

**Professor James Alec Gelin**  
**LWRA II Syllabus, Spring 2015**

This Syllabus, combined with my Class Policies, governs your LWRA II curriculum. Variations from this Syllabus will be announced in class, via TWEN emails, or by both methods. If you miss a class, it is your responsibility to check with a classmate to see if any changes to this Syllabus have been made.

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**REQUIRED TEXTS:**

- Coleen M. Barger, ALWD Guide to Legal Citation (5th ed., Walters Kluwer L. & Bus. 2014).
- Richard K. Neumann, Jr. & Sheila Simon, Legal Writing (2d ed., Wolters Kluwer L. & Bus. 2011).
- Amy E. Sloan, Basic Legal Research: Tools & Strategies (5th ed., Wolters Kluwer L. & Bus. 2012).
- Core Grammar for Lawyers, available at [coregrammarforlawyers.com](http://coregrammarforlawyers.com) (Carolina Press). Purchase a one year subscription using discount code "AJML2014."

**SUGGESTED TEXTS**

- Deborah E. Bouchoux, Aspen Handbook for Legal Writers: A Practical Reference, (3rd ed., Wolters Kluwer L. & Bus. 2013).
  - David Romantz and Kathleen Vinson, Legal Analysis, The Fundamental Skill (2d ed., Carolina Academic Press 2009).
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**MAJOR DUE DATES:**

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| • <b>Draft of Argument (30%):</b>             | <b>Sunday, February 15, before 11:55 p.m.</b>             |
| • <b>Rest of Brief (except Tables) (P/F):</b> | <b>Bring to your individual conference (without BGN).</b> |
| • <b>Final Appellate Brief (50%):</b>         | <b>Sunday, March 15, before 11:55 p.m.</b>                |
| • <b>Oral Arguments (20%):</b>                | <b>Week of April 6.</b>                                   |

**MARK YOUR CALENDARS WITH THESE DATES NOW. (They are not repeated below.)**

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**EMAILS:**

As course information will frequently be sent to your John Marshall email account, you are required to check it on a daily basis. You should use your John Marshall email account when registering for our class TWEN site. Do not reply directly to TWEN emails. If you have a question or concern about a TWEN email, or are responding to a request for information sent in a TWEN email, please start a new email thread. If you choose to communicate with me through email, make sure that your emails are professional in both substance and tone.

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## LEARNING OBJECTIVES:

After completion of LWRA II, the student should be able to:

- Critically read legal authority, including case law and statutes, and recognize the nuances within that authority.
- Understand the hierarchy of authority in the American common law system and, based on that understanding, effectively use legal authority for legal reasoning purposes.
- Engage in accurate and logical legal reasoning by applying legal authority to a different set of facts.
- Efficiently research primary and secondary legal authority, both in print and online.
- In a formal written work product, the student should be able to:
  - identify and effectively use different types of legal rules;
  - engage in effective rule synthesis using inductive reasoning by identifying general principles that flow from the specific facts of a single case and extrapolating a rule based on the facts and holdings of several cases;
  - engage in analogical reasoning by making appropriate analogies and distinctions between a client's facts and the facts of the relevant cases;
  - engage in effective fact-based analysis that recognizes both the legal relevancy of a fact and the nuances present in a body of facts;
  - engage in deductive reasoning by effectively using the CREAC structure;
  - correctly and accurately cite to authority in the analysis;
  - use effective sentences and paragraphs to develop the analysis; and
  - write clearly and concisely, with proper grammar and syntax.
- Write a compelling brief that demonstrates the ability to persuasively:
  - construct an effective theory and themes of the case;
  - draft a statement of the issues involved;
  - present the procedural history of the case;
  - summarize the facts of the case;
  - state the applicable standard of review;
  - draft a summary of the argument;
  - write an appropriately structured legal argument with succinct point headings and citations to authority;
  - explain the applicable rules through case explanations;
  - apply these rules to the facts of the case; and
  - anticipate and respond to counter-arguments from opposing counsel.
- Advocate effectively and persuasively in an oral argument context, demonstrating the ability to:
  - distill the appellate argument into a clear form that is easily understandable;
  - provide a concise roadmap for the oral argument;
  - interweave the theory and themes of the case throughout the oral argument;
  - refer to both the facts and the law clearly and persuasively;
  - confidently respond to questions from the bench; and
  - anticipate and respond to counter-arguments made by opposing counsel.
- Comply with high standards of ethics and professionalism in terms of work product, class preparation, attention to detail, compliance with assignment instructions and adherence to strict deadlines.

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## **WEEKLY ASSIGNMENTS, ASSIGNMENTS DUE v. ASSIGNMENTS TO PREPARE:**

On the following pages, Assignments to Prepare and Assignments Due are distinguished. Assignments Due require you to type your work product and hand it in at the beginning of the class, unless otherwise noted in this Syllabus or by me. Formatting must comply with Class Policies. The Assignment Due is your passport to attend class on the day you are required to turn it in. If you have not completed the Assignment Due, you will not be able to attend class that day and you will be counted as absent. Assignments to Prepare require you to think through the assignment and to be prepared to discuss it in detail during class. You are typically not required to turn in written work product for these assignments. However, I reserve the right to request hard copies of this work product, or to request that this work product be emailed to me after class.

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### **WEEK 1 (Monday, January 12): Preparing to Write the Appellate Brief: Theme, Theory and Appellate Procedure Rules.**

**Mandatory advance Lexis training will be held on Friday, January 16, from 5:00 p.m. to 6:00 p.m. in a location to be determined.**

**Read:** Neumann, Chapters 27, 34 and 35, and Appendices D and E. Appellate Brief Record.

**Prepare:** Chronology of Appellate Brief Record. Find and familiarize yourself with the Florida Rules of Appellate Procedure. (You should start researching the brief problem as soon as you have completed the Chronology. ) With respect to Appendices D and E, determine which brief's argument is more persuasive. Which one is more logical? Which one is better structured?

**Assignment Due:** A brief theory of the case for Appellant and Appellee.

### **WEEK 2 (Thursday, January 22, Room to Be Announced): Research, Annotated Outlines, Point Headings and the Standard of Review.**

**Read:** Neumann, Chapters 33 and 36. "Introduction to Persuasive Writing" handout. "Appellate Jurisdiction and Standard of Review" handout. Sloan, Chapters 6, 7, and 8. ALWD Rules 14 - 16 and 18.

**Prepare:** Neumann, Chapter 33, Exercises I and II, pp. 251-252. (For Exercise II, use Section I of the Appellee's Argument in Neumann Appendix E, pp. 337-340.)

**Assignment Due:** Outline of controlling rule(s) for Appellate Brief and citations for authorities from which you found the controlling rule(s). Binding statement of applicable standard of review, and proper citation for the case that you cite for the standard.

**WEEK 3 (Monday, January 26): Making the Argument: Effective Structure/Organization, Rules and Policy.**

**Mandatory advance Westlaw training will be held on Monday, January 26, from 5:00 p.m. to 6:00 p.m. in a location to be determined.**

**Read:** Neumann, Chapters 32 and 37. “Honest Judicial Opinions” handout. “Formulating and Structuring a Favorable Rule” handout. ALWD Rules 35 - 37.

**Prepare:** Five “major” points why your client should win. Three policy arguments why everyone in the class should receive an “A” on the first graded assignment. M-Charts for two cases you plan to use for your appeal. M-Charts for a different two cases you think opposing counsel will use for his/her appeal.

**Assignment Due:** Expect random collection of one or more of your prepared M-Charts.

**WEEK 4 (Monday, February 2): Brainstorming the Argument Sections.**

**Note:** Appellants meet from 6:15 - 7:10 p.m. Appellees meet from 7:20 - 8:15 p.m. Entire class meets from 8:30 - 9:30 p.m.

**Read:** Neumann Chapter 27 (again). “Summary of Argument” handout. Florida Rule of Appellate Procedure 9.210.

**Prepare:** The first three paragraphs of the Summary of the Argument.

**Assignment Due:** Annotated Outline of Argument and Citations of Authority section.

**WEEK 5 (Monday, February 9): Statement of Issues and Statement of the Case.**

**Read:** Neumann, Chapters 28 (§28.4 only, pp. 210 - 213), 29 - 31 and 38. “Dirty Dozen: Twelve Ways to Write a Really Bad Brief” handout.

**Prepare:** Draft of Statement of the Issues.

**Assignment Due:** Erie problem (to be explained Week 4).

**WEEK 6 (Monday, February 16): Statement of Facts and Argument Sections Q & A.**

**Read:** “Writing a Fact Statement” handout.

**Prepare:** Draft of Statement of Facts.

**Assignment Due:** Two thoughtful questions relating to your Final Appellate Brief. (This assignment is due before class. It should be emailed as instructed.)

**WEEK 7 (Monday, February 23): ALWD Citation Exercises and Table of Contents/Table of Authorities.**

**Read:** ALWD 35 - 37 (again).

**Prepare:** Assigned exercises on signals, order of authorities and parentheticals. Check internet links in Table of Contents handout. Per related handouts, experiment with dot leaders and changing page numbers in mid-document.

**Assignment Due:** None.

**WEEK 8 (Week of March 2): Individual Conferences.**

**Regular class will not be held this week. Instead, you will have an individual conference with me. During this conference, you will have an opportunity to ask questions about your “Rest of Brief” and my comments on your graded Draft of Argument. Bring both documents to your conference.**

**WEEK 9 (Monday, March 9): Finalizing Your Appellate Brief and Introduction to Oral Argument.**

**Read:** Neumann, Chapters 20 - 22, 24 and 39. “Winning on Appeal” and “Guide to Oral Argument” handouts.

**Prepare:** Questions on finalizing the Appellate Brief. Neumann Chapter 24, Exercise I, p. 185. Introduction through facts portions of oral argument.

**Assignment Due:** None.

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**Spring Break (Week of March 16).**

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**WEEKS 10 – 11 (Monday, March 23 and Monday, March 30): Oral Argument Preparation and Practice.**

**Read:** No reading assignments.

**Prepare:** Assigned portions of oral argument.

**Assignment Due:** None.

**WEEK 12 (Week of April 6): Graded Oral Arguments.**

**Graded oral arguments will be held this week. In addition to your own oral argument session, you will be required to attend other oral argument sessions as directed.**

**WEEK 13 (Monday, April 13): Miscellaneous Writing and Career Skills: Emails, Letters and Office Etiquette.**

**Read:** Neumann, Chapters 25 -26, and Appendix B. Other readings as assigned.

**Prepare:** To be announced.

**Assignment Due:** To be announced.

**WEEK 14 (Monday, April 20): Practice Multistate Performance Test (“MPT”).**

**Class will start at 6:00 p.m. this evening. From 6:00 - 8:00 p.m., you will take a practice MPT exam. From 8:15 - 9:30, we will review the problem in detail. Unless you want to write the practice MPT by hand, you should bring a laptop to this class.**