

LAW 564
Persuasive Advocacy

Syllabus

Class Meetings

Class will meet Mondays at 5:00-6:50 p.m in Room 207 of the Von KleinSmid Center (VKC).

Course Description

This course will present the fundamentals of persuasive legal advocacy, focusing on oral advocacy in litigation and negotiation. Students will learn primarily through observation and practice of the various techniques discussed in lectures and readings.

Instructor Information

Instructor: Adam Sieff
Senior Litigation Associate, Latham & Watkins LLP
Lecturer in Law, USC Gould School of Law

Contact: asieff@law.usc.edu

Office Hours: By appointment.

Required Texts

- J. Alexander Tanford, *The Trial Process: Law, Tactics, and Ethics*, 4th Edition (“Trial Process”)
- Scalia & Garner, *Making Your Case: The Art of Persuading Judges* (“S&G”)
- Fontham & Vitiello, *Persuasive Written and Oral Advocacy: In Trial and Appellate Courts*, Third Edition (“F&V”).
- Handouts also will be posted on Blackboard and distributed in class.

Class Format

Classes will involve brief lectures/presentations followed by practiced student advocacy and constructive criticism. Some lectures and demonstrations will be given by the instructor.

Course Grade

The course will be graded as follows:

- Participation in class discussions – 20%

- In class presentations and simulations – 80%
 - There will be 6 presentations
 - Oral Argument Moot Court Exercise
 - Opening Statement
 - Direct Exam
 - Cross Exam
 - Closing Argument
 - Simulated Negotiation

NB: Attendance is mandatory. A student's grade will be discounted for every unexcused class that he or she misses. Three unexcused absences will fail a student from the course.

Course Learning Objectives

1. To prepare students to structure and deliver persuasive oral arguments and presentations, including rebuttal arguments and witness examinations, to a judge, jury, arbitrator, mediator, or other third-party neutral.
2. To prepare students to advocate effectively in bilateral or multiparty negotiations, transactions, and other non-adversarial contexts.

Required Statement on Academic Conduct and Support Systems

Academic Conduct

Plagiarism – presenting someone else's ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Section 11, Behavior Violating University Standards <https://scampus.usc.edu/1100-behavior-violating-university-standards-and-appropriate-sanctions>. Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct>.

Discrimination, sexual assault, and harassment are not tolerated by the university. You are encouraged to report any incidents to the Office of Equity and Diversity <http://equity.usc.edu> or to the Department of Public Safety <http://adminopsnet.usc.edu/department/department-public-safety>. This is important for the safety of the whole USC community. Another member of the university community – such as a friend, classmate, advisor, or faculty member – can help initiate the report, or can initiate the report on behalf of another person. The Center for Women and Men <http://www.usc.edu/student-affairs/cwm/> provides 24/7 confidential support, and the sexual assault resource center webpage <http://sarc.usc.edu> describes reporting options and other resources.

Support Systems

A number of USC's schools provide support for students who need help with scholarly writing. Check with your advisor or program staff to find out more. Students whose primary language is not English should check with the American Language Institute <http://dornsife.usc.edu/ali>, which sponsors courses and workshops specifically for international graduate students. The Office of Disability Services and Programs http://sait.usc.edu/academicsupport/centerprograms/dsp/home_index.html provides certification for students with disabilities and helps arrange the relevant accommodations. If an officially declared emergency makes travel to campus infeasible, USC Emergency Information

<http://emergency.usc.edu> will provide safety and other updates, including ways in which instruction will be continued by means of blackboard, teleconferencing, and other technology.

Class Schedule & Assignments (Subject to Change)

Week One, January 7

Course Overview; Introduction to Rhetoric and Legal Advocacy <ul style="list-style-type: none">• Introductions• Idea of Advocacy• Canons of Rhetoric• Rhetorical Devices	<u>Required Materials</u> <ul style="list-style-type: none">• Trial Process, §§ 1.06-1.07(B)• Krista C. McCormack, <i>Ethos, Pathos, and Logos: The Benefits of Aristotelian Rhetoric in the Courtroom</i>, 7 Wash. U. Jur. Rev. 131 (2014) (on Blackboard)
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Week Two, January 14 (Martin Luther King Day - No Class/Reading Only)

Introduction to Rhetoric, ctd. <ul style="list-style-type: none">• Examples of Rhetoric	<u>Required Materials</u> <ul style="list-style-type: none">• Watch: Martin Luther King, Address at the March on Washington, Aug. 28, 1963 (https://youtu.be/smEqnnkIfYs?t=55s)• Watch: Barack Obama, New Hampshire Primary Concession Speech, Jan. 8, 2008 (https://www.youtube.com/watch?v=Fe751kMBwms)
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Week Three, January 21

Preparing Oral Argument <ul style="list-style-type: none">• The purpose of oral argument• The format of oral argument• Structuring an oral argument• Preparation for colloquy and rebuttal	<u>Required Materials</u> <ul style="list-style-type: none">• F&V, §§ 6.1-6.20 (pp. 166-188)• S&G, Chapters 55-71 (pp. 137-160)• Briefing from <i>Stockman v. Trump</i> (C.D. Cal., Pet. for Cert. Before J. filed Nov. 24, 2018) (transgender military ban case) (will be posted on course page) <u>Assignment</u> <ul style="list-style-type: none">• Prepare a short outline (1-2 pages) of an oral argument for the Supreme Court supporting or opposing the transgender military ban.
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Week Four, January 28

Delivering Oral Argument <ul style="list-style-type: none">• Method of Delivery• Delivery styles (notecards / extemporaneous / memorization)• Body language & gestures	<u>Required Materials</u> <ul style="list-style-type: none">• S&G, Chapters 72-111 (pp. 161-201)• Oral Argument in <i>Karnoski v. Trump</i> (9th Cir. 2018) (transgender military ban case) (available here) (through 47 min 30 sec) <u>Optional Materials:</u> <ul style="list-style-type: none">• F&V, §§ 7.1-7.21 (pp. 196-224)
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	<p><u>Assignment</u></p> <ul style="list-style-type: none"> • Prepare to deliver a 1 minute introduction to your argument <u>without</u> notes.
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Week Five, February 4

<p>Delivering Oral Argument, Ctd.</p> <ul style="list-style-type: none"> • Moot Court Simulation Exercise 	<p><u>Group Assignment</u></p> <ul style="list-style-type: none"> • Moot Court Simulation Exercise <ul style="list-style-type: none"> ○ Students will argue 5 minutes per side to a moot Supreme Court panel. ○ The panel will consist of the instructor and the remaining students in the class.
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Week Six, February 11

<p>Preparing Opening Statements</p> <ul style="list-style-type: none"> • Purpose of an opening statement • Structuring an opening statement • Tone and delivery • Examples (videos) 	<p><u>Required Materials</u></p> <ul style="list-style-type: none"> • Trial Process, §§ 4.01-4.02, 4.05-4.06(C) (pp. 147-150, 162-179)
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Week Seven, NO CLASS PRESIDENTS DAY

Week Eight, February 25

<p>Delivering Opening Statements</p>	<p><u>Assignments</u></p> <ul style="list-style-type: none"> • Opening Statement presentations: <p>Research any case—current, historical, fictional—and present a 4-5 minute opening statement for one side. Powerpoint or other visual aids encouraged.</p>
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Week Nine, March 4

<p>Direct & Cross Examination Preparation¹</p> <ul style="list-style-type: none"> • Function at trial • Using questions persuasively • Tone and inflection; body language 	<p><u>Prep Materials</u></p> <ul style="list-style-type: none"> • Trial Process, skim §§ 6.01-6.02, 6.05 (pp. 203-212, 246-258)
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¹ Or overflow Opening Statements

	<ul style="list-style-type: none"> • Watch: Mock Direct Exam (https://www.youtube.com/watch?v=bBpylztGz3I) • Watch: Cross Exam from <i>People v. O.J. Simpson</i> (https://youtu.be/U_A4xDj6DO8) • Case File from <i>Regency v. Love</i>
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Week Ten, NO CLASS SPRING BREAK

Week Eleven, March 18

Direct & Cross Examination Presentations ²	<u>Assignment:</u> <ul style="list-style-type: none"> ▪ Direct & Cross Examination Simulation
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Week Twelve, March 25

Closing Statements and Delivery <ul style="list-style-type: none"> • Function and structure • Methods of Delivery • Presentations 	<u>Prep Materials</u> <ul style="list-style-type: none"> • Trial Process, §§ 9.01-9.02, 9.05-9.06 (pp. 379-386, 414-435) • Watch: Closing Argument, <i>To Kill A Mockingbird</i> (https://www.youtube.com/watch?v=HOocTXKPVVU) <u>Assignments:</u> <ul style="list-style-type: none"> • Prepare to deliver opening 1 minute of closing statement in class
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Week Thirteen, April 1

Closing Statements Delivery <ul style="list-style-type: none"> • Closing Statements Exercise 	<u>Assignments</u> <ul style="list-style-type: none"> • Prepare to deliver 5 minute closing argument
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Week Fourteen, April 8

Negotiation Skills	<u>Prep materials</u> <ul style="list-style-type: none"> • TBD
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Week Fifteen, April 15

Negotiation Skills, Ctd.	<u>Prep Materials</u> <ul style="list-style-type: none"> ▪ TBD
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² Or overflow Opening Statements

Week Sixteen, April 22

Negotiation Exercise	Instructions to follow
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