

# **WRITING, RESEARCH, AND TRIAL ADVOCACY**

## **Fall 2023 – Day & Evening Classes**

**Director: Professor Paula Colby-Clements**

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**TEXTS:** (1) LAUREL C. OATES & ANNE ENQUIST, JUST MEMOS (ASPEN 5<sup>TH</sup>ED.).  
(2) LAUREL C. OATES & ANNE ENQUIST, JUST RESEARCH (ASPEN 5<sup>TH</sup> Ed.).  
(3) THE BLUEBOOK : A UNIFORM SYSTEM OF CITATION (COLUMBIA LAW REVIEW ASS'N ET AL. EDS., 21ST).

**CLASS DAYS/TIMES:** Monday & Wednesday 11:00-12:15 p.m., 1:00-2:15 p.m. & 7:30-8:45p.m.

### **SCOPE**

In this course, you will be required to draft an inter-office memorandum to a senior attorney and a short memorandum in support of a motion to a court. You will prepare several drafts of each memorandum to allow you to refine your writing and editing skills. You will also argue a portion of a client's case in a mock trial court. At the end of the semester, you will feel confident submitting your final memoranda as writing samples to potential employers; you will also feel confident analyzing and advocating a client's cause. The course will have a final exam where you will need to draft an interoffice memo and a client letter based on materials provided to you. This is very similar to the writing component on the UBE.

### **COURSE DESCRIPTION**

This course is designed to continue the development of students' legal writing skills as well as building critical reading skills, research skills, and oral advocacy skills. Specifically, students will continue to formulate written rules derived from legal authority, synthesize multiple legal authorities, work on refining IRAC, TRAC, CRAC, or CREAC, organize a written discussion, assess the value of cases as they pertain to a client's legal question, and advocate in a trial court setting.

During the semester students will tackle legal problems starting with client intake at the start of a case, finding legal authority, writing predictive memoranda, and advocating in a trial court setting.

### **GRADING CRITERIA**

The inter-office memos, oral presentation, class participation, and the final exam will all contribute to your final grade in this class. When students are presenting cases, they must stand at the podium or at their seat. This class is designed to train students how to handle client problems, analyze those problems objectively, draft objective and predictive memos, and argue in a trial court. You should be fully prepared and act professionally at all times.

**Penalties for late submission:** *We will strictly follow all due dates.* We set deadlines for turning in assignments just as courts or partners in law firms do. *We will reduce grades by 10 points on*

papers that are turned in late on the due date. Further, we will reduce your grade by an additional 10 points for each subsequent day the paper is late after the initial due date. We do not grant grace periods.

**Potential Points Awarded for Assignments:**

<b>Assignment</b>	<b>Points</b>
In-Class	50 (10 Assignments 5pts each)
Closed Memo 1	50
Closed Memo Final	75
Open Memo 1	50
Open Memo Final	75
Client Letter	25
Trial Court Memo	50
Final Exam	125
Final Oral Argument	25
<b>Total</b>	<b>525</b>

**Attendance Policy:** Students must attend all classes. If a student has more than one unexcused absence, we will lower his or her final course grade by 1/3. Any student who misses an in-class assignment will not be allowed to make it up unless the student has informed the instructor that he or she will not be able to attend class that day and the professor has excused the absence.

## ASSIGNMENTS DUE FOR EACH CLASS

**Week of August 21<sup>st</sup>:** Understanding the legal system and authority. How do we decide which cases or statutes are most important? What law binds Massachusetts trial courts? How do we rank authority by paying attention to key components in a case (relevance, date, place, court)? What are legal citations?

Monday: Introduction to legal authority.

Wednesday: Introduction to bluebook and concept of legal citation. Assignment of closed Memo problem.

**Required Reading: *Just Memos* Chapters 1-5**

**Week of August 28<sup>th</sup>:** Discussion of closed memo problem. How do I identify the legal issue in a client's case after the intake? What is the format of an interoffice memo? How do I read case law with a view towards using that case to analyze a client's legal problem? How do I properly use the legal writing paradigm known as TRAC?

Monday: *In-Class Assignment 1:* Draft the Issue for the Closed Memo.

Wednesday: Students will get back In Class 1 with instructor's comments.

*In-Class Assignment 2:* TRAC/Synthesis Exercise.

**Required Reading: *Just Memos* Chapters 6-9**

**Week of September 4<sup>th</sup>:** Development of the closed memo problem. Who is my audience? How do I write a legal memorandum to a senior partner describing the state of the law and predicting how a judge will apply the law to a client's case? How do I synthesize the case law to create a rule that can be applied to my client's case?

Monday: **NO SCHOOL FOR LABOR DAY HOLIDAY**

Wednesday: Students will get back last Wednesday's graded in class assignment to re-view instructor's comments.

*In Class Assignment 3:* Headings and Point Headings Exercise

Over the weekend, students should create an outline of the closed memo to discuss on Monday.

**Required Reading: *Just Memos* Chapters 10 and 11**

**Week of September 11<sup>th</sup>:** How do I convert an outline of my memo to final memo format? How do I refine the case discussion using IRAC?

Monday: *In Class Assignment 4:* Draft the thesis paragraph for the closed memo. Discussion of student outline and final discussion of putting together the closed memo.

Wednesday: FIRST DRAFT OF CLOSED MEMO DUE AT START OF CLASS. Students should bring 2 copies of their memo. One to hand in to the Professor and one to use during the self-editing exercise.

**ASSIGNMENT OF OPEN MEMO PROBLEM**

*In-Class Assignment 5*: Self-editing my legal memorandum.

**Required Reading**: *Just Memos Chapter 12*; *Just Research Chapters 1-3*

**Week of September 18th**: Introduction to legal research: Where do I go to find information about the legal implications of my client's problem? Where do I look for the most relevant and binding authority? What resources are available to help me solve my client's problem? How do I select the right authority? How do I identify the legal problem in my client's case? How do I develop a research strategy?

Monday: **WESTLAW TRAINING**

Wednesday: *Conférences: Students meet with instructors individually to review instructors' comments on first draft of Closed Memo.*

**Required Reading**: *Just Research Chapters 13 & 14*

**Week of September 25th**: Further Discussion of the Open Memo problem combine with an introduction to library research. How do I begin to decide on the authorities I will use in my memo? How do I refine my plan? How do I know if I need to keep looking for authority, or if I have exhausted my research efforts?

Monday: FINAL DRAFT OF CLOSED MEMO DUE AT START OF CLASS.  
**LEXIS TRAINING**

Wednesday: Discussion of Open Memo Problem & Library Tour.  
*In-Class Assignment 6*: Draft the Issue for the Open Memo.

**Required Reading**: *Just Memos – review Chapters 6-8, 10, & 12* and *Just Research Chapters 5-9*

**Week of October 2<sup>nd</sup>**: Further Discussion of Open Memo Problem.

Monday: Discussion of Open Memo Problem and results of student research.

Wednesday: *In Class 7: Citation Exercise.*

**Required Reading**: *Just Research – Review Chapters 10-13*

**Week of October 9<sup>th</sup>:** *Students must be prepared to present at least three cases a day to the class for the next two weeks of classes; students should have written briefs prepared for all these cases.*

Monday: No School. Federal Holiday.

Wednesday: Case Presentations.

**Required Reading:** Cases students have found through individual research.

**Week of October 16<sup>th</sup>:** Students will continue to present the cases they have found for their open memo. Students will be questioned on critical aspects of the cases, so the class can determine whether the authority is useful to their client's problem.

Monday: Case Presentations.

*In Class 8:* Draft Headings and Point Heading for Open Memo.

Wednesday: Wrap up discussion of open memo and answer any final student questions.

**Required Reading:** Cases students have found through individual research; *Just Memos*, **Chapter 16** (Opinion Letters); Handout on Client Letters.

**Week of October 23<sup>rd</sup>:** This week students will learn how to communicate with a different audience; the client. We will also begin transitioning to trial advocacy involving yet another audience; the court.

Monday: FIRST DRAFT OF OPEN MEMO DUE AT START OF CLASS.

Now that I've predicted the likelihood of success of my client's case, how do I inform the client of my findings? What information should I include in a client letter? What information should I omit from a client letter? How and when do I communicate with clients electronically? What are the advantages and disadvantages of electronic communication? What is proper e-mail etiquette?

Review materials on client letters; draft client letter and **e-mail to instructor before Wednesday's class.**

Further Discussion of open memo. Students will have an opportunity to discuss challenges in writing the memo, areas they feel need to be developed, research...

Wednesday: Client Letter Due at Start of Class.

Introduction to the Trial Memo.

Discuss drafting trial memoranda along with format including use of forms for format.

**Week of October 30<sup>th</sup>:** Preparing to transition to documents drafted for courts rather than inter-office memoranda.

Monday: Review of graded draft of Open Memo with instructors.

*In-Class Assignment 9:* Draft the issue for the trial court memo.

Wednesday: FINAL DRAFT OF OPEN MEMO DUE AT START OF CLASS.  
Students will receive Monday's in-class assignment for review of instructor's comments. Continued discussion of Trial memo along with time to conduct library research.

**Required Reading:** Materials on drafting documents to trial courts.

**Week of November 6<sup>th</sup>:** Editing and refining legal analysis. Discussion of trial memo along with authorities. By this week students should have authority that supports the grounds for their motion. Students should come to class with briefs of the cases they plan to use in the trial memo.

Monday: Discussion of Trial memo motion including cases students have found.

Wednesday: Continued discussion of Trial memo and cases students have found.

**Required Reading:** More materials on drafting documents to trial courts.

**Week of November 13<sup>th</sup>:** Oral advocacy: How do I take the information in my predictive memo and present the authorities to persuade a judge to rule in my client's favor? What is a motion? How do I refine my arguments to focus on the specific issue before the trial court? How do I take the information in my predictive memo and begin to rank and analyze the authority to persuade a judge to hold in favor of my client?

**Week of November 20<sup>th</sup>:** Oral Advocacy:

Monday: Preparation for trial court arguments: Judge's Videos & Practice, practice, practice!

Wednesday: **Trial Memo Due at the start of class.** Oral Argument Practice.

**Week of November 27<sup>th</sup>:** Oral Advocacy practice

Monday: *In Class 10: Oral Argument Practice*

Wednesday: Mock Motion Session  
Students will come dressed for court and argue their motion in front of a mock trial court.

**Monday, December 4th: Last Day of Classes.  
Review for Final Exam.**

