

Professor Penny L. Willrich  
Director Lawyering Process Program

## LAWYERING PROCESS II - Fall 2005 – Evening Section

### Learning the Art of Advocacy

**Office:** Faculty Suite I – First Floor

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**Office Hours:** I will usually be in the office each day; however, I encourage you to set an appointment. Appointments may be set through the faculty secretary.

**Class Meetings:** 7:00 to 8:45 p.m., Mondays and Wednesdays  
9:00 – 9:45 p.m., Thursdays (Writing Workshop)

**Textbooks (Required):**

Beazley, M. (2002). *A Practical Guide to Appellate Advocacy*.  
Krieger, Stefan (2003). *Essential lawyering Skills: Interviewing, Counseling, Negotiation and Persuasive Fact Analysis*.  
Ray, Mary and Ramsfield, Jill. (1993). *Legal Writing: Getting It Right and Getting It Written*.  
Shapo, Helene. (2003). *Writing and Analysis in the Law*.  
Sloan, Amy (2003). *Basic Legal Research Tools and Strategies*.  
Sloan, Amy (2003). *Basic Legal Research Workbook*.  
*The Bluebook: A Uniform System of Citation*, 18<sup>th</sup> edition.

**Recommended Texts:**

Dworsky, Alan. (1991). *The Little Book on Oral Argument*.  
Mauet, Thomas (2004). *Trials, Strategy, Skills and the New Powers of Persuasion*.  
Strunk and White (2000). *The Elements of Style*.  
Wydick, R. (2005). *Plain English For Lawyers*.  
***It is also recommended that you purchase a good law dictionary.***

PLEASE READ THE ENTIRE SYLLABUS AND COURSE MATERIALS GUIDE. FEEL FREE TO ASK ANY QUESTIONS OR VOICE CONCERNS. MY EXPECTATION WILL BE THAT YOU HAVE READ AND RETAINED THE INFORMATION CONTAINED IN THE COURSE SYLLABUS, COURSE MATERIALS GUIDE, PISL STUDENT HANDBOOK AND HONOR CODE.

## Class Policies and Procedures

### About the Class

A skills based course and the “life-blood” of your study of law. What you learn in Lawyering Process will be with you for the rest of your career. In this course you will improve your abilities to think, analyze, research, predict, write, inter-act with clients, inter-act with colleagues and report to a “senior partner”, just like an attorney. Additionally you will learn the basics of oral and written advocacy. Through the use of a Motion for Summary Judgment and an Appellate Brief, you will learn how to research, analyze, write about and argue legal issues before a court.

The oral argument is designed to help you develop the skill of communicating your legal analysis and to exercise your ability to think on your feet. The legal research conducted this semester builds on the work that you did in Lawyering Process I and is considered part of the grade for your Appellate Brief. The class will be structured to promote “brainstorming” and an atmosphere of fairness and cooperation among all the students.

This syllabus outlines a series of assignments that will help you understand these fundamental skills. We will follow the schedule as set forth, however, I reserve the right to adjust the schedule should I determine that adjustment is needed. I will notify you in advance of any departure(s) from the syllabus and the assignment schedule. We will learn how to develop a research plan; organize and write objectively about the research results. *The philosophy in this class is that you learn by doing and you learn to practice law by PRACTICE.*

### Assignments

The assignments for LP II are more fully described in the Assignments and Appellate Advocacy materials that will be distributed separate from this document. The assignments will be fully discussed with you. There are eight (8) non-anonymous graded assignments and two (2) anonymous graded assignments. A list of the assignments is as follows:

Assignment 1	Research Refresher	10%
Assignment 2	Client Interview and Fact Memo	5%
Assignment 3	Court Observation and Memorandum	10%
Assignment 4	Motion for Summary Judgment and Memorandum of Law	15% (Anonymous)
Assignment 5	Oral Argument Hearing – Motion for Summary Judgment	5%
Assignment 6	Grammar Refresher	5%
Assignment 7	Client Letter	5%
Assignment 8	Deposition Questions	5%
Assignment 9	Appellate Brief	30%
Assignment 10	Oral Argument	10%

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### **Attendance**

Class attendance is mandatory. Your legal career began the moment you enrolled. Your class attendance is indicative of the professional conduct required of you from this moment forward. I will follow the attendance policies outlined in the Phoenix International Student Handbook. You will automatically be excused for an absence due to religious observation *if I have advance notice of your desire to be excused from class*. To receive credit you must attend at least 80% of the scheduled classes.

I will take attendance in every class by distributing a "sign-in" sheet at the beginning of each class. It is your responsibility to ensure that your attendance is credited properly. Just as you are required to attend Court on time, you are expected to be present in class in a timely manner. If you are late for class, you **may not** sign the attendance sheet and you will be listed as absent for that class. If an unforeseen situation interferes with your attendance or requires you to be late for class, you must notify me as soon as possible. Please follow the PISL Student Handbook and Course Materials Guide.

### **Award for Best Oral Advocate**

On the last day of class, I will announce the awards for the best oral advocate for the Petitioner and Respondent. These awards are based on student performance during the oral argument rounds and the scoring of the volunteer judges. Each student will have the opportunity to argue both sides of the problem. Further instructions will be provided.

### **Award for Best Written Advocate**

After the grading period has ended, I will send an e-mail to the class announcing the award for the best brief for the Petitioner and Respondent. These awards will be based on the grading criteria set forth in the Grading Checklist.

### **Class Participation**

Come to class prepared to participate. Preparation means that you have read, thought about, and are ready to discuss the assigned reading materials. You are also expected to spend whatever time is needed in the library to complete your research exercises and to locate the answers to the research problems. Do not rely exclusively on computer assisted research methods in order to complete your assignments. We will not necessarily cover every concept that you read for a given day's assignment. I will assume that you understood what you read and that if you have questions, you will ask in or after class about those areas where you need clarification.

Class time will be devoted to covering specific points from the reading, points outside of the reading and reviewing illustrations or a case hypothetical to enhance what you gleaned from the reading. Professionalism includes extension of appropriate courtesies to your colleagues. Attempts to monopolize the class discussion or failure to follow the rules contained herein, the Course Materials Guide, PISL Student Handbook, and Honor Code are unprofessional. Appropriate sanctions may be imposed for unprofessional conduct.

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### **Class Schedule**

See attached and Assignments and Appellate Advocacy materials.

### **Collaboration**

You are expected to submit individually prepared assignments. You are not to work in groups or teams unless you are directed to do so in the assignment directions. Review the Course Materials Guide on collaboration with other assignments. Your work must reflect your efforts and your efforts alone. You may not receive outside help to complete the assignments – other than guidance from me or the Law Librarian. You may not give assistance to other students on these assignments. Do not collaborate with other people on your research, analysis, organization or writing. Do not talk with or assist other students concerning the research, analysis, organization or writing. Do not share information with other students about the assignments, this includes sharing your research with another student, volunteering the names of cases, that may relate to the assignment or sharing information that you and I may have discussed. Do not copy or reword another student's work. Do not use another person's work (such as a law review article) in your work without proper attribution.

### **Conferences**

We will schedule two (2) formal conferences. The first will take place before you submit the Motion and Memorandum assignment and the second will take place before you submit the Appellate Brief. Each conference will be scheduled for 20 minutes. Conferences are part of your professionalism commitment, so please take them seriously. The conferences will be schedule on a first-come, first-served basis and a sign up sheet will be passed around during class. **You will need to come to each conference with a completed Self Assessment of Class Participation and Grasp of Concepts Form** (found in your Course Materials Guide). The conferences will not be used to grade or critique any assignment. They are to engage in dialogue with you for improvement of your research, writing, analytical, advocacy skills and to help you identify strategies for improvement.

### **Court Observation**

You will be required to choose from a list of state and federal courts for the purposes of observation. All will be trial level courts. You must observe in the court for a minimum of two hours but I recommend that you spend at least three hours. This exercise will allow you to make an initial observation of courtroom procedures, practice and customs. It will familiarize you with the physical location and layout of courtrooms, as well as their routines, rituals, modes of communication, practices and forms of organization. It is also to allow you to think critically about how these things affect the administration of justice, using insights provided by scholars to do so. You will also be able to assess the impact of legal professionalism and lawyering skills on clients, citizens, and the community. More detailed instructions will be provided to you.

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### **Diagnostic Assessment**

You are required to take two diagnostic assessments before your first class. The Assessments are to be turned in on the first day of class. This is not a graded assignment but is mandatory.

### **Format Requirements for Written Work**

All written assignments must be typed and must follow certain format rules. Review the Course Materials Guide. During the semester I will provide you with samples of appropriate format for written pleadings.

### **Grading**

The grade values for the all assignments are listed above under "Assignments." The criteria for judging oral arguments will be provided to you in a separate document. Your Motion for Summary Judgment, Memorandum of Law and Appellate Brief will be graded anonymously. Rather than your student name, you will put your Student Grade Number (SGN) on it as an identifier. Turning in your brief is a prerequisite for participation in oral argument.

### **Library Materials**

The library should have the research materials necessary for the written and research assignments for our class. If you have difficulty locating a particular source, please see me or Kris Niedringhaus so we can help you. In addition, you may have to use the law library at the Superior Court – downtown Phoenix or Arizona State University – College of Law. Please be courteous to your fellow students. Shelve the books promptly when you have finished using them for an assignment.

### **Plagiarism**

Plagiarism is a serious Honor Code violation. It is also a violation of the professional values and ethics inherent in the practice of law. All suspected violations will be reported to the Dean of Academic Affairs. Review the Course Materials Guide, PISL Student Handbook and the Honor Code for the definition of plagiarism and the consequences that can be imposed.

### **Preparation**

Class attendance, reading all assigned materials and completion of all assignments will form the foundation for your competency in legal analysis and advocacy. The assignments are opportunities to develop and practice specific skills that you will incorporate into the major projects. The projects function as a midterm and final examination: both will test your assimilation of the concepts that we will cover throughout the semester.

In order to receive credit for the work completed, you must follow the directions and submit the work within the time frame set by the class schedule. Sanctions will be imposed for late submissions just as courts impose sanctions for late filings.

### **Professionalism and Ethics**

Professionalism and ethical behavior are the cornerstones of building your reputation as a lawyer of impeccable character. You are expected to adhere to the Rules of Professional Responsibility. During your time studying the law, please:

- Do not hide research materials that are for public use.
- Do not mark pages or leave research assignment materials displayed.
- Do not tear out pages from any of the resources that are available for public use.
- Do not collaborate on locating answers to assignments unless specifically directed to.
- Do not sign the attendance sheet for a colleague.
- Do not allow a colleague to utilize your research to complete an assignment.
- If your action "feels" wrong or in violation of professionalism, it probably is...so...don't do it.

### **Push-Pull Points**

Evaluation of your class participation, preparation, professionalism and research journal shall be the basis of awarding "push-pull" points. You may receive up to five (5) bonus ("push") points at the end of the semester, if as a whole, I determine that you came to class prepared, participated in a constructive manner, followed the directions for all assignments, exhibit professionalism and completed your research journal. By the same token, you may also have up to five (5) points deducted ("pulled") from your final grade, if overall, I determine that you came to class unprepared, were disruptive or participated in a manner that hindered the class, failed to exhibit professionalism, violated any provisions of the PISL Student Handbook, Honor Code, Course Materials Guide or this Syllabus.

### **Research Journal**

Lawyers document their time through a billable hour system. We will document our time through a Research Journal. Purchase a spiral-bound notebook or other type of 8 1/2 by 11 journal to specifically keep track of the steps and sources that you use to complete each assignment (including your major assignments). Your journal should keep track of your research plan as well as all primary and secondary sources of law used in preparing your Motion and Memorandum and Appellate Brief. I will ask to review your research journal periodically during the semester. **Please keep it current.**

### **Students with Disabilities**

Academic accommodations for students with disabilities are provided in accordance with the Americans with Disabilities Act and Rehabilitation Act 1973, as amended, after professional review by the Assistant Dean of Student Affairs or other person designated by the Dean. Students with

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disabilities who believe they need accommodations are urged to contact the Assistant Dean of Academic Affairs at the earliest opportunity. Compliance with the PISL Policy for Disabled Students is required for reasonable accommodations.

### **Submission of Assignments**

Unless the assignment specifies that it is to be turned into during a class meeting, all assignments are due at or before 7:00 p.m. of the due date. The due date/deadline for each assignment is firm. Each assignment must be time and date stamped (just as court filings). The time and date stamp machine is located in the first floor Faculty Office Suite. Use the machine each time you submit a written assignment for our class. The date and time stamp will serve as the official clock to record when you submitted an assignment. Use the time and date stamp on the first page of each assignment – not on the cover page. The assignment shall be placed in a box bearing the Course Title and my name. In addition, once you have placed your assignment in the box, you must sign a log-in sheet certifying that you submitted your work on the date and time stamped on the paper.

Do not place work on my desk, under my door, or in my faculty mail box. The faculty assistant is not responsible for ensuring that your assignment is date stamped or submitted. If you fail to abide by these rules, your assignment will be deemed submitted when I find it, the time and date stamp notwithstanding. All assignments must be typed and follow the format listed in the Course Materials Guide, unless otherwise directed by me.

Extensions of due dates are rarely permitted but will be considered for circumstances such as death or illness and at the discretion of the Professor. I will review late filings of all assignments; however, 5% of the point value of the assignment will be deducted for late filings. Courts simply do not review late filings; even if those filings are one minute late. Clerks simply return late pleadings to the lawyers, unread. If the filing deadline has passed the attorneys who submitted the late pleadings have now committed malpractice. Part of my responsibility includes teaching you professionalism, late submissions will be penalized.

**Technical problems with producing the assignments and transportation delays are problems that you need to anticipate and are not considered valid reasons for an extension.**

#### ***FINAL WORD***

*I want every student to perform as well as s/he possibly can in Lawyering Process II. I think that I can help this happen if I take a great deal of care with the educational quality of the course, the consistency with which it is taught and the fairness with which students in the course are treated. This Syllabus and the Course Materials Guide sets out everything you need to know about the course, from what we will cover in each class, class policies and procedures, and the things you need to do to get the best grade possible. You can expect, quality, rigor, fairness and a sense of humor from me.*

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Class: Monday and Wednesday 7:30 – 8:45 p.m.

Workshop: Thursday 9:00 to 9:45 p.m.

## Learning The Art Of Advocacy

### Schedule Matrix

Week # Class #	Date	Reading Assignment	Class Topic	Workshop Topic	Assignment Due
1 (1,2)	08-29-05 to 09-02-05	Shapo – Chapters 6, 7, & 12  Krieger – Chapters 1 & 2  Beazley – Chapters 1, 2 & 3	Introduction to the course;  History of the Law  Moving from objective to persuasive writing.	Plagiarism	<b>08/29 Diagnostic Assessment</b> Bring assessments to class to turn in.
2 (3,4)	09-05-05 to 09-09-05	Shapo – Chapters 8, 9 & 10  Krieger – Chapters 3 & 4	History of the Law <b>Client Interviews</b> Fundamentals in constructing a motion and supporting memorandum	Client Interviewing and Counseling	No class on 09-05-05 Assignment 1 – 09-09-05 – filed and submitted by 7:00 p.m.*
3 (5,6)	09-12-05 to 09-16-05	Shapo – Chapters 13 & 14  Krieger – Chapters 5 & 6  Beazley – Chapters 5 & 6	Analysis and learning basic techniques of advocacy  Initial research steps for the appellate brief Developing a research plan	Professionalism Seminar on September 17, 2005 9:00 – 11:00 – mandatory. No workshop on 09-15-05	Assignment 2 – 09-16-05*
4 (7,8)	09-19-05 to 09-23-05	Shapo – Chapter 15  Krieger – Chapters 7, 8 & 9  Beazley – Chapter 7	Case research and electronic research for the appellate brief; updating research	Research Strategies – Preparation of a Motion and Memorandum of Law	Assignment 3 – 09-22-05*
5 (9, 10)	09-26-05 to 09-30-05	Shapo – Chapter 16 Krieger – Chapters 10, 11 & 12 Beazley – Chapter 9	Jurisdiction, standard of review and other procedural issues.	Developing Legal Arguments	
6	10-03-05 to	Shapo - Chapter 17	The mental step in analysis –	<b>10-08-05 9am to 11am</b>	Assignment 4 – 10-07-05*

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(11,12)	10-07-05	Krieger – Chapters 13, 14, & 16 Beazley – Chapter 9	framing the issues for the client	Adversarial Letters; E-mail communications; written advocacy to the court; grammar and punctuation.	<b>Anonymous</b>
7 (13,14)	10-10-05 to 10-14-05	Shapo - Chapter 18 Krieger – Chapters 15 & 17	Oral Arguments – Motions for Summary Judgment	10-08-05	
8 (15,16)	10-17-05 to 10-21-05	Shapo – Chapter 18 Krieger – Chapters 18 & 19 Beazley – Chapters 10 & 11	Conveying written analysis large scale organization; organizing the argument. Small-scale organization and exercises in persuasive writing; bluebook exercise; summary of the argument and conclusion	10-08-05	Assignment 5 - 10-17-05*
9 (17,18)	10-24-05 to 10-28-05	Shapo – Chapters 18 & 19 Krieger – Chapter 20 Beazley – Chapters 12 & 13	Detailed outlines of Appellate Brief	10-08-05	Assignment 6 – 10-28-05*
10 (19,20)	10-31-05 to 11-04-05	Shapo – Chapter 19 Krieger – Scan Chapters 21-28 Beazley – Chapter 13	Topic sentences, transition between paragraphs – the Appellate Brief	11-05-05 9am to 12pm Citation review; components of an Appellate Brief; Preparation of an Appellate Brief; Preparing for oral argument.	Assignment 7 – 11-10-05*
11 (21,22)	11-07-05 to 11-11-05	Shapo – Chapter 19 Krieger – Scan Chapters 21-28	Statement of Facts and issue	11-05-05	Assignment 8 – 11-18-05*
12 (23,24)	11-14-05 to 11-18-05	Shapo – Chapter 19 Krieger – Scan Chapters 21-28	Oral argument strategy	11-05-05	
13 (25, 26)	11-21-05 to 11-25-05	No assigned reading	Discussion on Appellate Brief and Oral argument	11-05-05	Assignment 9 – 11-22-05* <b>Anonymous</b> - No class November 23rd, 24th and 25 <sup>th</sup>
14 (27,28)	11-28-05 to 12-02-05	No assigned reading	<b>Oral Arguments</b>	11-05-05	Assignment 10 - TBD <b>An oral argument schedule will be provided at a later date</b>
15 (29,30)	12-05-05 to 12-08-05	No assigned reading – Good luck on your finals	Moot Court Awards – Best Oral Advocates	11-05-05	No class December 09, 2005

\* All assignments must be file marked and submitted as directed in this syllabus or the course materials guide.

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**TEXTBOOKS:** Please note that the Shapo book is required. The Ray and Ramsfield book is required; however, there is no specific reading assigned from it. It is to be used as a **desktop reference** for questions that arise during your research, writing and analysis. *The contents of this Syllabus are subject to revision at the discretion of the professor based upon the needs of the class.*