

Appellate Advocacy Course Policies

Seton Hall Law School, Weekday J.D. Program

Spring 2024

A. Description of the Program

All 2L day students are required to take Appellate Advocacy. Appellate Advocacy is a graded, two-credit course. This course is limited to sixteen students per section.

Appellate Advocacy is designed to build upon the legal research, analysis, writing, and oral argument skills taught in the first year Introduction to Lawyering course. Lawyering students wrote and argued a trial level brief. Appellate Advocacy students will revisit, refine, and elevate persuasive writing and oral argument skills in an appellate court setting. In Appellate Advocacy you will work both independently and collaboratively with your professor and other students as you engage in the process of appealing or defending against an appeal of an issue that is currently creating a circuit split among the federal courts.

A note about the efficacy and importance of upper-level writing courses: every attorney needs the ability to conduct research, synthesize complex legal issues, write persuasively, and revise work product to satisfy a client, partner, etc. Seton Hall requires multiple courses where students can hone those critical career skills. Future litigators and transactional attorneys alike must be able to convince others—judges, clients, colleagues, or adverse parties in a transaction—that their position is the correct one, and students should embrace every chance in law school to practice these essential persuasive skills.

B. Course Materials

All materials posted on your class page on CANVAS.

Required Resources:

THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION

Ross Guberman, POINT MADE (2nd ed. 2014)¹

C. Assignments

Each student must complete all assignments referred to in the syllabus, including, but not limited to, writing an appellate brief (including an outline, a draft, and a final brief), practicing oral argument in class, delivering a final oral argument to a panel of judges, and providing a summary/analysis of an appellate court argument.

Brief:

You will complete three written assignments for the brief. **First**, you will outline your argument.

¹ Limited electronic & hard copies of required resources are available through the Rodino Library on a first-come, first-served basis. Hard copies are available at the Bookstore in limited quantities or through Amazon.

Your outline should include at least (i) draft point headings and (ii) support for your arguments in the form of full citations to the authorities you plan to use and facts from the record on appeal that impact your analysis for each section. The outline is not graded, but your professor will review and may provide comments or direction.

Second, you will draft a first version of a complete appellate brief. Your professor will review your first version of the appellate brief and provide written feedback. The first version will be graded on a ten-point scale and will also be the subject of discussion in an individual conference between you and your professor.

Third, you will draft a final brief. The brief should be double-spaced and written in 12-point Times New Roman font with 1-inch margins. The final brief will be graded on a fifty-point scale. The final graded brief must be organized into the following sections. Only the bolded sections count towards the page requirements of **not fewer than sixteen pages and not more than twenty-two pages**. Briefs below the minimum page count will lose points for failure to adhere to course procedural rules. Briefs beyond the maximum limit will also lose points for failure to adhere to course procedural rules, and professors will not consider substantive material in pages beyond the page limit, which will also affect points earned on the brief.

- Cover page
- Table of Contents
- Table of Authorities
- **Question(s) Presented**
- **Statement of Subject Matter and Appellate Jurisdiction**
- **Standard of Review**
- **Statement of Case** (Procedural History)
- **Statement of the Facts**
- **Summary of the Argument**
- **Argument** (including Point Headings)
- **Conclusion**

You *must* submit (1) digital copy of your final brief to your professor in Word format (*not* pdf).

NOTE: The brief must be written individually, and in compliance with the Seton Hall Honor Code. You may not allow any person or artificial intelligence source to prepare, read, review, enhance, and/or comment on your brief. The single exception to this requirement is an in-class editing assignment in the presence of your professor.

Oral Argument:

Each student must argue at least one moot (a formal practice round of oral argument) before a member of the Appellate Advocacy Moot Court Board, classmates, and your professor. During this moot, you will receive feedback to assist you in improving your legal argument and/or oral argument skills.

Each student is then required to participate in a final oral argument on the day designated in the syllabus. Students with an unavoidable or religious conflict should alert their professor, the student director of the Appellate Advocacy Program, and the faculty director as soon as possible—ideally during the first week of classes.

Your oral argument will be individually delivered against an opponent (another student in your class assigned by your professor). The oral argument will be graded on a thirty-point scale. The graded round of oral argument will take place before a panel of attorneys serving in the role of appellate court judges. To best mimic a real appellate argument, the Appellate Advocacy program recruits Seton Hall Law alumni and other New Jersey attorneys to serve as an appellate panel of judges, and they volunteer their time, so the final argument is held on a weekend. In preparation to serve as judges, volunteers read the Bench Memorandum prepared by the Appellate Advocacy Moot Court Board, but they do not read individual student briefs.

During the final oral argument, attorney judges will provide feedback based upon their own experiences. However, your professor, who will observe each oral argument, will determine your grade for oral argument. Students may not attend the graded round of other students.

Oral Argument Attendance Compliance Form:

Each student is also required to view an appellate argument before the Superior Court of New Jersey, Appellate Division; the New Jersey Supreme Court; the United States Court of Appeals for the Third Circuit; the United States Supreme Court; or any other appellate court. This requirement must be fulfilled by your class time during the week of Class 9. Once this requirement has been completed, you should complete the “Oral Argument Attendance Compliance Form” and submit it to your professor via email (and be prepared to discuss the argument in class).

Please note you may complete this requirement by watching an appellate argument in-person or online. Students may find oral arguments to view on court websites (preferred) or even YouTube.

You may also fulfill this requirement by attending the New Jersey Appellate Division arguments at Seton Hall on Tuesday, February 13, 2024.

For the New Jersey Supreme Court’s webcasts (which also includes virtual arguments before New Jersey’s highest court during the COVID-19 pandemic), please see: <https://njcourts.gov/public/webcast.html>.

D. Grading

Appellate Advocacy is a graded, two-credit course. Professors must adhere to a mandatory curve for the course. The average grades for each section must fall between a 3.2 and a 3.4 GPA.

Final grades are assessed as follows:

- *Draft brief: 10 points*
- *Final brief: 50 points*

- *Final oral argument: 30 points*
- *Professionalism: 10 points*

Outlines and the practice rounds of oral argument do not receive letter grades, but failure to complete one or both or to meaningfully participate in one or both will affect your professionalism grade.

The following factors are considered in grading draft and final briefs:

- Organization of brief and submission of all required sections;
- Effective presentation of facts;
- Originality and persuasiveness of the legal argument;
- Quality of the legal research (students are expected to research beyond the authorities cited in the Record on Appeal);
- Quality of writing (grammar, sentence structure, clarity, precision, etc.);
- Adherence to rules in THE BLUEBOOK: UNIFORM SYSTEM OF CITATION; and
- Adherence to procedural rules, including timeliness of submissions.

The following factors are considered in grading oral argument:

- Effective presentation of an introduction and a roadmap;
- Organization of oral argument;
- Receptivity to and adeptness in answering questions from the judges;
- Professionalism and demeanor toward the court and oral argument opponent;
- Persuasiveness of oral argument;
- Demonstration of knowledge of the case and its governing authority; and
- Quality of oral argument presentation.

The following factors are considered in grading your professionalism:

- In-class participation;
- Timely submission of all assignments;
- Timely class and conference attendance;
- Professional and timely communication with your professor;
- Professional interactions with your peers in class and during required assignments; and
- Adherence to Seton Hall's Honor Code.

Superlatives:

Each professor will select the Best Brief Author for each side and the Best Oral Advocate for each side in their section. After the end of the semester, the students selected will receive a letter from the Dean notifying them of their selection. Please note that a "Best" award does not guarantee you an A for either your final brief or final oral argument; rather, a "Best" award indicates that you

delivered the best performance when compared to those students arguing the same side as you on your brief or oral argument.

Final graded briefs will be returned to you. Communication from your professor will identify your grade for your final brief, as well as your grade for your final oral argument and professionalism.

E. Faculty

Appellate Advocacy classes are taught by adjunct faculty. Professors follow the syllabus and teaching guide prepared by the Faculty Director. Professors prepare and deliver lectures, make comments on the briefs and practice rounds of oral argument, meet with students in conferences, assign final grades, and select best oral advocates and best brief authors. Adjunct faculty do not have regular office hours. Your professor will give you a telephone number and their Seton Hall email address where they can be reached during the day.

F. Appellate Advocacy Moot Court Board

The Appellate Advocacy Moot Court Board is comprised of third-year day and weekend students who have successfully completed the Appellate Advocacy course and who have demonstrated strong writing and oral advocacy skills. The Appellate Advocacy Director, **Hannah Nagy**, is responsible for the administrative functions of the Appellate Advocacy Moot Court Board. She can be reached at hannah.nagy1@student.shu.edu. The Moot Court Board Office is located in the student lounge area.

Each Board Member will be assigned to a section as a teaching assistant. Your Board Member will tell you during the first class how best to contact them.

G. Attendance & Punctuality

Attendance and punctuality for all class meetings and lectures is mandatory. Please note that Seton Hall Law's mandatory attendance policy for skills classes requires each student to attend all classes. Student may have two unexcused absences during a semester. If a student has more than two unexcused absences, they may be administratively withdrawn from the course. No excused absences are permitted. An absence for any reason, including late registration and job interviews, counts towards the maximum absences allowed. You are responsible for monitoring your attendance and remaining aware of the number of absences you have for the course. Your professor will take attendance each semester using both a sign-in sheet and their own attendance tracker.

If you are participating through approved remote learning, you are expected to attend all scheduled classes with your video on, unless illness prevents you from turning on your video. Without permission from Student Services, attending class remotely via telephone or teleconferencing will not be sufficient to be marked present in class.

Please see <https://law.shu.edu/Students/academics/policies/Attendance.cfm> if you have any questions regarding the attendance policy.

You MUST advise your professor via email of an absence as early as it can be anticipated and, in the case of approved remote learning, if you are unable to turn on your video due to sickness. If you do not notify your professor prior to class, your professionalism grade may be affected.

H. Student Code of Conduct

The Seton Hall Law School Student Code of Conduct (Honor Code) governs all aspects of this class. For specific information concerning the Honor Code, please refer to: <https://law.shu.edu/docsnoncommonspot/policies/honor-code.pdf>

Importantly, please note that collaboration and/or any outside assistance will not be permitted as you prepare your written work for this class. See § 3.03 regarding Unauthorized Work for Academic Credit:

3.03 Unauthorized Work for Academic Credit. No student shall offer for academic credit any work for classes taken at the School of Law or any other law school or pursuant to a study abroad program, or for any other academic activity such as moot court, journal, or clinics, that is prepared (a) in whole or in part by another person or by an AI text generator except where expressly authorized by the instructor or where proper citations to the source of the work are contained in the submitted materials, or (b) in collaboration with another person, except as expressly authorized by the instructor. A student violates the honor code when their work uses the words or ideas of another person or an AI text generator without attributing those words or ideas using the required forms of documentation, if any.

I. Chosen/Preferred Name and Pronoun

Please let your professor know if you prefer to be called on in class using a nickname or chosen name and/or would like to share with your professor your pronouns by email before the first day of class. Your professor will do their best to use preferred or chosen names and pronouns.

J. Sensitivity

We will discuss some sensitive topics in this course, so it is especially important that we show civility and respect to one another. Your professors aim to create an environment where everyone feels safe, valued, and respected. This course, and life beyond this course, is better if we communicate and collaborate across differences without making assumptions about other people's experiences, opinions, values, and priorities. It is thus imperative that we all recognize and respect the following:

- Some colleagues may be personally familiar with the kinds of difficult situations presented in the materials we will read.
- Some colleagues may be personally familiar with the kinds of individual and structural biases reflected in the materials we will read.
- Active listening requires intentional focus on understanding others' views (as compared with focusing on formulating your response as another person is speaking).
- Embracing space for comfortable silence provides colleagues with the opportunity to gather their thoughts before responding and creates an atmosphere that is more conducive to encouraging everyone to share their ideas.

You are welcome, to the extent that you feel comfortable, to share personal experiences that are relevant to class conversations. If those experiences are from professional settings, be conscientious about confidentiality and other aspects of professional responsibility.

As we examine challenging and complicated issues, your professors encourage you to make arguments that may conflict with your own normative views. The goal is to further the discussion and explore ideas without attribution of those ideas to the speaker, and certainly without personal judgment. If you have concerns about particular topics, please speak with your professor or the faculty director.

K. Inclusive Language

Please be mindful in your choice of language, especially in how we characterize people as individuals and in groups. While there is no definitive guide (for example, preferred terms within a particular identity group can vary), the American Psychological Association has created “[Inclusive Language Guidelines](#)” (pdf [here](#)) that explain various word choices.

In the course of your readings, you might encounter names that you are unsure how to pronounce. This article does an excellent job of explaining how to respectfully clarify pronunciation and why this is so important: [If You Don't Know How to Say Someone's Name, Just Ask](#) (Ruchika Tulshyan, Harvard Business Review).

L. Disability Support & Counseling Services

Disability Support: If you have, or think you might have, a disability that requires an accommodation, please contact the University Office of Disability Support Services (“DSS”) at (973) 313-6003 or visit the Getting Started portion of their website:

<https://www.shu.edu/disability-support-services/getting-started.cfm>.

All accommodations must be sought through and approved by DSS. DSS will make every effort to accommodate documented disabilities of every kind. The deadline for submitting applications (including reports from physicians, psychologists, and other professionals) to DSS to establish eligibility for exam accommodations for the Fall semester is on or about November 1st and on or about April 1st for the Spring semester. This deadline ensures that the documentation review

process will be completed, and accommodations will be in place in time for final exams. For more information on navigating this process as a law student, please speak with Dean Cascarano.

Counseling Services: Short-term professional counseling is available through Counseling and Psychological Services (CAPS) to support enrolled students. The best way for Law school students to schedule an initial assessment for counseling services is to contact CAPS at 973.761.9500. After hours and on weekends, students experiencing a psychological emergency should call 973.761.9500 to speak directly with a professional mental health counselor. Additional resources can be found here:

<https://www.shu.edu/counseling-psychological-services/index.cfm>.

M. Electronic Devices

The Appellate Advocacy Program may rely on technology for both remote and live instruction to optimize interactive exercises. Students must be prepared with necessary technology for each scheduled class and other activities. This will require a fully charged computer with camera and microphone and any other technology you deem necessary to participate.

We will use Microsoft Teams for class sessions as necessary. Your one-on-one conference with your professor may also be conducted virtually through the online platform of your professor's choice. If you are an approved remote learner, you will participate in all class activities virtually through Microsoft Teams.

N. Recording of Class

Students may not record classes without the express permission of the professor. Professors are not required to record class and will not do so without direction from the Faculty Director pursuant to the recording policy currently in place at the law school.

O. Director

Professor Lara Pennington is the Director of Appellate Advocacy. She is available to discuss all issues pertaining to your class, your professor, your TA, or any other aspect of the Appellate Advocacy Program. Professor Pennington's office is Room 510.

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