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## **ADVANCED APPELLATE ADVOCACY I, FALL 2023**

### **LAW 700AS, 2 Skills Credits**

**Tuesdays 5:30 p.m. – 7:15 pm, In-Person Learning**

Professor Harvey J. Sepler  
Harvey J. Sepler, P.A.  
Cell Phone: (954) 663-1599  
Email: [hjs@seplerappeals.com](mailto:hjs@seplerappeals.com)

Brandon Shinder  
AAA I Vice-President  
(561) 558-7496  
Email: [bes147@miami.edu](mailto:bes147@miami.edu)

### **1. COURSE SUMMARY**

Whether you are presenting an oral argument to an appellate judge, a trial judge, or the senior partner in a law firm, you need to be able to make a strong legal argument. This class focuses on helping students develop the written and oral advocacy skills to write effectively and argue under fire. The ability to anticipate questions, deliver answers, and transition back into your argument is crucial for an aspiring attorney.

Advanced Appellate Advocacy I is an instructional program for students seeking to develop their oral and written advocacy skills. The course combines interactive writing and oral argument activities, in-class instruction, prominent alumni guest speakers, detailed feedback and video review to prepare students for the Gaubatz Competition and a future career in legal advocacy. Participation for the Gaubatz Competition is mandatory for all students; however, neither the class nor the competition will fulfill a writing requirement for graduation.

### **2. COURSE MATERIALS**

Additional resources, assignments, videos, and other information will be posted on TWEN, available at <https://lawschool.westlaw.com/twen/>. Two books are required reading for this course:

Name: *The Moot Court Book: A Student Guide to Appellate Advocacy*  
Publisher: LexisNexis  
Author Last Name: Gaubatz, Mattis

Edition: Third Edition  
POSTED ON TWEN

“Appellate Standards of Review”  
Author Last Name: Sepler  
*Florida Appellate Practice*  
Edition: Twelfth Edition  
POSTED ON TWEN

Name: *Making Your Case: The Art of Persuading Judges*  
Publisher: Thomson West  
Author Last Name: Scalia, Garner  
Edition: First Edition  
ISBN: 9780314184719

The following are recommended readings for this course:

Name: *Introduction to Advocacy: Research, Writing, and Argument*  
Publisher: Foundation Press  
Prepared by the Board of Student Advisers, Harvard Law School  
Edition: Eighth Edition  
ISBN: 978-1-60930-308-2

Name: *Legal Writing in Plain English*  
Publisher: University of Chicago Press  
Author: Bryan A. Garner  
Edition: Second Edition  
ISBN: 9780226283937

### 3. COURSE REQUIREMENTS

***Attendance Policy:*** Attendance at each class session is mandatory and will be taken at the beginning of each class. If, at the beginning of the semester, you know that you will not be able to attend a session, contact Brandon Shinder immediately to alert him to the conflict. If a circumstance arises during the semester that will cause you to miss a class, please contact Brandon Shinder to notify him of your absence. The Dean’s Office must formally excuse your absence.

***Gaubatz Competition:*** Participation in the Gaubatz Competition is mandatory. If you have a conflict with Gaubatz Competition dates, contact Gisell Landrian, Gaubatz VP at [gaubatzmootcourtcompetition@law.miami.edu](mailto:gaubatzmootcourtcompetition@law.miami.edu). The list of competition dates is:

- Fall Informational Session: August 23, 2023, at 12:30 p.m. (EST).
- Brief Writing Workshop: August 25, 2023, at 1:00 p.m. (EST)
- Registration Deadline: August 27, 2023, at 5:00 p.m. (EST).
- Gaubatz Problem Released: August 29, 2023, by 12:00 p.m. (EST)

- Last day to drop from competition and submit date conflicts: September 6, 2023, by 5:00 p.m. (EST)
- Competition briefs must be filed (e-mail) by: September 24, 2023, at 5:00 PM (EST)
- Oral Argument Workshop: October 3, 2023, at 12:30 p.m. (EST)
- Gaubatz Oral Arguments Competition: Saturday and Sunday, October 14-15 2023
- Final Round: Tuesday, October 17, 2023

**Assignment Completion:** All class assignments must be completed in accordance with the dates prescribed in this syllabus. Unless otherwise directed, they must be the product of each student's own research, legal analysis, and writing. No outside assistance is permitted. Except for pre-arranged exceptions, late assignments will not be accepted.

**Oral Argument Practice Rounds:** All students are required to participate in two non-Gaubatz competition oral argument sessions. These sessions are designed to provide you with individualized feedback on your oral argument style prior to beginning the Gaubatz competition. Students will be assigned positions to take based on the issue they briefed earlier in the semester. Issue and position assignments will be posted on TWEN. Depending on health and other concerns, these rounds will either be held at the law school or on-line. Venue and room assignments will be posted on TWEN. You are responsible for informing either Professor Sepler or Brandon Shinder of scheduling conflicts.

#### **4. GRADING**

This is a two-credit, pass/fail course. There are no honors grades, but a Dean's Certificate of Achievement will be awarded to the top-performing student in the class. The following criteria are considered in determining whether a student passes or fails the course: (1) attendance and timely completion of all course requirements; (2) quality of the submitted assignments; and (3) participation in the Gaubatz Competition.

#### **5. CLASS INFORMATION**

This class is a guided, interactive process with an emphasis on strengthening your writing and oral advocacy skills. This means that, in addition to substantive lectures by Professor Sepler and presentations on legal research and writing, the benefits you gain will come from how well you incorporate the feedback you receive into your future assignments. The ability to communicate is an essential complement to the ability to research legal issues.

To accommodate the start of the Gaubatz Competition, and to ensure that you are prepared for it, **we will hold a mandatory special class on Friday August 25, 2023**, in person from 3:00 p.m. to 4:30 p.m., in addition to our regular Tuesday schedule. This will enable us to end the class earlier in the semester than your other classes and to comply with the school's class-hour requirements.

### ***Academic Integrity Policy***

*Students are expressly prohibited from recording any part of this course. Meetings of this course might be recorded by the University. Any recordings will be available to students registered for this class as they are intended to supplement the classroom experience. Students are expected to follow appropriate University policies and maintain the security of passwords used to access recorded lectures. Recordings may not be reproduced, shared with those not in the class, or uploaded to other online environments. If the instructor or a University of Miami office plans any other uses for the recordings, beyond this class, students identifiable in the recordings will be notified to request consent prior to such use.*

### ***ADA Policy***

*If a student has a disability, or suspects that he or she may have a disability, please contact Jesse Howell, Director, Student Inclusion and Accessibility, for information about available opportunities, resources, and services. Her phone number is 305-284-9907, and her email address is [access@law.miami.edu](mailto:access@law.miami.edu).*

### ***Accessibility***

*The University of Miami School of Law is committed to creating an inclusive learning environment that meets the needs of our diverse student body. If you have a disability (including physical or mental health challenges) and need academic accommodations, please contact Student Accessibility Services via email at [access@law.miami.edu](mailto:access@law.miami.edu). Please note that accommodations are not retroactive; students are encouraged to contact the office and inquire about any disability-related needs within the first weeks of the semester.*

### ***TITLE IX***

*The University of Miami seeks to maintain a safe learning, living, and working environment free from discrimination based upon gender or sex. This includes from all types of sexual misconduct including but not limited to: Dating Violence, Domestic Violence, Sexual Assault (including Sexual Battery), Sexual Exploitation, Sexual Harassment, and Stalking. This also includes protection from discrimination for pregnant students. For additional information about the University's policies with respect to Title IX, including resources and reporting options, please visit [www.miami.edu/titleix](http://www.miami.edu/titleix) or contact the University's Title IX Office at [titleixcoordinator@miami.edu](mailto:titleixcoordinator@miami.edu).*

### ***Honor Code and Academic Integrity***

*All work submitted by students is expected to be your own work. The use of AI large language models (such as ChatGPT), in writing academic work for this course, including papers, exams, and other assignments, is prohibited unless expressly identified in writing by me as an appropriate resource for the academic work or exam.*

*Where the use of AI is permitted, content composed by any resource other than by you must be attributed through proper citation. Students may be required to provide the source and the specific generative AI outputs relied upon, so you should keep a record of interactions with generative AI for coursework. If not expressly identified in writing by the professor, any use of large language model AI will be considered plagiarizing, cheating, and/or the utilization of unauthorized materials and will be subject to disciplinary action subject to sanctions in accordance with the Law School's Honor Code.*

### ***Classroom Expectations***

*In this course, I expect all students to be prepared to participate fully and actively. This includes regular attendance, completing homework in advance, and engaging actively in classroom discussion. I will be calling upon students with the goal of providing a deeper understanding of the material and exploring a range of ways to learn the legal doctrine in this course. Students who are not being called upon can learn from my questions and classmates' answers (even when incorrect). Your ability to participate in these classroom discussions is considered an essential part of the expectations for this course and is tied closely to our learning outcomes.*

**ANTICIPATED WEEKLY SCHEDULE**

<p><b>Monday, August 7</b></p>	<p><b><u>Class Problem Posted on TWEN</u></b></p> <p><b>Draft Arguments Due by August 16th</b></p>
<p><b>Wednesday, August 23</b></p> <p><b>12:30 p.m. to 1:30 p.m.</b></p> <p>Gaubatz Information Meeting</p> <p>Professor Annette Torres</p>	<p><b><u>MCB Workshop:</u></b></p> <ul style="list-style-type: none"> <li>• The Moot Court Board will hold an informational meeting about the Gaubatz competition.</li> </ul>
<p><b>Friday, August 25</b></p> <p><b>1:00 p.m. to 2:30 p.m.</b></p> <p>Moot Court Brief Writing Workshop</p>	<p><b><u>MCB Brief Writing Workshop:</u></b></p> <ul style="list-style-type: none"> <li>• The Moot Court Board will hold a workshop providing best practices for brief writing.</li> </ul>
<p><b>Friday, August 25</b></p> <p><b>3:00 p.m. to 4:30 p.m.</b></p> <p>Practicalities of Appellate Advocacy</p>	<p><b><u>MANDATORY SPECIAL CLASS</u></b></p> <ul style="list-style-type: none"> <li>• Professor Sepler will lecture on appellate advocacy in practice.</li> <li>• Professor Sepler will walk through the parts of an appellate brief and his reasoning for using his chosen language.</li> <li>• Brandon will provide examples of well written Argument and Statement of Fact sections.</li> <li>• Professor Sepler and Brandon will answer any student questions.</li> </ul> <p><b><u>Assignment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Revised Draft Argument.</b></li> <li>• <b>Students must email their Argument sections to Brandon by 11:59 p.m. on Friday, August 25, 2023. This is an individual assignment.</b></li> </ul>
<p><b>Tuesday, August 29</b></p> <p><b>5:30 p.m. to 7:15 p.m.</b></p> <p>Lecture on Legal Research Techniques by Robin Schard</p> <p>2022 Gaubatz Finalists to Speak</p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• Lecture on Legal Research and Gaubatz techniques and division of labor in brief writing</li> </ul> <p><b><u>Assignment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Review materials for Guest Speaker Margaret Isaacson posted on TWEN.</b></li> </ul>

<p><b>Tuesday, September 5</b></p> <p><b>5:30 p.m. to 7:15 p.m.</b></p> <p>Guest Speaker: Luis Reyes (J.D. '18)</p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• Guest Speaker Presentation.</li> </ul>
<p><b>Tuesday, September 12</b></p> <p><b>5:30 p.m. to 7:15 p.m.</b></p> <p>“TBD Guest Speaker” on Brief Writing</p> <p>Professor Sepler Speaks on Brief Writing</p> <p>Students can ask Guest Speaker and Professor Sepler questions on Brief Writing.</p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• Guest Speaker will review the brief posted on TWEN with the class and give a presentation on brief writing strategy.</li> <li>• Students can ask Guest Speaker and Professor Sepler questions on Brief Writing</li> </ul> <p><b><u>Assignment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Work together with your assigned partner to draft a Cover Page, Table of Authorities, Table of Contents, Statement of Facts, Summary of the Argument, Standard of Review, and Conclusion. Students do not need to re-submit their Argument Sections.</b></li> <li>• <b>Students must email this completed assignment to Brandon by 11:59 p.m. on Friday, September 15, 2023.</b></li> <li>• <b>Please save the assignment as your last name – Joint Sections.</b></li> </ul>

<p><b>Tuesday, September 19</b></p> <p><b>5:30 p.m. to 7:15 p.m.</b></p> <p>Mock Oral Argument</p> <p>Professor Sepler Speaks on Oral Argument</p> <p>Guest Speakers Orseck Team (Gabrielle Argimon and Joely Arai) (State Champions)</p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• Students will watch the final round from two competitors in the 2022 Gaubatz Competition.</li> <li>• Students will watch an oral argument from a 2015 Moot Court Board member during a practice round in front of the 3d DCA.</li> <li>• Professor Sepler will speak to the class about oral argument.</li> <li>• Gabrielle, Joely, and Brandon will speak to the class about oral argument.</li> <li>• Students will be provided additional oral arguments videos they can watch.</li> <li>• Professor Sepler and Brandon will answer any student questions.</li> </ul> <p><b><u>Assignment:</u></b></p> <p><b>Watch guest speaker oral argument video posted on TWEN.</b></p> <p><b>NOTE: The Gaubatz brief is due by 5:00 p.m. on Sunday, September 24, 2023.</b></p>
<p><b>Tuesday, September 26</b></p> <p><b>5:30 p.m. to 7:15 p.m.</b></p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• Practice Oral Arguments between Groups.</li> <li>• This is round 1 of 2 for Mandatory Oral Argument Practice with Professor Sepler and Brandon</li> <li>• Oral Arguments will be held via Zoom</li> </ul>
<p><b>Tuesday, October 3</b></p> <p><b>12:30 p.m. to 1:30 p.m.</b></p> <p>Moot Court Board Workshop</p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• The Moot Court Board will hold a workshop providing best practices for oral argument.</li> </ul>
<p><b>Thursday, October 5 &amp; Friday, October 6 – Students Sign-Up for Oral Argument with Professor Sepler and Brandon</b></p> <p>Mandatory Practice Round with Professor Sepler or Brandon</p>	<ul style="list-style-type: none"> <li>• Round 2 of Mandatory Oral Argument Practice with Professor Sepler and Brandon</li> </ul> <p>Professor Sepler and Brandon will set up time slots for students to schedule a practice oral argument via Zoom to be completed between October 5– October 6. Sign-ups must be done by Wednesday, October 4.</p>
<p><b>Saturday, October 14-15</b></p> <p><b>All day</b></p>	<p><b>Gaubatz Oral Argument Competition:</b></p> <ul style="list-style-type: none"> <li>• All competitors will have two oral arguments on Saturday in person at the school. The top</li> </ul>



	16 teams will advance for a knockout-style competition on Sunday.
<p><b>Tuesday, October 17</b></p> <p><b>5:30 p.m. to 7:15 p.m.</b></p> <p>Review Oral Argument Video</p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• The class will watch an oral argument and discuss what the attorneys did well and how they could improve their oral presentations.</li> <li>• The class will then go to the 2023 Gaubatz Final Round.</li> </ul>
<p><b>Tuesday, October 17</b></p> <p><b>8:00 p.m.</b></p> <p>Gaubatz Final Round</p>	<p><b>Gaubatz Final Round:</b></p> <ul style="list-style-type: none"> <li>• Top two teams from the competition compete in the final round. The final round will be in the Student Shalala Center – Grand Ballroom. <u>Students are required to attend the final round.</u></li> </ul>
<p><b>LAST CLASS!!!</b></p> <p><b>Tuesday October 24</b></p> <p><b>5:30 p.m. to 7:15 p.m.</b></p> <p><b>Panel:</b> Opportunities in Appellate Advocacy</p>	<p><b><u>Class:</u></b></p> <ul style="list-style-type: none"> <li>• Guest Speakers (from the appellate court, private practice, and government practice) will discuss strategies for choosing your discipline, landing a job, and developing an appellate emphasis.</li> </ul>
<p><b>Optional Classes:</b></p> <p><b>Tuesday October 31</b></p> <p><b>Tuesday November 7<sup>th</sup></b></p> <p>Zoom Sign Ups to Review Gaubatz Brief Score</p>	<ul style="list-style-type: none"> <li>• <b>Students have the option to sign up with moot court board members to review their Gaubatz brief scores.</b></li> </ul>