center, Room 103, telephone (501) 569-3143.

### **XIII. ASSIGNMENTS FOR EACH WEEK'S CLASS; DUE DATES; ARGUMENTS; TOURNAMENT**

*Week 1*      *Topic: What Moot Court Competition Is All About*

*Before class:* (1) Read Beazley, Chapter 1, pp. 1-7, and Chapter 2, pp. 9-25.

(2) Be prepared to talk for two to three minutes, introducing yourself and discussing your choice of one of the following topics:

- (a) Your legal hero: who and why
- (b) What your classmates will remember about you twenty years from now
- (c) What you wish you had learned before coming to law school
- (d) A childhood experience that shaped the adult you are today

*In class:* Both sections will meet jointly in Room 505 for the first hour. Bring your two labeled videotapes with you. This class will provide a course overview and cover introductory material and contents of the TWEN web site, as well as give you your first speaking exercise. Your section's TWEN forum will be available for your use by the end of this week.

*Week 2*      *Topic: Analyzing and Researching the Competition Problem*

*Before class:* (1) Read Beazley, Chapter 3, pp. 27-48; Chapter 14, §§ 14.1-14.4, pp. 235-242. (2) Read your competition problem and its rules (available on TWEN), and be prepared to discuss:

- (a) the competition's format requirements (including font, length, and margins);
- (b) the procedural history of the case;
- (c) the position of and relief sought by the petitioner;
- (d) the position of and relief sought by the respondent; and
- (e) the probable standard of review for each main issue.

*In class:* Both sections will meet jointly in Room 505 for the first hour. We'll discuss how to get started in research and will learn how to use TWEN to assist you with Westlaw research. If you have a laptop computer, bring it to class. We'll select team partners and determine which teams represent the petitioner and which represent the respondent.

*Week 3*      *Topic: Getting Started on Your Brief and Your Oral Argument*

*Before class:* (1) Read Beazley, Chapter 4, pp. 49-60; Chapter 5, pp. 61-76; Chapter 6, §§ 6.1-6.5, pp. 77-98. (2) Each team will prepare a one-minute oral presentation of one of the cases important to the other side.

*In class:* Both sections will meet jointly in Room 505 for the first hour. First hour: *Learning to Hear Yourself Talk.* We'll explore the vocal qualities of presentation and teach you listen to your own voice; we will begin practicing how to manipulate your voice like a sentence for greater effect; you'll learn tricks to clarity and to projection in public speaking. Second hour: *Organizing the Brief.* We'll discuss how to move from the research stage into the early stages of writing; we'll brainstorm to create a tentative outline of the major points to cover in your briefs; you'll learn how to use "private memos" to address your concerns as a writer; we'll discuss how to modify the IRAC paradigm to make our briefs more helpful and persuasive to our readers; for each major aspect of the issues, we'll identify the "phrase that pays."

*Week 4*      *Topic: Editing and Formatting*

*Before class:* (1) Read Beazley, Chapter 7, pp. 109-118; Chapter 8, pp. 119-131. Purchase highlighters.

*In class:* Bring colored highlighters to class—green, blue, yellow, and pink. We'll discuss how avoiding chocolate chip quotations will prevent Marie Antoinette syndrome, and how to emulate Tom Brokaw when introducing quotes (really). You'll learn how to self-grade your own draft (really, really).

**Due Date**      *Draft 1* (a "macro draft"), self-graded as described in Beazley, Chapter 7 (including highlighter use), is due *no later than* 7:00 p.m. on Monday, September 21. Put the draft in a manila envelope marked with partners' names. Place briefs in a box outside the mailboxes on the fourth floor for your section.