MILLARD FILLMORE COLLEGE
Paralegal Studies Certificate Program

Course Syllabus

Course Number/Title: MFC 334 – Legal Research and Writing (2 credits)
Semester/Year: Fall 2016
Class Day/Time: online
Class Location: www.UBLearns.buffalo.edu
Format: Lecture / Web Course
Prerequisites: None
MFC Faculty: O.A. Possé, Esq.
Office Phone: 716-829-2904
Email: oaposse@aol.com
Website: www.buffalo.edu

COURSE DESCRIPTION

The staple of legal education, particularly in the first year of law school, is the appellate decision (aka case law, legal opinions, and judicial opinions). In order to fully understand an appellate decision you must be able to think procedurally and to reconstruct the whole case from the beginning through the appellate decision.

The objective of the course is to supply those thinking skills that are the foundation of legal education. The course examines the reciprocal relationship between substantive law and procedure. Substantive law draws meaning from its application at each stage of the litigation process. In other words, each stage of the process can provide a "window" on the meaning of substantive law. These stages include: pretrial proceedings (pleadings, discovery, pretrial screening); the trial (admissibility of evidence, sufficiency of the evidence to get to the jury, terms of submission to the jury, the verdict); and the appeal (issues preserved for appeal, "facts" on appeal, standard of review). The focus throughout is on the need to develop the skill of thinking procedurally in order to understand the law and to help shape its development.

This web course emphasizes the integration of legal analysis, writing, and research, and helps students to understand and consider the legal audience for whom they are writing. In writing assignments, which range from appellate briefs to a legal memorandum of law, students learn research skills, complex legal analysis, careful construction of legal arguments, and the requirements of legal prose. The
intertwined research and writing tasks additionally enhance the retention of research skills and promote more effective research strategies.

This course is designed to provide knowledge of primary and secondary legal sources: statutes, appellate court reports (both official and unofficial), annotated law reports, statutory indexes, court rules, digests, treatises, legal encyclopedias, Sheppard’s Citations, restatements and related law finders. Students are given written assignments gathering research material, briefing cases and framing issues, all of which are designed to enhance reasoning and advocacy skills.

Ultimately students will write a legal memorandum, emphasizing original research of a fact pattern situation (provided), organization, and use of plain English. Written assignments, including problem solving, case briefing, issue framing, legal research, and web class participation are all geared to assist the student in writing the memo of law.

**Course Learning Objectives** - The following competencies should be achieved, providing the ability to apply and possess a fundamental understanding of legal research and writing, as the student who has completed the course should be able to:

- Demonstrate an understanding of primary and secondary legal source materials including: statutes, annotated law reports, statutory indexes, court reporters, court rules, digests, treatises, legal encyclopedias, Sheppard’s Citations, restatements and related law finders.

- Prepare a legal memorandum, emphasizing analysis of a fact situation, organization and well written English.

- Exhibit an understanding of how to use on-line legal research resources.

- Exhibit an understanding of proper citation form.

**Learning Outcomes:**

After studying the material presented in this course of study, the student will be able to do the following:

- Read and analyze diverse primary legal sources carefully and accurately, with attention to the author’s perspective, position, and to the source’s general context.
- Be familiar with legal research methods and legal terminology.
- Read, evaluate, and summarize court opinions (i.e. write case briefs), and be able to analyze the authors’ arguments for relevant evidence, context, and strength.
- Draft a legal writing project (memo or term paper) and make clearly written and logically organized arguments that are well supported by primary sources.

**Foundational Objective (Case Analysis & Briefing)**

You must achieve this objective in order to benefit from the course as a whole and in order to achieve the performance objectives listed below. During this course, you will be able to:

1. After reading a judicial opinion (AKA a case or case law), identify, understand and explain:

   - The parties to the case and who is suing whom? If it is an appellate case (most of the assigned cases are), who appealed and on what issues?).

   - The procedural history of the case. (How did the case get to the appellate court? What happened in the court(s) below?).

   - The relevant facts of the case (what caused the dispute?).

   - The legal issues (what questions are court asked to decide?) and the relief sought (damages, specific performance, rescission of the contract, an injunction?).

   - The plaintiff and defense arguments.

   - The outcome / case holding and the reasoning of the court.

**Performance Objectives**

These objectives require you to apply the skills described above. Upon completion of this course, you should be able to:

- Given a complex fact pattern (involving criminal law), identify legal issues raised by the facts and write an interoffice memorandum of law.
As to crime(s), apply legal principles and the correct penal code statute(s) to the facts to develop creative, well-reasoned, legally and factually supportable arguments in favor of (and against) the legal positions of the parties.

Assess the strengths and weaknesses of the arguments. Predict & debunk anticipated counterarguments.

**Competencies / Instructional Method / and Assessment of Student Learning:**

Students are expected to login to UBLearns on a regular basis to review the course syllabus, check course announcements & assignments, etc. Students are expected to complete and submit assignments as directed to verify that they have read and understood the course material.

The course includes a set of quizzes and briefing assignments, plus a midterm and a final exam to assess chapter material. Students will also submit a final written project (term paper or law memo) to complete course requirements. Students are expected to login to the course at least once per week to check course announcements, etc.

Final grades are based on the following: Quizzes, Mid Term Exam & Final Exam = 50%, Term Paper or Law Memo = 25%, Case Briefing Assignments = 25%.

**Textbook /Equipment /Required Technologies:** The book for this course is *The Interpretation and Application of Law: Assignment Casebook* - SECOND EDITION, by O.A. Possé, Esq.

**Course Requirements and Assignments:** This course contains the following assignments:

**Intro Quiz & Self-Paced Quizzes**

**Intro Quizzes:** The intro quiz has a specific & early due date which is posted in the Announcement section each semester. The intro quiz is Quiz 1.

**Self-Paced Quizzes:** The remaining quizzes are self-paced.
Intro Case Brief & Monthly Case Briefs

Intro Case Brief: The intro case brief has a specific & early due date which is posted in the Announcement section each semester. People v Hill on pages 377-379 of your casebook.

Monthly Case Briefs: I will post a briefing assignment at the end of the first and third month of the semester (with deadlines for completion) and they (along with the other assigned case briefs) are worth 25% of your final grade. You will have roughly one week to complete each future / monthly briefing assignment.

Term Paper: There is no term paper assignment for this course. Instead, there is a memo writing assignment. It is due by the last day of the semester. That date will be posted in the Announcement section.

Midterm Exam: This assessment will be made available for a 48 hour period of time at the semester mid-point over a weekend. There is no make-up midterm exam. I will proctor the exam in real-time via the UB Learns system. Students must work alone on the exam. The dates will be posted in the Announcement section.

Final Exam: The final exam will be made available for a 48 hour period of time at the end of the semester over a weekend. There is no make-up final exam. I will proctor the exam in real-time via the UB Learns system. Students must work alone on the exam. The dates will be posted in the Announcement section.

Case Briefing Assignments – See the posted Assignment & Announcement Sections every semester for specific cases to brief and specific due dates, etc.

Case Briefing Quizzes – In addition to briefing certain cases, quizzes will be posted that will test your understanding of any cases assigned for briefing. Again, please see the posted Assignment & Announcement Section every semester for specific cases that are quizzed and specific due dates. The quizzes associated with
the case briefs will also change every semester, depending on which cases have been assigned for you to brief.

Midterm Exam & Final Exam – The dates for these assessments will be posted each semester in the Announcement section. These assessments will be given over a specific 48 hour period, over a weekend, and I will proctor them (in real time) online via the UBLearns system. Students must work alone on all assessments (quizzes, midterm & final).

Note: There are no make-up midterm or final exams. The dates for the exams will be posted at the start of the semester and you are responsible for planning ahead. If an emergency prevents you from taking these exams you must be able to document it. An “emergency” is not a: vacation, sporting event, job obligation, lack of textbook, etc.

Units /Lessons

Lecture 1: Overview of Basic Uniform Citations.
Lecture 2: Legal language, legal process & synthesizing argument from caselaw.
Lecture 3: Outlining Your Argument
Lecture 4: Writing a Statement of Facts.
Lecture 5: Writing Argument Point Headings & Points
Lecture 6: Writing Persuasive Conclusions
Lecture 7: Editing your argument. Submit Final Draft of Memo

Course Lecture Notes Section (Posted Document) - Introduction and Layout

Part 1: Case Briefs
Part 2: Internal Memorandum of Law
Part 3: Legal Briefs & Motions
Part 4: Appellate Briefs

Emphasis will be placed on writing case briefs and an interoffice memorandum of law related to search and seizure issues. Instead of writing a term paper, for this class you will research and write a memo of law related to a criminal law fact pattern that I will provide (See “Monsters Among Us”).

PART 1: CASE BRIEFS
The Case Brief

How to Brief a Case
Title and Citation
Order of Citation of Authorities
Relevant Case Facts
Procedural History
Issue(s)
Holding (Decision)
Reasoning (Analysis)
Rule of Law
Dissents & Concurring Opinions
Sample Case Brief: Roe v. Wade, 410 U.S. 113 (1973)

PART 2: THE INTEROFFICE MEMORANDUM OF LAW

Writing A Better Legal Memorandum
Sample Memo: Analysis of Credible Threat Element of the New York Harassment Statute

Overall Office Memo Discussion/Analysis Format (IncludesARAC/ IRAC)

Getting Started - Writing a Law Memo
General Legal Writing Tips
Outlining Your Memo: Why Should I Outline? / How Should I Outline?
Outlining Tips
Overview of Legal Authority: Structure of Courts Developing a Research Strategy
Writing Your First Memo of Law / The Three Rules
The Purpose of Writing a Memo: Reader’s Logic / Organization / Headings
Review of Legal Memoranda Format
Pattern of Persuasive Writing

Elements of Traditional Persuasive Writing

1. Exordium
2. Narration
3. Partition
4. Conformation
5. Refutation
6. Peroration
7. Presenting Your Content
8. Using Legal Authority
9. Writing Style / Editing / Legal Rules & Tests / Paragraph Structure

Checklist for Introductory Section of Office Memo

Procedural Roadmap to Writing a Memo

Sample Heading: Applicability of People v. Ruiz to a defendant with prior convictions.

Sample Statement of Facts
Sample Discussion
Sample Conclusion


PART 3: LEGAL BRIEFS & MOTIONS

Legal Brief Defined

The Purpose of Writing Legal Briefs / Compare Different Types of “Briefs”

Trial Briefs / Legal Briefs / Merit Briefs / Amicus Briefs / Appellate Briefs / Memorandum of Law / Case Briefs

Legal Briefs - What Persuades a Judge

PART 4: APPEAL BRIEFS

Guidelines for Constructing the Question Presented
Compliance with Court Rules
Structure
Checklist for Critiquing Questions Presented
Table of Contents
Table of Authorities
Jurisdictional Statement
Course and Instructor Evaluation: Millard Fillmore College will distribute an instructor and course evaluation following the last day of class and after final exams have been completed.

Grading: Approximate cut points are as follows:

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Communication: Our primary source of communication for this course will be by email. Students taking an online course are expected to login a minimum of once per week for course announcements, assignment updates, etc.

Faculty/Instructor: I can be reached by email with questions or for guidance that are concerned with this course. I will respond within 48 hours.

Students: Your UB email is the account that I will use to send course-related materials.
Netiquette: This course may utilize UBLearns to facilitate online communication between course participants. Please keep in mind the following “Rules of Netiquette” when communicating online.

- The rules of the classroom are the same regardless of location. When communicating online you must respect your professor and fellow students. You are communicating with a real person, not a computer screen.

- Remember your audience. When sending email to your professor, please refrain from using “text speak”. Also, stay away from using all capital letters; it will appear as if you are shouting.

- Avoid strong language. Language can be easily misinterpreted in an online setting. Review your work before submitting it to avoid strong, offensive or sarcastic content. Be as straight forward and professional as possible.

- Read everything, twice. Read all material and instructions carefully before you begin to work on assignments, quizzes, etc. You may have missed an important detail the first time you read. If you are still having difficulties, then email your professor.

- Review all material before submitting it. On discussion boards, read previous postings to avoid duplicating someone else’s comments. Also, write and save your work first. In case of technical issues, you will have a backup copy.

Policy Regarding Absences, Attendance, Assignments, Tests and University Policy Regarding Grades of Incomplete in Courses.

- Class Attendance and Absences: Students should login at least once per week to update themselves as to new course announcements, due dates, etc.

- Late Assignments: All assignments are due at designated times and due dates. No late assignment will be accepted and you will be issued a grade of ZERO unless you have a documented illness or emergency. If there are circumstances that will prevent you from turning in an assignment when due, you must discuss the situation with your professor prior to the due date.
- **Quizzes and Exams:** Quizzes and exams are all taken online for this course on specifically designated dates which are posted in the announcements each semester.

- **Policy on Incomplete Grades:** A final grade of incomplete will only be issued if there are extenuating circumstances (i.e. severe illness) that prevent the student from completing the course. The student must have satisfactorily completed all coursework and successfully passed all assessments up until the time that the incomplete is requested. See http://undergrad-caatalog.buffalo.edu/policies/grading/explanation.shtml

- **University Policy on Incomplete Grades:** See http://undergrad-catalog.buffalo.edu/policies/grading/explanation.shtml

A grade of incomplete (“I”) indicates that additional course work is required to fulfill the requirements of a given course. Students may only be given an “I” grade if they have a passing average in coursework that has been completed and have well-defined parameters to complete the course requirements that could result in a grade better than the default grade. An “I” grade may not be assigned to a student who did not attend the course. Prior to the end of the semester, students must initiate the request for an “I” grade and receive the instructor’s approval. Assignment of an “I” grade is at the discretion of the instructor.

The instructor must specify a default letter grade at the time the “I” grade is submitted. A default grade is the letter grade the student will receive if no additional coursework is completed and/or a grade change form is not filed by the instructor. “I” grades must be completed within 12 months. Individual instructors may set shorter time limits for removing an incomplete than the 12-month time limit. Upon assigning an “I” grade, the instructor shall provide the student specification, in writing or by electronic mail, of the requirements to be fulfilled, and shall file a copy with the appropriate departmental office.

Students must not re-register for courses for which they have received an “I” grade.

The “I” must be changed to a grade before the degree conferral date if the student plans to graduate in that semester. At any time prior to the default
date, students may elect to change the “I” grade to the default grade using the Grade Retrieval Form.

A default grade can be “B+,” “B,” “B-,” “C+,” “C,” “C-,” “D+,” “D,” or “F.” (If a student selected an S/U grading option, it will replace the default letter grade when the grade defaults.)

- **Disability Policy:** If you have any disability which requires reasonable accommodations to enable you to participate in this course please contact the Office of Accessibility Resources, 25 Capen Hall, 645-2608, and also the professor of this course during the first week of class. ODS will provide you with information and review appropriate arrangements for reasonable accommodations. http://www.ub-disability.buffalo.edu/

- **Academic Integrity:**

See http://undergrad-catalog.buffalo.edu/policies/course/integrity.shtml

**Preamble:** Academic integrity is a fundamental university value. Through the honest completion of academic work, students sustain the integrity of the university while facilitating the university’s imperative for the transmission of knowledge and culture based upon the generation of new and innovative ideas. When an instance of suspected or alleged academic dishonesty by a student arises, it shall be resolved according to the following procedures. These procedures assume that many questions of academic dishonesty will be resolved through consultation between the student and the instructor (a process known as consultative resolution, as explained below). It is recommended that the instructor and student each consult with the department chair, school or college dean, or the Office of the Senior Vice Provost for Academic Affairs if there are any questions regarding these procedures.

**Examples of Academic Dishonesty:** Academic dishonesty includes, but is not limited to, the following:

- *Previously submitted work.* Submitting academically required material that has been previously submitted—in whole or in substantial part—in another course, without prior and expressed consent of the instructor.
• **Plagiarism.** Copying or receiving material from any source and submitting that material as one’s own, without acknowledging and citing the particular debts to the source (quotations, paraphrases, basic ideas), or in any other manner representing the work of another as one’s own.

• **Cheating.** Soliciting and/or receiving information from, or providing information to, another student or any other unauthorized source (including electronic sources such as cellular phones and PDAs), with the intent to deceive while completing an examination or individual assignment.

• **Falsification of academic materials.** Fabricating laboratory materials, notes, reports, or any forms of computer data; forging an instructor’s name or initials; resubmitting an examination or assignment for reevaluation which has been altered without the instructor’s authorization; or submitting a report, paper, materials, computer data, or examination (or any considerable part thereof) prepared by any person other than the student responsible for the assignment.

• **Misrepresentation of documents.** Forgery, alteration, or misuse of any University or Official document, record, or instrument of identification.

• **Confidential academic materials.** Procurement, distribution or acceptance of examinations or laboratory results without prior and expressed consent of the instructor.

• **Selling academic assignments.** No person shall sell or offer for sale to any person enrolled at the University at Buffalo any academic assignment, or any inappropriate assistance in the preparation, research, or writing of any assignment, which the seller knows, or has reason to believe, is intended for submission in fulfillment of any course or academic program requirement.

• **Purchasing academic assignments.** No person shall purchase an academic assignment intended for submission in fulfillment of any course or academic program requirement.