

# FIRST-YEAR LEGAL RESEARCH & WRITING

## SPRING 2022

### COURSE INFORMATION AND SYLLABUS

The course will continue to focus on the essential skills of legal research, analysis, and writing, but will do so in the context of appellate advocacy. Many of us who came to law school did so because we were passionate about arguing for causes and people we care about. This semester, we'll study advocacy with intention. You will learn the essential skills of persuasive writing and oral advocacy and continue to hone your legal research skills through readings, videos, in-person applied exercises, and, ultimately, the presentation of an appellate brief and oral argument that reflect your command of the legal questions asked in the assignments.

Our approach to this semester is based on best pedagogical practices, the input of generations of students and alums who have taken LRW, and the recognition that we are all managing challenging and varied personal circumstances. If you need support, whether with access to the course materials, managing the transition to law school, and/or coping with expected and unexpected challenges, please reach out to your Climenko, librarian, and/or BSA.

By the end of the fall semester, you had learned how to confront a new legal question, research the answer, and explain it to a legal audience. Our goal for the end of this spring semester is that you feel confident in your ability to advocate for a client in an appellate brief and oral argument, using your research and writing skills to persuade a court to decide in your favor. And our overall goal is that you feel confident using your voice in a legal context to achieve your goals. Let's continue the process together.

### FACULTY

Lecturer: Susannah Barton Tobin [stobin@law.harvard.edu](mailto:stobin@law.harvard.edu)  
<https://harvard.zoom.us/j/6621432806>  
Office hours: Wednesdays 3:30-5:30 p.m. and other times by appointment

Research Librarian: AJ Blechner [ablechner@law.harvard.edu](mailto:ablechner@law.harvard.edu)

BSA Members: Amber Aspinall [aaspinall@jd22.law.harvard.edu](mailto:aaspinall@jd22.law.harvard.edu)

Cristina Dan [cdan@jd23.law.harvard.edu](mailto:cdan@jd23.law.harvard.edu)

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### CLASS INFORMATION

You will have a **required outline conference** with your BSA during **the week of February 14**. We will then have **required draft conferences between February 28 and March 11**. Please plan to attend one evening of the Ames Semi-Final Round Competition, on either **March 8 or March 9**. You will have a practice oral argument with your BSAs during the week of **April 4**.

Ames oral arguments will be held in the evenings of **April 11, 12, 13, and 14**. Students without conflicts with class or religious observances will be expected to be available any evening. Arguments will be assigned

randomly, and no adjustments will be made to the schedule. If you have a conflict, due to a class or a religious observance, you must send Ellen Shapiro-Smith, Program Coordinator of LRW, an email on or before **TUESDAY, FEBRUARY 1** ([eshapirosmith@law.harvard.edu](mailto:eshapirosmith@law.harvard.edu)).

## COURSE MATERIALS

- The Bluebook: A Uniform System of Citation (21st ed. 2020)
- Ames Moot Court Program Record (on course website)
- Ames Rules of Appellate Procedure (on course website)
- Reading assignments and sample briefs (on course website)
- Recommended Reading on Advocacy:
  - A Practical Guide to Appellate Advocacy, by Mary Beth Beazley (Wolters Kluwer, 2014)
  - The Winning Brief, by Bryan Garner (Oxford University Press, 2014)
  - Point Made, by Ross Guberman (Oxford University Press, 2014)
  - Persuasion, by Joseph Singer (Carolina Academic Press, 2019)

## IMPORTANT INFORMATION

- We will meet all together eight times over the semester. Other weeks, you will have individual conferences with me or drop-in workshop sessions with me, your librarian, and your BSAs.
- Like the practice of law, LRW is a collaborative project. Your classmates depend on your participation to get the most out of the course. All student work is subject to discussion in class. (Anonymity will be provided.) We will also regularly do peer editing in class, the better to hone your skills as legal readers and editors of both others' work and your own. Please see the LRW Course Philosophy for additional information.
- All slides and relevant materials will be posted on the course website after each class.
- A wealth of additional information about preparing for class, reading cases, and writing – including many sample briefs – can be found on CANVAS under the “Modules” tab.
- There are several ways to listen to oral arguments and commentary about them. An inexhaustive list includes:
  - <https://www.oyez.org/> (Supreme Court arguments, comes in podcast form as well)
  - <https://www.dividedargument.com/>
  - <https://oralargument.org/>
  - <https://strictscrutinypodcast.com/>
- Harvard Law School is dedicated to facilitating equal access for students with disabilities and to cultivating a campus culture that is sensitive and responsive to the needs of students. To request an accommodation for a disability during the course, students should reach out to Accessibility Services at [accessibility@law.harvard.edu](mailto:accessibility@law.harvard.edu) or 617-495-8773. Additional information, including how to register for accommodations can be found at [hls.harvard.edu/dept/dos/accessibility/](https://hls.harvard.edu/dept/dos/accessibility/). If you would like to request an accommodation or extension for a religious observance, please email the Dean of Students' Office at [dos@law.harvard.edu](mailto:dos@law.harvard.edu).
- Finally, 2022 is an election year in the U.S. If you would like to register to vote/request your absentee ballot if you need one, please check out <https://vote.gov/> to find out the registration procedures for your state.

## FIRST-YEAR AMES MOOT COURT PROGRAM

Since 1820, students have been arguing appellate moot court cases at Harvard Law School. Each first-year student is required to participate in the First-Year Ames Moot Court Program as part of LRW. The major work of the spring semester, then, is the brief you will write for the First-Year Ames Moot Court Program and the subsequent oral argument. You will work in pairs to complete the discussion and final drafts of an appellate brief, and you will then argue your case in mid-April before a three-judge appellate panel composed of faculty, upper class students, and practicing attorneys.

For research assistance with your briefs, contact your section librarian for an appointment.

You are responsible for reading and following the Ames Rules of Appellate Procedure (ARAP), which you have received under separate cover. Failure to comply with any of those rules may diminish your grade on your Ames Brief. Pay particular attention to requirements concerning page limits, font, type size, margins, and spacing. Courts around the country have similar requirements, and they will (and do) refuse to accept noncompliant briefs. Additionally, the Ames Rules specify other penalties for late submission of briefs.

## DEADLINES

- Sunday, February 13: Outlines due to BSA at 5 p.m.
- Sunday, February 27: Drafts due at 5 p.m.
- Monday, March 28: Final briefs due at 10 a.m.
- See the ARAP for more detailed instructions.
- Ames Oral Arguments April 11, 12, 13, and 14 (evenings)

## GRADING

As with all 1L courses, LRW issues the following grades for both the Fall and Spring semesters: Honors, Pass, Low Pass, and Fail. Of the work you do this semester, only the Ames Brief will receive a formal grade. However, your final grade will include consideration of your demonstrated professionalism: completion of an adequate draft, preparation for and participation in your conference, class participation, cooperation with your Ames partner, and preparation for and completion of your Ames argument. **You must complete the draft, conference, and Ames argument in order to receive credit for the term.** Because the brief is a joint effort between you and your partner, it is likely, but not definite, that you will receive the same grade. You should be clear with me about how you have divided the work and how you have collaborated so that I can accurately assess each partner's contribution to the brief.

I look forward to an enjoyable and productive semester, and I wish each of you the same.

# **FIRST-YEAR LEGAL RESEARCH & WRITING**

## **SPRING 2022**

### **Week One: Tuesday, January 25**

*Goals for this week:* Identify the goals of appellate brief writing; practice assessing the theory of the case; refresh your research skills.

#### Agenda:

- Introduction to First-Year Ames
- Components of a Brief
- Theories of the Case & In-Class Exercise
- Research Class 1: Primary Source Searching

#### Assignment:

- ☐ Complete Preliminary Analysis Worksheet on Canvas by 4:15 pm on January 25.

#### Readings:

- ☐ Neumann, pp. 305-10, 407-412
- ☐ Case record
- ☐ Ames rules
- ☐ Tips for Effective Collaborative Writing
- ☐ Research Readings

### **Week Two: Tuesday, February 1**

*Goals for this week:* Identify the primary components of a brief; develop your research strategy.

#### Agenda:

- Components of a Brief cont.;
- Discussion of Sample Briefs
- Research Class 2: Organization and Strategy

#### Readings:

- ☐ Contrastive sample briefs TBA;
- ☐ Beazley, pp. 27-60; 78-80, 155-61
- ☐ Armstrong & Terrell, pp. 273-95
- ☐ Research Readings

### **Week Three: Tuesday, February 8**

*Goals for this week:* Identify the role of standards of review in appellate advocacy; practice how to use adverse authority successfully; develop your command of citators.

#### Agenda:

- Standards of Review

- Spotlight on Dealing with Adverse Authority & In-Class Exercise
- Research Class 3: Citators

Assignment:

- ☐ Bring to class two cases that are troubling you in your research.
- ☐ **Due to BSA Sunday, February 13 at 5 p.m. EST: Brief Outline**

Readings:

- ☐ Garner, pp. 441-43
- ☐ Guberman, Working With Authorities
- ☐ Armstrong & Terrell, pp. 332-46
- ☐ Peer editing handout (review)
- ☐ Research Readings

### **Week Four: Tuesday, February 15**

*Goals for this week:* Identify strengths of good Questions Presented; draft your own and peer edit a colleague's. Debrief Ames problem in groups and ask open questions.

Agenda:

- Questions Presented & In-Class Exercise
- Debrief of Ames problem
- Preparation: Read Garner, pp. 85-91

Assignment:

- ☐ **Outline conferences with BSA this week**

### **Week Five: Tuesday, February 22**

*Goals for this week:* Identify strengths and weaknesses of facts statements; work on your own facts sections; develop advanced searching skills.

Agenda:

- Statements of Facts Critique and In-Class Exercise
- Research Class 4: Advanced Searches

Assignment:

- ☐ **Due to Canvas Sunday, February 27 at 5 p.m. EST: Brief Draft with Self-Assessment**

Readings:

- ☐ Garner, pp. 365-85, 397-400;
- ☐ Guberman, Facts section prompts
- ☐ Guberman, "Five Ways to Write Like John Roberts;"
- ☐ Hilden, "What Lawyers Can Learn from Screenwriters"
- ☐ Contrastive facts statements from two briefs (TBA)
- ☐ Research Readings

## **February 28-March 11**

Conferences

## **Week Six: Tuesday, March 1**

NO CLASS

## **Week Seven: Tuesday, March 8**

*Goal for this week:* Strengthen your writing and editing skills through peer exchange and Climenko feedback.

Agenda:

- In-class draft peer editing workshop: seeing the other side

Readings:

- ☐ Handout on reverse outlining;
- ☐ Deans, “What Robert Mueller’s Peculiar Writing Style Tells Us About His Larger Legal Gambit”
- ☐ Feder, “Keeping Your Reader in Mind;”
- ☐ Flaherty, “Blood on the Manuscript”
- ☐ Guberman, Structure
- ☐ Wood, “On Writing”

## **March 13-20**

No class: Spring break

## **Week Eight: Tuesday, March 22: OPTIONAL WORKSHOP CLASS**

*Goals for this week:* Finalize your brief; use draft lab to ask questions and work through points of confusion.

Topics:

- Draft Lab; Common Questions

Assignment:

- ☐ **Due to Canvas Monday, March 28 at 10 a.m. EST: Brief Revision (see ARAP for further details) with Self-Assessment**

Readings:

- ☐ Garner, “How Using Checklists Can Improve Your Writing”
- ☐ Gawande, “The Checklist”
- ☐ Guberman, Structure
- ☐ Guberman, Conclusions
- ☐ Brief Editing Checklist (amend for your own purposes)

### **Week Nine: Tuesday, March 29**

*Goals for this week:* Identify strengths and weaknesses of examples of oral advocacy; draft opening remarks for your own argument.

Topics:

- Oral Argument & In-Class Exercise: Drafting Opening Remarks

Readings:

- ☐ Frederick excerpts

### **Week Ten: April 4-8**

*Goals for this week:* Practice your oral argument in advance of the real thing.

Assignment:

- ☐ Practice oral arguments with BSAs (**Times and Locations TBA**)

### **Tuesday, April 5**

NO CLASS

### **Week Eleven: Tuesday, April 12**

NO CLASS

Assignment:

- ☐ First-Year Ames Arguments: One evening of April 11, 12, 13, 14 (**Times TBA**)

### **Week Twelve: Tuesday, April 19**

*Goals for this week:* Identify similarities between appellate advocacy and writing for a public audience; prepare for success in your summer job.

Topics:

- Writing for a Public Audience: Op-Eds
- Statutory and Regulatory Research

Readings:

- ☐ “How to Write an Op-Ed or Column” (course website)
- ☐ Sample Opeds (TBA)
- ☐ Research Readings