

APPELLATE LAW AND POLICY

University of Florida, College of Law
Spring 2024, Course 6936-27591 (2 Credit Hours)

Professor: Scott D. Makar
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Time: 10:00-12:00pm, Thursdays

Place: Room HH 285A

Text: Meador, et. al., Appellate Courts: Structures, Functions, Processes, and Personnel (2nd Ed. Lexis/Nexis 2006 & 2009 Supplement); Richard Posner, Reflections on Judging (2013); and Raymond Wacks, Philosophy of Law: A Very Short Introduction (2d Ed. 2014) (Oxford Academic Press).

Course Description/Objectives: *Description:* This seminar focuses on a broad range of topics of current and ongoing interest to appellate lawyers, judges, and academics including: *the structure, performance, and reforms of state and federal appellate court systems* (such as dividing large courts, adding judges, staffing/funding appellate courts); *the judicial decision-making process* (jurisdiction/appellate writs, judicial opinion writing, judicial strategy, en banc v. panel decisions); *issues of current debate* (judicial independence, judicial selection methods, judicial free speech, and judicial ethics); and *related appellate topics* (such as technology in and media coverage of appellate courts including appellate blogs and legal research). Appellate law clerk skills will also be included. Students choose topics on which to write seminar papers, and present current events throughout the semester. *Objectives:* Students successfully completing this course should: be able to understand and explain each of the topics just listed; be conversant with contemporary appellate issues as to each topic; and present a research paper of potentially publishable quality that shows a thorough understanding of a pre-approved appellate topic.

Assignments: In general, the course will follow the Tentative Course Schedule presented below. Approximately 30-45 pages of materials will be covered per class meeting. Assignments will be revised depending upon the pace maintained during the semester as well as the number of outside speakers. *Experience has shown that frequent revisions are required, which are posted in the course's Canvas page.*

Attendance, Preparation, and Class Discussions:

Class attendance is required and will be taken with allowance for two unexcused absences but no more than six absences overall. Absent exceptional circumstances, a student must provide notice and the reason for non-attendance before class begins. Late arriving students are responsible for ensuring they are not recorded as absent. A student who fails to meet the attendance requirement may receive a lower grade or be dropped from the course absent a showing of good cause. The law school's policy on attendance can be found [here](#).

A minimum requirement for each class meeting is to have read the assigned materials for that class (you'll spend about 2 hours reading out of class for every 1 hour in class). All class members will

be expected to contribute to class discussions. Notice will be taken of both strong and inadequate preparation and attendance.

Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University's Office of Student Conduct and Conflict Resolution.

Class Format: Each class meeting will begin with a presentation of assigned materials followed by a class discussion. You are encouraged to ask questions at any time. You are also encouraged to bring materials on topics relevant to the course for class discussion. Students will be assigned various tasks and topics throughout the semester including presenting summaries of their seminar papers. The class will have speakers from the community from time to time. As such, students should anticipate that the tentative class schedule will be frequently revised.

Office Hours: I will be available immediately after each class for consultation of up to one hour; if possible, please contact me in advance to assure my availability on a particular day. I am available for consultation by appointment as well at mutually convenient times.

Grades: Course grades will be based on the seminar paper and class preparation, participation, and attendance, and be in accordance with the College of Law's posted grading policy. Particularly strong or weak preparation, participation, or attendance will be factors in determining final course grades. Paper topics must be approved in writing as early as possible in the term to enable enough time for research and writing. The paper will consist of no less than 20 (and no more than 25) pages of double-spaced text appropriately footnoted (text in footnotes does not count towards the minimum 20-page requirement). **Notice:** Papers must meet citation standards (Bluebook) and compliance with the honor code, particularly as to plagiarism, will be strictly enforced.

Advanced Writing Requirement

Seminar papers may be considered for the advanced writing requirement. Students wishing to do so must meet all the requirements the law school has established such as demonstrating close faculty supervision of a major, written product that shows evidence of original scholarship based on individual research, the faculty member's assessment of a draft, and at least 25 pages of double-spaced, 12-point text or the equivalent.

UF Policies:

University Policy on Accommodating Students with Disabilities: Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. Students with disabilities who experience learning barriers and would like to request academic accommodations should contact the Disability Resource Center (click [here](#)). Students should share

their accommodation letter and discuss access needs as early as possible in the semester. The law school policy on exam delays and accommodations can be found [here](#).

University Policy on Academic Misconduct: Academic honesty and integrity are fundamental values of the University community. Students must understand and comply with the UF Student Honor Code (<http://www.dso.ufl.edu/students.php>).

University Letter Grade Point Equivalences:

This course follows the College of Law's grading policies ([here](#)). The below chart specifies letter grade/grade point equivalences:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

Course Evaluations:

Students will be notified when the evaluation period opens and may complete professional and respectful evaluations ([here](#)) through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluer.com/ufl/>.

Recording of Class

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

TENTATIVE CLASS SCHEDULE
(Subject to Periodic Change)

Assignment of specific pages from texts/books will be posted separately in Canvas.

January 18	Overview of course; appellate structure under Florida's constitution and the U.S Constitution.
January 25	Jurisdiction/standards of review; Florida appellate practice.
February 1	No Class (Florida Appellate Judges Conference)
February 8	U.S. Supreme Court practice; health care litigation; confirmation process.
February 15	Judicial Independence; judicial selection and retention; state v. federal models; mandatory retirement age; use of senior judges.
February 22	Managing appellate caseloads; pro se appeals; judicial staff; court size and structure; specialized courts/divisions; creating new courts/dividing large courts; optimal number of judges.
February 29	Jurisprudence; judicial strategy; en banc issues; judicial performance/ranking.
March 7	No class (Spring Break)
March 14	Opinion writing; types of opinions; published versus non-published opinions; non-citation rules; role of PCAs.
March 21	Appellate judicial clerks: skills and responsibilities; judicial immunity; judicial ethics; judicial salary/compensation; judicial discipline; judicial recusal; judicial free speech.
March 28	Judicial role-playing.
April 4	Oral arguments; video arguments; archives; appellate court administration.
April 11	Media and the courts; covering high profile appeals; appellate blogs.
April 18	Court funding issues; role of legislature.
TBD	Papers Due