Legal Writing & Analysis
Law 815
2018-2019 Academic Year
Assistant Clinical Professor Jessica R. Gunder

Class Times
Mondays and Wednesdays
Room 313
Section 6: 11:30—12:20
Section 8: 10:30—11:30

Contact Information
ILLC Room 328
Office: (208) 364-4577
Cell: (571) 331-9820 (emergencies)
JGunder@uidaho.edu

Office Hours
Every Tuesday from 11:30-12:30 and whenever my door is open.
Can’t make it during that time?
Email me to set up an appointment.

What You Will Learn
This is a simulation course, focusing on learning by doing. Students play the role of junior attorneys, receiving assignments and guidance from senior attorneys. LWA is a five-credit, two semester course. The final grade is assigned at the end of the academic year.

In this course, you will:
• Develop your research, analysis, and writing skills;
• Demonstrate your understanding of appropriate jurisdiction and choice of applicable law;
• Analyze statutes, rules, regulations, and court opinions;
• Identify legally relevant facts and apply the law to those facts;
• Support arguments with appropriate legal authority and policy considerations, while recognizing and addressing weaknesses;
• Express your analysis through work that is logically organized, clear and concise, and free of significant grammatical errors;
• Communicate legal arguments, analysis, and reasoning orally;
• Explore the difference between predictive and persuasive legal writing, including the audience and purpose of each; and
• Write trial-level and appellate-level advocacy documents.

How to Succeed in LWA
1. Be professional. Come to class on time, with all the materials you need. Turn in your best work, on time, every time. Remember that your classmates are your future colleagues, and treat them accordingly.
2. Be positive. Everyone in this class is new to legal writing. Just like anyone learning a new skill, you will stumble at times. Don’t get discouraged if you make mistakes; mistakes are part of the learning process. Embrace your mistakes and learn from them.
3. Be proactive. This is a professional environment, which means you need to take responsibility for your learning. The TAs and I are always happy to answer questions. So if you need help, please ask.

Textbooks & Online Resources (Fall 2018)
• Coughlin, A Lawyer Writes: A Practical Guide to Legal Analysis (2d ed. 2013)
• The Bluebook: A Uniform System of Citation (20th ed. 2015)
• Core Grammar for Lawyers: coregrammarforlawyers.com
• Interactive Citation Workstation: icw.lexisnexis.com

Teaching Assistants
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Other Assignments: This category consists of Ungraded Fall Memos (5 points each), the Email Memo (2 points), Court Visit Assignments (2 points each), and Intermediate Assignments (2 points each).

Ungraded Fall Memos: In the fall semester, you will work on a series of progressive analytical assignments that will not be fully graded, but will be fully critiqued. This means that your grade for the course will not suffer because of mistakes you may make early in the semester. These assignments will be reviewed on the following scale: + (really good); \(\checkmark\) (on track); or – (please try again). You must score + or \(\checkmark\) on each ungraded fall assignment to receive full credit. Students obtaining a – will be offered an opportunity to resubmit that assignment (or complete other additional work) to earn full credit.

Citation Exercises: You will complete Bluebook citation exercises via the LexisNexis® Interactive Citation workstation (ICW). Timely completion with a score at or above 70% earns full credit.

Core Grammar for Lawyers (CGL): CGL is an on-line program that will enable you to identify and correct any weaknesses in your basic writing skills. CGL consists of a Pre-Test, Lessons, and a Post-Test. If you obtain a score of 85% or higher on the Pre-Test, you have earned full credit, and no further work is required. If you do not obtain a score of 85% or higher on the Pre-Test, you must complete the appropriate CGL Lessons (the program will identify the lessons you need to complete based on your Pre-Test score) and score 85% or higher on the Post-Test before the deadline to earn full credit.

Professionalism: Attorneys are expected to show up and be prepared. This component of the class is meant to foster the level of professionalism that will be required of you when you enter the practice of law. You will begin the year with 25 points. You cannot earn additional points, but may lose points for unprofessional conduct, including missing conferences or classes without contacting me regarding the absence; missing more than two classes in one semester absent compelling circumstances; and not being prepared for class.

Plagiarism: Whenever you use the words or ideas of another writer, you must acknowledge the original source. Never copy from a court opinion, a law review article, or any other material without citing the source properly. If you use the exact words of a source, use quotation marks in addition to citing the source; if you put another writer’s ideas into your own words, cite the source. If you are unsure about whether or not you are plagiarizing, or if you are having difficulties with an assignment, please review the Honor Code and talk with me before turning in the assignment.

Collaboration: You are encouraged to discuss your analysis and research with your classmates. However, when it is time to put your thoughts on paper, you must work alone. While working on out-of-class writing assignments, you may not share your writing with anyone other than me or the teaching assistants, except as expressly authorized by me. This restriction applies broadly. You may not allow or request that anyone read, review, edit, proofread, listen to, or comment on any writing produced for any assignment, including drafts and outlines of assignments. This includes academic support staff, other faculty, classmates, friends, and family members.

In sum, no one except the teaching assistants and me may look at anything you are writing for this class. Please review the Honor Code and consult with me if you have any questions.

Deadlines: Deadlines are an intrinsic component of the practice of law and will be strictly adhered to in this class. Give yourself sufficient time to prepare your assignment to ensure that you will not be late. Should you miss a deadline, you should directly contact me and explain the circumstances. I will decide whether the reasons provided justify accepting the late submission, and the appropriate penalty. Just as in court, extensions may be granted. However, I will only permit such extensions if there is an unforeseeable emergency or compelling circumstance (such as a serious illness, accident, or death in the family), and if I am notified immediately by email or voicemail. Please note that computer problems are typically not unforeseeable.
If you have a general question about the class or an assignment, it is likely someone else in the class has the same question.

Before you email me or a TA with a general question, first confer with co-counsel (a classmate) and check the “Frequently Asked Questions” forum on Lexis Classroom to see if your question has already been answered.

If your co-counsel doesn’t know the answer and your question is not on the forum, please contact me or a TA. Let us know in your email that you completed the steps listed above first.

If your question has general applicability, the question and answer will be posted (anonymously) on the forum.

Before you Submit that Assignment . . .

Unless the assignment instructions state otherwise, papers submitted in this class must comply with the Local Rules established by the United States District Court for the District of Idaho. Specifically, they “must be in 8½ x 11 inch format” and “double-spaced, except for quoted material and footnotes. Each page must be numbered consecutively. The top, bottom, and side margins must be at least one inch, and the font or typeface for all text, including footnotes, must be at least 12 point.”

Additionally, most of our assignments will be submitted electronically. Please follow the redaction instructions posted on the course Lexis Classroom page to ensure the anonymity of your paper.

What do I do with Feedback?

Feedback is a critical component of this course, and you will have many opportunities throughout the year to receive both written and verbal feedback on your writing. For example, you will meet with a TA or me to discuss all of your ungraded fall assignments, and will also receive feedback as you work on the open research memo and the other graded assignments in this course. This feedback is intended to help you improve your skills, and is always presented constructively and respectfully.

Learning how to deal with feedback on your work is a crucial part of learning how to be a lawyer. Remember: the feedback is not a personal judgment about you; it is an effort to improve the work. Some great advice for dealing with feedback is available on the course Lexis Classroom page.

Just as my feedback is important for your learning, your feedback is important for my teaching. I will distribute index cards in class that you may use to provide anonymous (or not) feedback. Please let me know if anything we covered in class is not clear, or if you have a question about the assignments. And if you particularly enjoyed a video clip or an activity we did in class, please let me know that too. I ask only that your feedback to me is as constructive and respectful as mine is to you.

What’s a Draft?

You may be accustomed to thinking of a “draft” as a first effort at writing something. However, in legal writing, a “draft” represents the best work you can produce at a given time. So when a draft of a document is assigned in law school, what is being requested is not an outline, or a random collection of thoughts, but an organized, thoughtful document that communicates your legal analysis clearly and concisely. Any draft that you turn in, therefore, will not necessarily be the first thing that you put down on paper. You should turn in your best work, on time, every time.

Technology

Laptops are great. However, science tells us that using laptops to take notes may not be the most effective way to learn. See, e.g., Mueller & Oppenheimer, *The Pen is Mightier than the Keyboard*.

Because I want you to be the most effective learners you can be, we will have tech-free-time during certain periods of the class, so make sure you bring a low-tech method of taking notes as well.

Also, please note that I will communicate with the class via email. Email is a huge component of legal practice today, and it is crucial that you develop the habit of frequently checking your email now.

Frequently asked Questions

If you have a general question about the class or an assignment, it is likely someone else in the class has the same question.

Before you email me or a TA with a general question, first confer with co-counsel (a classmate) and check the “Frequently Asked Questions” forum on Lexis Classroom to see if your question has already been answered.

If your co-counsel doesn’t know the answer and your question is not on the forum, please contact me or a TA. Let us know in your email that you completed the steps listed above first.

If your question has general applicability, the question and answer will be posted (anonymously) on the forum.
University of Idaho and College of Law Policies and Procedures

Civility: In any environment in which people gather to learn, it is essential that all members feel as free and safe as possible in their participation. To this end, it is expected that everyone in this course will be treated with mutual respect and civility, with an understanding that all of us (students, instructors, professors, guests, and teaching assistants) will be respectful and civil to one another in discussion, in action, in teaching, and in learning. Should you feel our classroom interactions do not reflect an environment of civility and respect, you are encouraged to meet with your instructor during office hours to discuss your concern. Additional resources for expression of concern or requesting support include the College of Law Dean of Students (jdodge@uidaho.edu), the University Dean of Students office and staff (885-6757), the UI Counseling & Testing Center’s confidential services (885-6716), or the UI Office of Civil Rights & Investigations (885-4285).

Credit Hours for Coursework: In accordance with ABA Standard 310, the College of Law awards one credit hour for experiences that are reasonably designed to involve 50 minutes of classroom or direct faculty instruction and two hours of out-of-class student work per week, or at least the equivalent amount of work for academic activities including simulation, field placement, clinical, and other academic work leading to the award of credit hours. The Course requirements outlined above with respect to materials and assignments, in my professional judgement, are complex enough in nature that it is expected that the amount of out-of-class time it will take students to complete the assignments will meet the rule.

Recording Class Sessions: Students may not electronically record classes unless they have the express consent of the instructor, except where the Dean of Students has allowed recording as a disability accommodation pursuant to a recommendation by CDAR. Recording classes without the instructor’s express consent violates the Honor Code. Students recording classes as a disability accommodation must follow procedures set down by CDAR. Students who are unable to attend class for reasons of illness or other exigencies must receive permission from the instructor before classes are recorded on their behalf. Contact the Law Library for recording equipment and information on recording procedures.

Center for Disability Access and Resources (CDAR) Reasonable Accommodations Statement: Reasonable accommodations are available for students who have documented temporary or permanent disabilities. Ideally, students in Moscow and Boise should meet with CDAR by the end of the first week of class to assess if any accommodations are needed for courses and/or examinations. All accommodation requests are then submitted by CDAR to Dean Dodge for final approval. CDAR serves as the sole evaluator of medical documentation and determines reasonable accommodations on a per semester basis. The College of Law does not have the authority to evaluate or grant disability accommodations without CDAR first submitting a recommendation. You may contact CDAR by:

- Calling 208-885-6307
- Emailing cdar@uidaho.edu

It is ultimately the student’s responsibility to seek a disability accommodation, and until an accommodation is approved by CDAR and Dean Dodge, no student will be entitled to receive any accommodations. To learn more about CDAR, visit its website at http://www.uidaho.edu/current-students/cdar. Moscow students may also visit CDAR in suite 127 of the Pitman Center. Please review the College of Law Catalog and Student Handbook for more information on the disability accommodation process.