



Advanced Legal Writing

Spring 2019 Syllabus

WRIT 440 ▪ Antonio Elefano

Introduction

Course Details:

Section 65510
TR 3:30-5:20 p.m.
(THH 215)

Professor:

Antonio Elefano
elefano@usc.edu
Office: JEF 235
Phone: 213-740-4945

Office Hours:

TR 2-3 p.m.
and by appointment

Required Texts &

Supplies:

- Ross Guberman's *Point Made*, available at the USC Bookstore
- Assigned readings, distributed in class and/or posted on Blackboard (Bb)

The vast majority of legal work happens not in a courtroom but on a page. To be a great lawyer, you must be a great writer. And to be a great writer, you must be an excellent reader. In this course, you will discern holdings from dense and sometimes poorly written legal opinions; you will grapple with a myriad of analytical possibilities and execute arguments while keeping in mind the strategy of your opposition.

WRIT 440 is the final course in USC's writing progression. It is an elective class, meant as a continuation of WRIT 340—Advanced Writing for Pre-Law Students. In WRIT 340, the goal was to make sure you could read and analyze case law and synthesize your understanding into cogent arguments. In WRIT 440, you will be introduced to a new writing form—the appellate brief—and will further hone your skills in oral advocacy. We will do all of the above while parsing actual pending litigation going before either the California Supreme Court or the Ninth Circuit. After playing the advocate in these real-world cases, you will then switch gears to take on the role of judge, deciding the cases we hear as you believe they should be decided.

At the end of the course, you will have an opportunity to research a case of your choosing anywhere in the United States pursuant to Southwestern Law School's amicus project. On one of the last days of class, you will make a formal proposal before a panel of law professors regarding a case for which you believe they should advocate. If your case is chosen, you have an opportunity, not just to learn about contemporary law, but to actually shape it.

Attendance and Participation

You are allowed two excused absences throughout the semester. Absences are only **excused if you e-mail me ahead of time to let me know you will not be in class**. You don't have to provide an excuse or supporting documentation (no doctor's notes required); all I demand is notice. (Note: missing a conference is the same as missing class and also requires advance notice.)

Every unexcused absence—meaning every absence in which you fail to provide notice and/or any absence beyond the excused two—will result in a grade penalty on the Daily Work portion of your final grade. Students with more than eight absences in a given semester will be advised to withdraw to avoid a failing mark.

If you miss a class, you are responsible for finding out what work you missed from one of your classmates (though this syllabus will also be instructive). Also, you are responsible for any assignments due on a day you don't attend; accordingly, you must either give your assignments to another student or send them to me via e-mail.

Evaluation

Your final semester mark will be determined as follows:

Important Dates:

Monday, Mar. 4-Fri., Mar. 8:
CA Supreme Court trip
(2 days within this range TBD)

Mon., Mar. 11-
Fri. Mar. 15:
Spring Break

Fri., April 5:
Last Day to Withdraw

Thurs., April 25:
Last day of class

- 20% **Daily Work** – includes ancillary writing, class participation, quizzes and homework
- 20% **Appellate Brief**– argumentative brief for a case before either the California Supreme Court or the Ninth Circuit
- 10% **Oral Argument** – mock oral argument for a case before either the California Supreme Court or the Ninth Circuit
- 25% **Judicial Opinion** – opinion for a case before either the California Supreme Court or the Ninth Circuit
- 25% **Amicus Presentation** – 5-6 minute presentation + Q&A regarding a case for Southwestern’s amicus project



Late Papers and Extensions

Writing assignments are due on Blackboard at midnight the night before submitting the hard copy in class. Only under dire circumstances (the LSAT doesn’t qualify) will late work be accepted. Late papers will be penalized one full letter grade (e.g., A to B) for each **calendar day** they are late. Once you’ve reached three calendar days past the due date, the paper will not be accepted at all. All papers must be submitted both in hard copy and in electronic form via Blackboard. Failure to submit in both formats by the midnight and class time deadlines will result in a one-step (e.g., B+ to B) grade penalty.

Conferences

On multiple occasions throughout the semester we will meet in conferences in lieu of our regular class period. Some of these conferences will be scheduled as individual meetings with me while others may be organized as small group sessions. During conference weeks my regular office hours will be canceled.

Classroom Etiquette

Laptops, phones and mobile devices should be shut off during class and during individual and group conferences unless the syllabus indicates an in-class work day. The other exception to this rule is on the last day of class, when you are required to bring a laptop to fill out the course evaluation.

Syllabus

| Class | Topic | Assignment for next class |
|----------------------|---|--|
| 1 Tues. Jan. 8 | Introductions <ul style="list-style-type: none"> • Discuss <i>In re William Taylor</i> • Introduction to Course • Discuss Guberman, Part 1: The Theme • Discuss Assignment 1: <i>In re Gallagher</i> • Optional: Force of Law Presentation | <ul style="list-style-type: none"> • Read Assignment 1: <i>In re Gallagher</i> • Read Guberman, Part 2: The Tale |

| Class | Topic | Assignment for next class |
|------------------------|---|---|
| 2 Thurs. Jan. 10 | Crafting the Facts <ul style="list-style-type: none"> Discuss A1: <i>In re Gallagher</i>: Facts & Law Discuss Guberman reading Discuss group assignments and deadlines for <i>In re Gallagher</i> brief Watch John Oliver v. Bob Murray clip | <ul style="list-style-type: none"> Read Guberman, Part 3: The Meat Read ACLU Amicus Brief in <i>Marshall County Coal v. Oliver</i> |
| 3 Tues. Jan. 15 | Basics of Legal Research <ul style="list-style-type: none"> Legal Research workshop with USC Law faculty Structuring the Argument <ul style="list-style-type: none"> Discuss Guberman reading Work on outlines for <i>In re Gallagher</i> brief | <ul style="list-style-type: none"> Read Guberman, Part 4: The Words and Part 5: The Close Begin drafting <i>In re Gallagher</i> brief |
| 4 Thurs. Jan. 17 | In-Class Work Day: <i>In re Gallagher</i> Brief <ul style="list-style-type: none"> Continue work on <i>In re Gallagher</i> brief | <ul style="list-style-type: none"> Continue work on brief |
| 5 Tues. Jan. 22 | Group Conferences <ul style="list-style-type: none"> Regular class is cancelled Instead, you must attend one 30-minute conference to discuss your progress on <i>In re Gallagher</i> brief | <ul style="list-style-type: none"> Continue work on brief |
| 6 Thurs. Jan. 24 | Southwestern Amicus Initial Presentations <ul style="list-style-type: none"> Present 3 possibilities for Southwestern Amicus project Continue work on <i>In re Gallagher</i> brief | <ul style="list-style-type: none"> Complete <i>In re Gallagher</i> opening brief. Submit on Bb by <u>Monday, January 28 at 11:59 p.m.</u> and bring __ hard copies to class on Tuesday, January 29. |
| 7 Tues. Jan. 29 | <i>In re Gallagher</i> Opening Brief Submissions <ul style="list-style-type: none"> Submit and exchange <i>In re Gallagher</i> opening briefs Consider filing reply brief | <ul style="list-style-type: none"> <u>Optional:</u> Draft <i>In re Gallagher</i> reply brief. Send electronic copies of reply brief to opponents and professor by <u>Wednesday, January 30 at noon</u> Prepare for Oral Arguments |
| 8 Thurs. Jan. 31 | <i>In re Gallagher</i> Oral Arguments <ul style="list-style-type: none"> Hour 1: Oral Argument 1 Hour 2: Oral Argument 2 Only attend <u>your</u> oral argument | <ul style="list-style-type: none"> Begin research for A2: California Supreme Court cases |

| Class | Topic | Assignment for next class |
|-------------------------|---|--|
| 9 Tues. Feb. 5 | Introduction to Assignment 2: California Supreme Court Cases <ul style="list-style-type: none"> Discuss case assignments for California Supreme Court | <ul style="list-style-type: none"> Continue research for A2: California Supreme Court cases |
| 10 Thurs. Feb. 7 | In-Class Work Day: California Supreme Court Cases <ul style="list-style-type: none"> Continue work on California Supreme Court opening briefs | <ul style="list-style-type: none"> Continue work on brief |
| 11 Tues. Feb. 12 | In-Class Work Day: California Supreme Court Cases <ul style="list-style-type: none"> Continue work on California Supreme Court opening briefs | <ul style="list-style-type: none"> Continue work on brief |
| 12 Thurs. Feb. 14 | Group Conferences <ul style="list-style-type: none"> Regular class is cancelled Instead, you must attend one 30-minute conference to discuss your progress on California Supreme Court brief | <ul style="list-style-type: none"> Continue work on brief |
| 13 Tues. Feb. 19 | In-Class Work Day: California Supreme Court Cases <ul style="list-style-type: none"> Complete work on California Supreme Court opening briefs | <ul style="list-style-type: none"> Complete A2: California Supreme Court brief. Submit on Bb by <u>Wednesday, February 20 at 11:59 p.m.</u> and bring ___ hard copies to class on Thursday, February 21. |
| 14 Thurs. Feb. 21 | Opening Brief Exchange <ul style="list-style-type: none"> Submit and exchange A2 briefs <u>Optional:</u> Begin preparing reply briefs Prepare for Mock Oral Arguments | <ul style="list-style-type: none"> <u>Optional:</u> Complete California Supreme Court reply brief. Submit by e-mail to professor and opposing group by <u>Monday, February 25 at 11:59 p.m.</u> and bring ___ hard copies to class on Tuesday, February 26 Prepare for Mock Oral Arguments |
| 15 Tues. Feb. 26 | Reply Briefs and Southwestern Amicus Progress Report <ul style="list-style-type: none"> Submit and exchange A2 reply briefs Discuss progress on Southwestern Amicus project | <ul style="list-style-type: none"> Prepare for Mock Oral Arguments |
| 16 Thurs. Feb. 28 | Mock California Supreme Court Oral Arguments <ul style="list-style-type: none"> Oral Arguments for all cases You must be present for all arguments | <ul style="list-style-type: none"> Prepare for trip to California Supreme Court Make sure to alert professors in other classes about non-attendance during the week of March 4 |

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|-------------------------|---|---|
| 17 Tues. Mar. 5 | California Supreme Court Oral Arguments <ul style="list-style-type: none"> Attend oral arguments in San Francisco Dress in proper court attire | <ul style="list-style-type: none"> Be prepared to answer the following questions next class for each of the arguments you saw: (1) who won the oral argument? and (2) does this change which party you think will ultimately win the case? |
| 18 Thurs. Mar. 7 | | |
| 19 Tues. Mar. 19 | Introduction to Judicial Opinion Writing <ul style="list-style-type: none"> Discuss California Supreme Court Oral Arguments Discuss principles of Judicial Opinion Writing | <ul style="list-style-type: none"> Work with assigned group to determine a majority opinion and any concurrences and dissents Read Lebovits's "Advice to Law Clerks: How to Draft Your First Judicial Opinion" |
| 20 Thurs. Mar. 21 | In-Class Work Day for Assignment 3: California Supreme Court Opinions <ul style="list-style-type: none"> Work on California Supreme Court opinions | <ul style="list-style-type: none"> Continue drafting California Supreme Court opinions Complete first draft of opinion and submit on Blackboard by <u>Monday, March 25 at 11:59 p.m.</u>; each group must bring __ hard copies to class on Tuesday, March 26 |
| 21 Tues. Mar. 26 | Southwestern Amicus Progress Report <ul style="list-style-type: none"> Submit A3: California Supreme Court Judicial Opinion Present progress report on Amicus Presentation | <ul style="list-style-type: none"> Read and critique judicial opinions; bring marked manuscript and __ copies of peer critiques to class Prepare for Amicus Presentation Workshop Submit Southwestern Amicus Presentation Outline on Blackboard by <u>Monday, April 1 at 11:59 p.m.</u> Bring 1 hard copy to your Final Conference. |
| 22 Thurs. Mar. 28 | Judicial Opinion Workshop <ul style="list-style-type: none"> Workshop California Supreme Court Judicial Opinions | <ul style="list-style-type: none"> Complete A3: Final California Supreme Court Judicial Opinions. Submit on Blackboard by <u>Monday, April 8 at 11:59 p.m.</u> Bring 1 hard copy to conference on Tuesday, April 9. |
| 23 Tues. Apr. 2 | Final Conferences <ul style="list-style-type: none"> Regular class is cancelled Instead, you must attend one 20-minute individual conference during the week Bring 1 hard copy of Amicus Presentation | <ul style="list-style-type: none"> Prepare for Amicus Presentation Workshop |
| 24 Thurs. Apr. 4 | | |

| Class | Topic | Assignment for next class |
|-------------------------|---|--|
| 25 Tues. Apr. 9 | Amicus Presentation Workshop A <ul style="list-style-type: none"> Workshop Southwestern amicus presentations | <ul style="list-style-type: none"> Prepare for Final Amicus Presentations |
| 26 Thurs. Apr. 11 | Amicus Presentation Workshop B <ul style="list-style-type: none"> Workshop Southwestern amicus presentations | <ul style="list-style-type: none"> Prepare for Final Amicus Presentations |
| 27 Tues. Apr. 16 | Amicus Presentation Workshop C <ul style="list-style-type: none"> Workshop Southwestern amicus presentations | <ul style="list-style-type: none"> Prepare for Final Amicus Presentations |
| 28 Thurs. Apr. 18 | Tour of USC Law School <ul style="list-style-type: none"> Meet at 3:20 p.m. in lobby of USC Gould | <ul style="list-style-type: none"> Prepare for Amicus Presentation Workshop |
| 29 Tues. Apr. 23 | A4: Southwestern Amicus Project <ul style="list-style-type: none"> Presentations at Southwestern Law School Wear business attire | |
| 30 Thurs. Apr. 25 | Final Thoughts <ul style="list-style-type: none"> Bring laptop to class Final Thoughts Course Evaluations | |

Students with Disabilities

USC offers accommodations and support services for students with learning disabilities. Any student requesting academic accommodations based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. Please be sure the letter is delivered to me as early in the semester as possible. DSP is located in GFS 120 and is open 8:30 am-5:00 pm, Monday through Friday. The phone number for DSP is 740-0776.

The University also provides specialized support for students in terms of academic counseling, psychological counseling, learning skills, and career placement. Your tuition pays for these services; you have every right to use them, and I recommend that you take advantage of them should you have need.

Plagiarism

Students who present another writer's ideas or words as their own, or who turn in a paper they've used for another class, are guilty of *plagiarism* and will receive an F on the assignment and/or an F in the class. In serious cases, the student will be referred to the Academic Dean's office for further action. If you have any general questions, the Trojan Integrity Guide can be found at <http://www.usc.edu/student-affairs/SJACS/forms/tig.pdf>.

