

Federal Appellate Litigation Clinic Fall 2022 Syllabus

Students in this Clinic will take the lead in federal appellate courts across the country. Our cases will generally focus on immigration, criminal sentencing/post-conviction issues, and qualified immunity, although other topics may be covered as well.

Faculty and Staff

- Xiao Wang, x.wang@law.northwestern.edu
 - Office Hours: Appointment via Calendly
- Angie Starks, angelia.starks1@law.northwestern.edu
- Nico Martinez, nicolas.martinez@bartlitbeck.com

Learning Goals

- **Client Service:** We will work with clients in vulnerable situations, which may require us to navigate hurdles of access within prison, jail, and detention facilities. We will provide all clients with exceptional, dedicated legal service.
- **Appellate Advocacy:** We will develop our skills as appellate advocates, so that, by the end of the course, all students will be able to confidently litigate an appeal as lead counsel.
- **Exploring Legal Career Paths:** We will, through guest speakers and other opportunities, learn about the different pathways to being an appellate advocate. Students are encouraged to meet with speakers after class in informal dinners.

General Course Information

- **Seminar:** Each week, we will meet as a group on Wednesdays, from 4:00 PM to 5:20 PM. The seminar will cover a mix of substantive areas of law, case rounds, and guest speakers.
- **Supervision:** Each case team will meet with me for one hour per week, to discuss progress on their individual cases.
- **Client Contact:** I encourage each team (or a member of each team) to meet with their client on a monthly basis.

Course Requirements and Expectations

- **7-11 License:** Students must complete paperwork for the 7-11 License as soon as practicable, and no later than mid-September, in order to participate fully in case work.
- **Attendance:** Students are expected to attend weekly seminar and supervision, and to hold regular calls with their respective clients. If you must miss class or supervision, please send me a note in advance.
- **Supervision:** Case teams should find a regular time to meet with me to discuss your case. After you find some time blocks that work, please contact Angie, and she will arrange a time to meet.
 - The day before each supervision, please send me an agenda of proposed discussion topics. The agenda should be in bullet points, and no longer than one page.
 - **Every supervision must be accompanied by a one-page agenda, sent to me and the rest of the team no later than 11 PM the evening before.**
- **Writing:** Although every case will be different, my expectation is that I will receive at least:
 - An outline at least **four** weeks in advance of the filing deadline
 - A first draft at least **three** weeks in advance of the filing deadline
 - A final draft at least **three** days in advance of the filing deadline
- **Laptop & Phone Use:** Please refrain from non-educational laptop or phone use during class.
- **Mid-Semester Review:** Each student will have a mid-semester review with me.
- **OneDrive:** All students must have OneDrive. We will use this for co-editing and authoring briefs.

Grading and Expectations

Note that expectations are guidelines and illustrative.

- **Seminar Attendance and Class Participation: 25%**
 - Attend class and do assigned readings and work
 - Contribute regularly to class discussions
- **Supervision Participation: 25%**
 - Prepare and maintain a weekly case agenda
 - Maintain regular contact with clients
- **Written Work Product: 50%**

- Complete research and writing assignments on time
- Implement feedback in a timely and efficient manner
- Bring up issues for team and faculty to workshop
- Work product is properly Bluebooked and cite-checked, and “file ready”

Schedule of Classes

AUGUST 25

Orientation
Clinic Style Guide

Assignment:

- **Register:**
 - Illinois Rule 711 License
- **Provide:**
 - Case / travel preferences

AUGUST 31

Class Introduction
The Sections and the Organization of an Appellate Brief
Supervision Agendas
Guest Speakers: Nico Martinez (Bartlit Beck) and Gloria Park (Susman Godfrey)

Assignment:

- **Read:**
 - Federal Rules of Appellate Procedure 28 & 32
 - Opening Brief, *Thomas-Joseph v. Commissioner* on www.nlawappellate.com
- **Schedule:**
 - Weekly supervision meetings

SEPTEMBER 7

Research Tips and Tricks
The Standards of Review

Assignment:

- **Read:**
 - [*Identifying and Understanding Standards of Review*](#), Georgetown Law Center Writing Center
- **Identify:**
 - The standard of review in your cases

SEPTEMBER 14

Justice Elena Kagan Lecture (morning)
De-brief: The Courts and Modern Life (afternoon)

Assignment:

- **Read:**
 - Xiao Wang, [*Increasingly Antidemocratic? An Empirical Examination of the Supreme Court Nomination and Confirmation Process*](#), 11 CALIF. L. REV. ONLINE (2020)

SEPTEMBER 21

Rules, Processes, Procedures

Presenting a Case for Discussion
Introduction to Mooting

Assignment:

- **Read:**
 - 28 U.S.C. §§ 2071, 2072
 - Federal Rules of Appellate Procedure 2 & 47
- **Review:**
 - Rules within assigned circuit
 - Complete rubric on circuit requirements

SEPTEMBER 28

Doctrinal Boot Camp: Habeas and Post-Conviction

OCTOBER 5

Primer on *Bivens*, Qualified Immunity, and Prisoner Litigation
Movement Lawyering
Guest Speaker: Sam Weiss (Rights Behind Bars)

OCTOBER 12

Reframing Bad Facts and Bad Law
Case Round: *Ford*

Assignment:

- **Read:**
 - ABA Model Rule of Professional Conduct 3.3

OCTOBER 19

Creating Tables of Contents and Authorities
Case Round: *Spillard*
Guest Speaker: Sharon Schwei (Keller Postman) (first half)

OCTOBER 26

Appellate Work as a Career and Building Your Own Practice
Guest Speaker: Devi Rao (MacArthur Justice Center)

NOVEMBER 2

State Courts and Appellate Practice: The State Solicitor General's Office
Guest Speaker: Henry Whitaker (Florida Solicitor General)

Assignment:

- **Read:**
 - Dan Schweitzer, *The Modern History of State Attorneys Arguing as Amici Curiae in the U.S. Supreme Court*, 22 GREEN BAG 2D 143 (2019)
 - Scott Keller, *Federalism As a Check on Executive Authority: The Perspective of a State Solicitor General*, 22 TEX. REV. L. & POL. 297 (2018)

NOVEMBER 9

Navigating Difficult Conversations with Clients and Co-Counsel

NOVEMBER 16

Anticipating the Counterargument

Guest Speakers: Sarah Hunger and Ivan Parfenoff (Illinois Solicitor General's Office)

Assignment:

- **Read:**
 - Response Brief, *Thomas-Joseph v. Commissioner* on www.nlawappellate.com

NOVEMBER 23 (Possibly via Zoom)

Writing Tips and Tricks (Part I)

Incorporating Technology into Practice

DECEMBER 1 AT NOON (NOTE DATE AND TIME CHANGE)

End of Semester Party

Federal Appellate Litigation Clinic Style Guide

1. Double space after sentences.
2. Double space after colons **only if** the clause following the colon can be read as a stand-alone sentence.
3. Use en dashes to mark ranges (e.g., 7–8, not 7-8)
4. Use em dashes to separate a clause within a sentence (e.g., “Resolving this issue—which governs Plaintiff X but not Plaintiff Y—turns on Case A, B, and C.”)
5. Use “Justified” alignment, not Left alignment
6. Keep things short:
 - a. Headings and captions at 15 words or fewer.
 - b. In-text sentences at 25 words or fewer.