

UNIVERSITY OF WASHINGTON SCHOOL OF LAW  
PERSUASIVE WRITING  
LAW E 508  
COURSE SYLLABUS  
WINTER 2021

Mondays and Wednesdays, 1:30pm to 3:00pm  
Jeffrey M. Feldman, Professor from Practice  
Office Hours: By Appointment  
Assistant: Curtis Terry

### COURSE DESCRIPTION AND OBJECTIVES

The objective of this course is to strengthen your written legal advocacy. In pursuit of that goal, we also will tackle a number of related objectives, including:

- Thinking more rigorously about developing a thoughtful approach to an argument, and about how to persuade a decision-maker
- Crafting facts into persuasive narratives
- Using images and other visual aids to persuade
- The persuasive use of case law and other legal authorities
- Becoming an effective editor, of your own work and that of others
- Mastering the skills and habits of a professional and effective legal writer

Beginning with Aristotle's familiar focus on pathos, logos and ethos, we will practice developing arguments for a

legal audience. At the end of the course you will submit a brief that should approach the effectiveness, professionalism, sophistication, and persuasiveness of a brief written by a practitioner. That should be your objective. The course qualifies to fulfill the law school's advance writing requirement.

### TEXTBOOK AND COURSE MATERIALS

This class has three required books, all of which will be available in the UW Bookstore and through online vendors:

• Noah Messing, *The Art of Advocacy* (Wolters Kluwer 2013), ISBN 978—1-4548-1838-0  
The Art of Advocacy provides the main structure for the course. It breaks down legal writing into its component parts, and provides examples from actual briefs and motions of what makes for persuasive writing. You may find that you sometimes agree and sometimes disagree with the author's assessments. We will review, discuss and analyze the examples in class. So, be prepared to explain where you agree or disagree, and why.

• William Strunk, Jr. and E.B. White, *The Elements of Style* (Pearson 2020), ISBN 978-0205309023

The Elements of Style may be the best exposition of good writing ever written. It certainly is the shortest. If you learn the rules set out in the book, your writing will be technically correct, which is essential to making it persuasive. The Course Schedule below assigns a few pages of The Elements of Style for each class. We will spend the first five minutes of each class reviewing that material, and you should be ready to demonstrate your mastery of the writing rules covered. This is not the most scintillating portion of the course – and it's the kind of guidance that more typically is taught in earlier stages of education. The course covers it because (1) some of us were not blessed with spectacular writing teachers in college or high school; and (2) the rest of us were not paying close enough attention, and did not firmly absorb these rules into our writing skills. Trust me: The small amount of time we will spend on this material will be extremely worthwhile. If, at the end of the quarter, you disagree, I will refund the \$5.10 Amazon charges for this book (\$2.99 on Kindle).

• Miller, Vitiello & Fontham, *Practicing Persuasive Written and Oral Advocacy, Case File I* (Aspen 2002), ISBN 0-7355-2452-1

This book contains a case file that provides the raw material that will be used for the final project

in the course, which involves drafting a brief in support of a motion to dismiss for lack of personal jurisdiction and lack of proper service of process.

#### COURSE CANVAS WEBSITE

The following resources and materials will be posted and available on the course Canvas website:

##### Syllabus

A link to the Course Syllabus appears at the top of the home page of the Course Canvas Website. The Syllabus is updated as adjustments are made throughout the quarter, and you can determine whether you have the most recent version of the Syllabus by referring to the date in the file name.

#### Reading and Writing Assignment Schedules

The reading assignment for each class, along with links to supplementary materials, and the writing assignment schedule are included in the Course Schedule below.

##### PowerPoint Slides

PowerPoint slides that are used in class will be posted online shortly after each class in the FILES section of the course Canvas website.

#### OFFICE HOURS AND QUESTIONS

I always am happy to discuss any issues or questions you may have. I have set aside three blocks of time each week for office hours:

- Mondays from 10:00am to 11:30am
- Wednesdays from 10:00am to 11:30am
- Fridays from 1:30pm to 3:00pm

A schedule for conferences will be set up in the CALENDAR section of the course Canvas website and you can sign up for conferences there. I also am happy to schedule conferences during the evenings or on the weekends to accommodate students for whom the regularly scheduled times are inconvenient.

It also is fine to email me questions about class readings and discussions. I often find that if one person has a question, other students also often have it, and it can be helpful to share the question and the answer with the class. I also understand that sometimes people would prefer that their questions be treated privately and not circulated. If you email me a question and indicate that you would prefer that your question not be shared with others, I will honor that request. Absent such a request, I may circulate the question and answer if it addresses an issue that I think will be of general interest to the class.

In addition to discussing course related matters, I am happy to meet with students to talk about other issues including judicial clerkships, externships, course selection choices, and life and opportunities at law firms, in the public sector, or at public interest organizations.

#### COURSE REQUIREMENTS

This course includes regular writing assignments. The only way to learn how to write well and persuasively is to practice and then master writing skills. Some writing will be done in class, so please have either a laptop or a pad and pen available for use in every class. Please also have the Messing textbook, *The Art of Advocacy*, available, as we will refer to in every class.

##### Class Attendance

This course meets twice a week. Attendance at every class is required. Much of the class will feel like a seminar,

in which we will discuss legal problems and persuasive writing issues, and review samples and work product. That format only works if you are present. Students who attend fewer than 80% of the scheduled classes will not receive course credit.

You must attend our first class on Monday, January 7 if you want to enroll (or continue to stay enrolled) in the

course. This requirement applies to enrolled students and students on the waitlist. If you would like to enroll in the course and you have “good cause” to miss the first class, please email me in advance.

### Class Participation

Be engaged. It’s required. This course is a practice-focused discussion seminar, albeit one with a lot of writing exercises and a final writing project requirement. The course depends heavily on your class participation and engagement. When reading for this class, please do NOT read the sample briefs and excerpts with a focus on understanding the substantive law—as you might do for a doctrinal-focused class. Instead, read the samples with the critical eye of a judge, a co-counsel, or an opposing counsel. Prepare to discuss the strategic choices made by the author. And think about what choices were effective, as well as the choices you might view less favorably. Be unflinching. I do not agree with everything the course textbook says, and I doubt that you will either.

### Complete All Writing Exercises

The course has a heavy writing component. In addition to the Final Writing Project (see below), eight writing exercises are a critical part of the course. They serve two purposes: First, they are the “drills” that add to your toolbox of experience and skill. Second, they form the basis for in-class discussions. If you have not completed the exercises, then you cannot fully participate in the discussions. These exercises are not graded. But you must timely complete all eight exercises to receive credit for the course.

### Policy on Timely Submissions

Writing submissions must be submitted timely. There are three reasons for this. First, I try and provide meaningful feedback on writing submissions. Given my other teaching obligations, it is not possible for me to do that if submissions are not submitted on time. Second, deadlines are an unavoidable feature of legal practice. It is not enough to write well. You need to be able to write well within the amount of time allotted. Courts and clients can be unforgiving of late submissions, and an untimely submission can have disastrous consequences for both the tardy lawyer and the vulnerable client. I do you no favors by insulating you from the realities of this feature of legal writing and practice. Third, and finally, it is unfair for some students to receive more time than others to complete assignments.

Unless excused by illness or emergency, or by prior arrangement well in advance of the due date for an extension

of time for good cause, submissions that are less than 24 hours late will receive 65% credit. Submissions that are more than 24 hours, but less than 48 hours late will receive 35% credit. Submissions that are more than 48 hours late will receive no credit.

### Final Writing Project

As indicated below, the grade for this course is substantially based on your work on the Final Writing Project. The project requires that you research and draft a Memorandum in Support of Motion to Quash Service of Process and to Dismiss in connection with the case of Coburn v. Martinez. The case file materials (e.g., pleadings, affidavits) for the final Writing Project are contained in Practicing Persuasive Written and Oral Advocacy, Case File I.

You will want to start reviewing and becoming familiar with the case file early in the quarter for two reasons. First, the case file contains a good deal of information and putting it aside and leaving it until the end of the quarter would be a mistake. Second, familiarity with the case file materials will enable you to connect some of the topics and tasks we will cover during the quarter (e.g., drafting statements of fact, composing argument headings) to what will be required for the Final Writing Project, and it will make tackling the Final Writing Project easier. Additional information about the Final Writing Project is provided in a Supplement attached at the end of this syllabus.

In the course of completing the project you will generate three drafts. All drafts are required. The first and the final drafts will be submitted and graded. The second draft will be reviewed in a Peer Review session scheduled

for Class 17 on Monday, March 8.

### Periodic Meetings

ABA standards require that students meet with the course instructor and review writing submissions in order for the course to satisfy the requirements for the advanced writing credit. Each student should schedule at least two meetings with me during the quarter. One of those meetings should follow submission of the First Draft of the Final Writing Assignment on February 28. The other meeting should be scheduled during the quarter either after submission of the Draft Statement of Facts on February 12 or after submission of the Draft Argument on February 16, or after submission of any of the other writing assignments. Of course, I am available to meet with you at other and additional times as may be helpful.

## GENERAL COURSE MATTERS

### Zoom Protocols

For classes that are convened on Zoom, please:

- Reboot Computer. Reboot your computer before each online class. It will clear out programs operating in background and help ensure that you have a good video and audio connection.
- Zoom Sign-In. I will send a Zoom invitation with the sign-in information. We will use the same Zoom link for all classes. If you click on the iCalendar file link, it should insert the invitation and sign-in information in your calendar for each class for the entire quarter.
- Log in a few minutes early: Give yourself time to resolve any technical issues, retrieve a needed book or notebook, and the like. Class begins promptly at 1:30pm.
- Use Video: Please keep your video camera on so we can see one another. This is for the benefit of both of us. For me, the feedback I get from being able to see and engage you is important and helps me assess whether we need to stay on an issue or move on. For you, if you turn off your video, you will find yourself disconnecting from the class discussion and sinking into passivity.
- Keep your microphone muted when not talking: Zoom can only carry the audio feed from one participant at a time. If your microphone is active, Zoom will default to you every time you shuffle a paper or make any noise.
- You can change your background: If you don't want to display your room, you can use a photo as a virtual background. Try and pick something appropriate.
- Give me feedback: I will adjust my Zoom classroom management techniques once we have met for a week or two. I welcome your constructive criticism.

### Computer and Internet Use During Class

Class discussion is the principal method by which we will identify and analyze the legal issues that the course covers. Computer use (beyond being logged onto Zoom) in class is not prohibited, but limited use in class is preferred and recommended because computers tend to inhibit active listening, thinking, analyzing, and participation. We talk a lot in law school about teaching students how to “think like lawyers.” It is difficult to think

critically and type on a keyboard at the same time. The PowerPoint slides posted on the course website after each class will capture the main points from each class that are worth noting.

### Podcasts

Classes will be podcast. If you miss a class, it will be worth reviewing the podcast. But the podcasts tend to be a poor substitute for class attendance, and that especially is true for this course. The recording obviously does not allow you to participate in the discussion and address questions you may have, and sometimes the recording system lets us down and misses a class entirely.

### Access and Accommodations

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 011 Mary Gates Hall or 206-543-8924 or uwdrs@uw.edu or disability.uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

### HONOR CODE

Section 2-204 of the law school's honor code sets out rules for collaboration on assignments.

Because producing a persuasive written work product requires careful sentence-level writing and attention to style, students in this course should not allow anyone else to proofread, edit, or make stylistic recommendations to your work. The lone exception: edits provided as part of a class-sanctioned peer-review exercise.

Remember that legal writing encourages the use of ideas and language borrowed from other sources. In the law, legal arguments, methods of structuring a memo, sources of law found during research, or other ideas are generally open to anyone. But you must attribute these ideas and arguments with a proper citation. If you quote language from an authority, you must put quotation marks around that language along with the citation.

Remember this foundational rule: All words must be your own. If you have any questions about plagiarism and attribution, please play it safe and ask me.

### GRADING

The Class Schedule below indicates what is required for each assignment, and how it is to be submitted. In most instances, submission will be made online, via Canvas. ALL assignments and exercises, whether graded or not, must be completed to receive credit for this course.

Your final grade in the course will consist of:

Class participation 15%

Final Writing Project

First Draft: 25%

Final Draft: 60%

This course is not bound by the mandatory curve. But "A" grades will be reserved for those who demonstrate a high level of professionalism and skill. In keeping with past practices of other professors who have taught this course, low grades will be given for low-quality work.

### IMPORTANT DATES

#### DATE TIME EVENT

January 4 First Day of Class

January 9 Noon Writing Exercise 1 Due

January 13 Noon Writing Exercise 2 Due

January 17 Noon Writing Exercise 3 Due

January 18 MLK Day – No Class

January 23 5:00pm Writing Exercise 4 Due

January 25 Noon Writing Exercise 5 Due

January 27th Noon Writing Exercise 6 Due (assignment will be done in class)

February 3 Noon Writing Exercise 7 Due

February 6 5:00pm Writing Assignment 8 Due  
February 12 5:00pm Draft Statement of Facts Due  
February 15 Presidents' Day – No Class  
February 16 Noon Draft Outline of Argument Due  
February 26 5:00pm First Draft of Brief Due  
March 6 5:00pm 2nd Draft of Brief Due to Writing Partner  
March 9 Noon Peer Review Worksheet Due  
March 12 5:00pm Final Project Due

CLASS AND ASSIGNMENT SCHEDULE  
CLASS DATE TOPIC ASSIGNMENT  
WEEK 1 INTRODUCTION – STATING THE FACTS

1 Monday

Jan 4

Introduction and

Conceptualizing Arguments

FOR EACH CLASS, please be prepared to discuss the examples in the text, indicating where you agree or disagree with the author's comments.

Messing:

pp. xix-xxii (Introduction)

Chapter 1 (Facts: The Basics)

Strunk & White:

pp. xiii-xvii (Introduction)

Review course syllabus thoroughly

2 Wednesday

Jan 6

Framing the Facts

Please be prepared to discuss what you liked and disliked about the Statements of Fact in the summary judgment briefing in Baker v. Spokane County posted on Canvas.

Messing:

Chapter 2 (Facts: Procedural History)

Chapter 3 (Facts: Advanced

Techniques)

Strunk & White:

pp. 1-7 (Rules of Usage 1-6)

ALSO POSTED ON CANVAS

Excerpts from Plaintiff's and

Defendant's Summary Judgment

Memoranda in Baker v. Spokane Cty

Guidelines: Writing Facts Persuasively

Saturday

Jan 9

Writing Assignment 1

Statements of Facts

DUE: SAT JAN 9 at NOON

Please submit on CANVAS

WEEK 2 ORGANIZATION OF ARGUMENTS AND INTRODUCTIONS

3 Monday

Jan 11

Organizing Arguments and  
Headings

Messing:

Chapter 11 (Selecting and  
Organizing Arguments)

Strunk & White:

pp. 7-14 (Rules of Usage 7-11)

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CLASS DATE TOPIC ASSIGNMENT

Writing Assignment 2

Argument Headings

When you review the Motion for Summary  
Judgment in AFCA v. Treadwell posted on  
Canvas, please:

1. Draft argument headings and sub-headings  
as you think appropriate;
2. Put your name at the top of the page;
3. Submit on CANVAS and bring a copy to  
Class 4. Please submit just the pages with  
the headings that you draft, NOT a copy of  
the full brief.

DUE: WED JAN 13 at NOON

Please submit on CANVAS and also  
bring a COPY TO CLASS 4.

4 Wednesday

Jan 13

Introductions and Summaries Messing:

Chapter 13 (Introductions and  
Summaries of Arguments)

Strunk & White:

pp. 15-20 (Rules of Usage 12-15)

ALSO POSTED ON CANVAS

Petitioner's and Respondent's

Introductions Bush v. Gore

WEEK 3 THE BIG PICTURE AND PERSUASIVE RULES

Sunday

Jan 17

Writing Assignment 3

Introductions and Summaries

DUE: SUN JAN 17 at NOON

Please submit on CANVAS

Monday

Jan 18

Martin Luther King, Jr. Day

No Class

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CLASS DATE TOPIC ASSIGNMENT

5 Wednesday

Jan 20

Moving from Conceptualizing to  
Writing an Argument

Messing:

Chapter 4 (How to Build Arguments)

Strunk & White:

pp. 21-28 (Rules of Usage 16-19)

ALSO POSTED ON CANVAS

Writing Exercise - Parentheticals

Saturday

Jan 23

Writing Assignment 4

Drafting Legal Arguments

DUE: SAT JAN 23 at 5:00PM

Please submit on CANVAS

WEEK 4 TYPES OF ARGUMENTS

6 Monday

Jan 25

Writing Assignment 5

Drafting Factual Arguments

DUE: MON JAN 25 at NOON

Please Submit on CANVAS and also  
bring a HARD COPY TO CLASS 6

Applying Facts in Arguments Messing:

Chapter 6 (Using Facts in  
Arguments)

Strunk & White:

pp. 28-33 (Rules of Usage 20-22)

7 Wednesday

Jan 27

Arguments Based on Statutes

Writing Assignment 6 will be done in  
class. Please review the handout posted  
on Canvas BEFORE class.

Messing:

Chapter 7 (Statutory Text)

Chapter 8 (Legislative History)

Strunk & White:

pp. 34-38 (Part III: Matters of Form)

POSTED ON CANVAS

Handout for Writing Assignment.

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CLASS DATE TOPIC ASSIGNMENT

WEEK 5 POLICY, SENTENCE AND PARAGRAPH STRUCTURE  
AND FINAL ASSIGNMENT

8 Monday

Feb 1

Arguments Based on Policy Messing:

Chapter 9 (Policy Arguments)

Strunk & White:

pp. 39-47 (Part IV: Misused Words and Expressions)

9 Wednesday

Feb 3

Writing Assignment 7

Drafting Policy Arguments

DUE: WED FEB 3 at 12:00PM

Please Submit on CANVAS and also

bring a HARD COPY to CLASS 9

Responsive Arguments

Writing Assignment #7- Drafting Policy

Arguments Discussion

Messing:

Chapter 5 (Countering Arguments)

Strunk & White:

pp. 48-56 (Part IV: Misused Words and Expressions)

Saturday

Feb 6

Writing Assignment 8

Responsive Arguments

DUE: SAT FEB 6 at 5:00PM

Please submit on CANVAS

WEEK 6 FINAL ASSIGNMENT – DEVELOPING THE BRIEF

10 Monday

Feb 8

Ethics and Persuasive Writing POSTED ON CANVAS

State v. Thomas

Mitchel v. General Electric Co.

RPC 1.1 (Competence), 3.1

(Meritorious Claims and Contentions),

and 3.3 Candor Toward the Tribunal

Strunk & White:

pp. 57-65 (Part IV: Misused Words and Expressions)

Please review the two cases and the

RPC provisions, and be prepared to

apply them to hypotheticals that we will

discuss in class

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CLASS DATE TOPIC ASSIGNMENT

11 Wednesday

Feb 10

Motions Messing:

Chapter 14 (Motions)

Strunk & White:

pp. 66-72 (Approach to Style: Rules 1-6)

Friday

Feb 12

Submit Draft Statement of Facts for  
Final Writing Project

DUE: FRI FEB 12 at 5:00PM

Please submit on CANVAS

WEEK 7 FINAL ASSIGNMENT CONTINUED

Monday

Feb 15

President's Day

No Class

Tuesday

Feb 16

Submit Draft Outline of Argument for  
Final Writing Project

DUE: TUE FEB 16 at NOON

Please submit on CANVAS

12 Wednesday

Feb 17

The View from the Bench

Washington Court of Appeals

Judge John Chun

Please bring to class three questions  
about persuasive writing to discuss with  
Judge Chun

Please select a Writing Partner – You will  
exchange drafts of your Final Project  
with you partner for the Peer Review  
Session scheduled for Class 17

WEEK 8 FIRST DRAFT AND FINE-TUNING

13 Monday

Feb 22

No Class

Individual conferences will be scheduled  
to review your Draft Statement of Fact  
and Outline of Argument

Please sign up for a conference on  
Monday Feb 22 or Tuesday Feb 23

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CLASS DATE TOPIC ASSIGNMENT

14 Wednesday

Feb 24

Good Writing, Sharp Editing, Fearless  
Revising

Messing:

Chapter 16 (The Writing Side of Legal

Writing) and

App'x B (Topic Sentences)

Strunk & White:

pp. 73-80 (Approach to Style: Rules 7-18)

Friday

Feb 26

First Draft of Final Writing Project Due

A "First Draft" does not mean your first rambling thoughts, with holes in the analysis and blanks where citations should be. Write the best draft you can. Imagine you are submitting it to a reviewing partner or supervising attorney. Assume it will be revised before it is filed in court, but if it needs to be filed immediately, you'll be OK with your name on it. The more you put into the first draft, the more you will get from the feedback you receive and the better the final brief will be.

DUE: FRI FEB 26 at 5:00PM

Please submit on CANVAS

WEEK 9 CONFERENCES

15 Monday

March 1

No Class

Individual conferences will be scheduled instead to review your First Draft of the Final Writing Project

Please sign up for a conference on Monday Mar 1, Tuesday Mar 2 or Wednesday Mar 3.

16 Wednesday

Mar 3

No Class

Individual conferences will be scheduled instead

Please sign up for a conference on Monday Mar 1, Tuesday Mar 2 or Wednesday Mar 3.

WEEK 10 PEER REVIEW AND REVISION

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CLASS DATE TOPIC ASSIGNMENT

Saturday

Mar 6

Second Draft of Final Writing Project Due

Please submit your second draft directly to your writing partner. Please review the draft you receive from your writing partner and be prepared to discuss your comments and criticisms with him/her in class.

DUE: SAT MAR 6 at 5:00PM

Please send a copy directly to your writing partner, and also bring a HARD COPY to CLASS 17

17 Monday

March 8

Peer Review

Review Draft 2 of Final Writing Project

Bring HARD COPIES to CLASS 17 of (1)

your second draft, and (2) the Peer

Review Worksheet that you complete

evaluating your writing partner's draft.

Strunk & White:

pp. 81-85 (Approach to Style: Rules 19-21)

Tuesday

Mar 9

Submit Peer-Review Worksheet DUE: TUE MAR 9 at NOON

Please submit on CANVAS

18 Wednesday

Mar 10

No Class

Finish Editing Final Writing Project

FINAL ASSIGNMENT

Friday

Mar 12

Final Writing Project Due DUE: FRI MAR 12 at 5:00PM

Please submit on CANVAS

REV 12.17.20

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UNIVERSITY OF WASHINGTON SCHOOL OF LAW

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SUPPLEMENT TO COURSE SYLLABUS

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### FINAL WRITING PROJECT

The Final Writing Project for the course asks that you draft a Memorandum in Support of Motion to Quash Service of Process and to Dismiss in the case of Coburn v. Martinez. The case file for Coburn v. Martinez is contained in Practicing Persuasive Written and Oral Advocacy, the second book that is required for the course.

As suggested in the course syllabus, you should start reviewing and becoming familiar with the case file early in the quarter for two reasons. First, the case file contains a good deal of information and putting it aside and leaving it until the end of the quarter to review would be a mistake. Second, familiarity with the case file materials will enable you to more easily apply some of the topics that we will cover during the quarter (e.g., drafting statements of fact, composing argument headings) to the Final Writing Assignment and will make tackling the project easier. You are required to submit both a First Draft of the Final Writing Project (which is graded and comprises 25% of your final grade) and the Final Writing Project at the end of the quarter (which comprises 60% of your final grade). In addition, two of the writing assignments during the quarter

are designed as preliminary steps in drafting the Final Writing Project and will require knowledge of the Coburn v. Martinez case file. The four assignments that draw from the Coburn v. Martinez case file are:

Draft Statement of Facts Due February 12

Draft Outline of Arguments Due February 16

First Draft of Final Writing Project Due February 26

Second Draft of Final Writing Project Due March 6

Final Writing Project Due March 12

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Nature of the Case

Mary Jo Coburn, currently a resident of Tennessee, was a rookie police officer in Dewey City, New York, when she was involved in a fatal shooting. After the shooting she pursued psychotherapy to help her deal with the stresses, emotions, and feelings that resulted from the traumatic event.

Wally Martinez, a journalist currently residing in New York, covered the shooting case and subsequent investigation at the time they occurred. Several years later, he acquired audio tape recordings of two therapy sessions between Coburn and her psychiatrist. Martinez believes the tapes shed new light on the shooting and the conclusions reached in the investigation. When Coburn learned that Martinez had the tapes and that he intended to post them to his website, she obtained counsel and took legal action to prevent that from occurring and recover the tapes from Martinez.

Coburn filed her case in Tennessee. After being served with a summons and Complaint, Martinez filed a Motion to Quash Service of Process and to Dismiss. His motion argues that service on him was invalid because he was lured by fraud, deceit, and trickery to travel to Tennessee by Coburn.

Case File Materials

The case file provided in Practicing Persuasive Written and Oral Advocacy contains substantial additional materials including pleadings filed by the parties, affidavits, deposition transcripts, and trial transcripts. Much of the information is relevant to the memorandum that you will write for the Final Writing Assignment. But some of the information is not relevant. All files contain a mixture of wheat and chaff, and part of your task will be to develop a sufficiently solid understanding of the law that applies to the legal arguments that you will make in support of your motion to be able to identify and mine the information in the case file that is helpful and supportive. Read everything. Carefully. Most cases turn as much or more on their facts as they do on the governing law. But you won't be able to identify the facts that are of consequence unless you understand the law and know what you have to prove to prevail.

Errata

There are two errors in the Coburn v. Martinez case file.

Page 46, Line 4: Date should be January 13

Page 126, Lin 13: Date should be March 18

Assignment for the Final Writing Project

The Final Writing Project requires that you draft a memorandum (brief) in support of the Motion to Quash Service of Process and to Dismiss. The case file includes (at page 42) the motion that you will be writing the brief in support of.

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The case file also contains (at page 56) a Supplemental Motion to Dismiss the Complaint for Lack of Personal Jurisdiction. This motion was filed to raise an additional basis for challenging jurisdiction in Tennessee after Martinez was served a second time, in New York. That motion

argues that asserting jurisdiction over Martinez based on Tennessee's long arm statute would offend traditional notions of fair play and substantial justice and, therefore, is unconstitutional. You should NOT address or brief the issues raised by the Supplemental Motion. Your brief should only address the issue presented in the main motion, which seeks to quash service of process and dismiss the case on the ground that Martinez was lured to travel to Tennessee by fraud, deceit, or trickery.

#### Some Briefing Considerations

You will note that the case has been filed in the federal court in the Northern District of Tennessee, which is located in the 13th Circuit. These, of course, are fictitious. There is no "Northern District" in Tennessee and there is no "13th federal judicial district." The case is structured this way intentionally. It results in there being no binding federal precedents that control the issues in the case, other than holdings of the U.S. Supreme Court. So, you can cite, rely on, and argue the wisdom of any decision of any court – recognizing that some may be more persuasive than others either because of location, court, judge, age, or reasoning.

Even though the Final Writing Project is limited to the issues raised by the Motion to Quash Service of Process and to Dismiss, there are several arguments that can be raised in support of the motion and several ways of framing and structuring the arguments. You will decide which ones to employ and how, making strategic decisions based on your word limit and the relative strength of the arguments.

As noted above, you should not address the constitutional/due process issues raised by the Supplemental Motion to Dismiss, nor should you address any side issues, such as the merits of the underlying claims set out on Coburn's Complaint, attorneys' fees, damages, or other potential bases for a motion to dismiss the case.

#### Format and Citation Instructions

Please adhere to the following formatting and citation requirements:

- Use 12-point Book Antiqua, Century Schoolbook, or a similar proportional "book"-style, serif font
- Indent paragraphs
- Margins must be one inch on all four sides
- Double space, except that: (1) quotations may be indented and single-spaced; and (2) headings and footnotes may be single-spaced.
- Do not skip a line between paragraphs
- Your memorandum should be no more than 5000 words. This is a limit, NOT a goal. Include your word count at the end of the memorandum. It may be shorter – we're aiming for quality

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and persuasiveness of writing and more words, as we are learning, do not necessarily make a brief stronger.

- The first page should have the case caption. Each page must be numbered consecutively at the bottom.
- Neither the caption nor the Table of Contents counts against your word limit
- Follow the Bluebook or Indigo Book rules for citing to trial court documents and legal authorities
- Your memorandum should include:
  - o Motion title
  - o Table of Contents
  - o Introduction
  - o Statement of Facts (with citations to the record)
  - o Argument section
  - o Conclusion

- Your memorandum should NOT include:
  - o Table of Authorities
  - o Notice of Motion or Motion Date
  - o Line Numbers
  - o Lawyer or Law Firm Information on Title Page
  - o Lawyer or Law Firm Information in Footer
  - o Document Title in Footer