

SECOND YEAR MOOT

(LAWS 2201X/Y)

Course Outline 2019-2020

1. Office Hours, etc.

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Classes: Selected Mondays 8:30 – 9:30am (see below)

Office Hours: Monday 9:30 – 11:00am/Friday 12:30 – 2:30pm or by appointment

2. Class Schedule

This class takes place over two terms, with the first term dedicated to the writing of your appellate factum, and the second term dedicated to the oral argument of your case before a panel of three justices of the Supreme Moot Court of Dalhousie.

The class takes place on Mondays from 8:30 – 9:30am, but there are only two classes in each term, and one workshop in each term. The remainder of the class time is returned to you to work on the moot. The class schedule is below:

Fall Term 2019 - Date and Location	Topic
Monday, September 16, 2019 8:30 – 9:20am, Room 105	Written Advocacy I Fundamentals of Persuasive Advocacy How to Write a Persuasive Factum, Part I
Monday, September 23, 2019 8:30 – 9:20am, Room 105	Written Advocacy II How to Write a Persuasive Factum, Part II
Wednesday, October 2, 2019 7:30pm, Room 105	Smith Shield Moot
Monday, October 7, 2019 8:30 – 9:20am, Rooms TBA	Fall Moot Workshops
Friday, October 25, 2019 9:00am	Appellant factums due on Brightspace and to opposing counsel
Friday, November 1, 2019 9:00am	Respondent factums due on Brightspace and to opposing counsel

Winter Term 2020 - Date and Location	Topic
Monday, January 13, 2020 8:30 – 9:20am, Room 105	Oral Advocacy I Review of Proper Courtroom Decorum Preparing Your Oral Argument
Monday, January 20, 2020 8:30 – 9:20am, Room 105	Oral Advocacy II Presenting Your Oral Argument Answering Questions from the Bench
Monday, January 27, 2020 ¹ 8:30 – 9:20am, Rooms TBA	Winter Moot Workshops
February 3 – 6, 2020 Rooms TBA	Moots Scheduled for 5:00 – 7:00pm or 7:00 – 9:00pm

3. Moot Court Manual and FAQs

The basics of the program and factum requirements are set out in the Moot Court Manual 2019-2020. Please review it thoroughly. In addition to setting out the requirements for your factum and oral argument, it contains helpful advice on preparing your factum (including on the standard of review) and your oral argument.

I have also prepared a Frequently Asked Questions handout for the course. It is posted on Brightspace. Please be sure to review it early in the term as well.

4. Readings

All readings and handouts are available electronically on the class Brightspace site. I have not attached the Fall and Winter readings to a particular class, but you will want to work through all of each term's readings before attending that term's moot workshop. Each term's readings are a highly curated version of some of the very best writing on the subject of appellate advocacy.

There is also a Supplemental folder on Brightspace that contains **optional** additional material, if you wish to delve deeper: some resources on persuasive legal writing generally, some on factums, and resources on particular issues that come up regularly in moots (such as standards of review).

¹ In-firm interviews during Halifax recruitment week begin on Monday, January 27th. If you are participating in that process, you may wish not to schedule an interview such that it creates a workshop conflict.

Fall Readings

The Honourable Mr. Justice John I. Laskin, “Forget the Windup and Make the Pitch: Some Suggestions for Writing More Persuasive Factums” (Summer 1999) 18 Advocates’ Soc. J. No.2, 3-12 online: Ontario Courts <<http://www.ontariocourts.on.ca/coa/en/ps/speeches/forget.htm>>.

The Honourable Mr. Justice David W. Stratas, “Some Factum Writing Suggestions” online: <<http://davidstratas.com/queensu/Tab19.pdf>>. **(Please read pp 1-27 and 48-60)**

The Honourable Mr. Justice Robert G. Richards, “Going Fishing: Some Thoughts on Successful Advocacy in the Court of Appeal”, Saskatchewan CPLED Program (Law Society of Saskatchewan, 2009) online: Law Society of Saskatchewan <<http://library.lawsociety.sk.ca/inmagicgenie/documentfolder/CPLED200910CivProAppellateAdvocacy.pdf>>

(For the Fall term, please read pp 1-7, 16-31, plus the sample TOC and intro at the end of the article)

The Honourable Mr. Justice Marvin Catzman, “The Wrong Stuff: How to Lose Appeals in the Court of Appeal” (Summer 2000) 19 Advocates’ Soc. J. No. 1, at 1-5 online: <<https://www.scaipcs.ca/pdf/Catzman-TheWrongStuff.pdf>>

Winter Readings

The Honourable Mr. Justice Robert G. Richards, “Going Fishing: Some Thoughts on Successful Advocacy in the Court of Appeal”, Saskatchewan CPLED Program (Law Society of Saskatchewan, 2009) online: Law Society of Saskatchewan <<http://library.lawsociety.sk.ca/inmagicgenie/documentfolder/CPLED200910CivProAppellateAdvocacy.pdf>> **(For the Winter term, please read pp 34-44)**

The Honourable Mr. Justice John Sopinka, Mark Gelowitz and W. David Rankin, *Sopinka and Gelowitz on the Conduct of an Appeal*, 4th ed. (Toronto: LexisNexis, 2018) at 448-459 (on Brightspace)

The Honourable Mr. Justice Sydney L. Robins, “Appellate Advocacy,” (October 1997) 16 Advocates; Soc. J. No. 3, 11-15 (on Brightspace)

5. Exchange of Factums

Each team of two students must submit one PDF copy of their factum as an assignment via the class Brightspace site using the following file naming protocol: **Factum A v B – Appellant – Smith_Jones.pdf** where A v B is the short name of the case, followed by the side (Appellant or Respondent) and the last names of counsel, separated with an underscore. Geordie Lounsbury will make copies of the factums for each judge.

Students must also arrange to provide both opposing counsel with a PDF copy of the factum whether by e-mail, drop box or some other agreed upon method. Students may also agree to exchange hard copy. Your ethical obligation as a barrister requires that opposing counsel must receive their copies of your factum immediately after the factum is submitted on Brightspace.

6. Workshops

There are two small group moot workshops, one in the Fall term and one in the Winter term. Each workshop is facilitated by one or two senior lawyers who do appellate work. Each workshop has ~20 students assigned to it, all of whom will be working on the same moot problem, issue, and side. Workshop exercises are ungraded.

The Fall Workshop

The Fall moot workshop is designed to help you write your factum. It focuses on developing, honing and responding to arguments. You will have a chance to brainstorm your case with the other students working on the same moot problem, issue, and side as you, with the guidance of your workshop instructor.

To prepare for this workshop, please do the assigned readings, review the Fall moot workshop materials which will be added to Brightspace in advance of the workshop, and come to class prepared to discuss your moot problem in detail. You will get the most from your workshop if you are fully conversant with the facts and law of your case and have thought about the arguments you want to make. Ideally, you should be almost ready to begin writing your factum when you attend the workshop.

The Winter Workshop

The Winter moot workshop focuses on oral advocacy. To prepare for this workshop, please review the Winter moot workshop materials which will be added to Brightspace in advance of the workshop and come to your workshop with a list of questions you anticipate you may be asked at your moot. At the workshop, you will have a chance to discuss anticipated questions and craft persuasive responses.

7. The Moots

The moots will take place in the evenings the week of February 3 – 6, 2020, with half the moots taking place from 5:00 – 7:00 p.m. and the rest from 7:00 – 9:00 p.m. Court dockets will be posted to Brightspace in September setting out the date and time for each moot. They will be updated in January with room assignments and names of the judges on your panel. You will moot before a panel of three judges made up of a 3L Chief Justice, a practitioner, and a faculty member.

Please note that 2L students are not permitted to attend or observe any moot except their own, though moots may include 1L observers.

From time to time, inclement weather requires closure of the university on an evening when moots are scheduled. If this occurs, the affected moots will be rescheduled for the same time the following week. Please keep this time available in case your moot needs to be rescheduled.

7. Evaluation

This class is worth 1 credit (0.5 credits each term.) It is evaluated based on two assignments: a written factum and an oral argument, both marked by faculty members. The assignments are graded on an Honours/Pass/Fail basis. Honours is roughly equivalent to a grade of A+, A, or A-. Pass covers work between B+ and D, and Fail is awarded for work that would receive a numerical grade of less than 50%. The factum and oral argument are weighted equally. Your final grade will be a combination of the two.

Students who receive the same grade on both the factum and oral argument will receive that grade as their final grade for the course. In the event that the grades differ (e.g. Honours on the factum, Pass on the oral argument), the faculty member will weigh the two components together in deciding on a final grade of Honours or Pass.

Factums must be submitted by the due date and time set out in the syllabus or as provided as accommodation. Late factums will go to the Studies Committee for assessment of penalty and may not be accepted.

8. Observing Appellate Advocacy

All students are encouraged to attend the **Smith Shield Moot** on Wednesday, October 2, 2019 at 7:30 p.m. in Room 105. This Dalhousie tradition since 1927 showcases the very best advocates in the third-year class. The moot is recorded and posted so that you can watch it online later. Here is a link to the 2018 Smith Shield Moot: <https://www.dal.ca/faculty/law/programs/jd-admissions/mooting.html>. Scroll down to the Smith Shield Moot and click on the orange plus sign, then scroll further down for the video.

Previous Smith Shield Moots from 2015 onward are also posted to Youtube:

2017: <https://www.youtube.com/watch?v=Dtgt-gZlpFw&t=1s>

2016: <https://www.youtube.com/watch?v=eA1D6VJXH0A>

2015: https://www.youtube.com/watch?v=rs2n96h7c_k

You are also encouraged to watch the webcast of an appeal hearing at the Supreme Court of Canada or observe an appeal in person at the **Nova Scotia Court of Appeal** at some point during the school year.

The Nova Scotia Court of Appeal is located at the Law Courts, 1815 Upper Water Street, Halifax. The court is open to the public. The court's docket gives a brief summary of each appeal along with the date and time of the hearing. It is posted on-line at: http://www.courts.ns.ca/Appeal_Court/NSCA_dockets.htm.

Some Court of Appeal hearings are webcast. You can find the archive here:

http://www.courts.ns.ca/Webcasts/webcasts_archive_trials.htm

Webcasts of **Supreme Court of Canada** arguments are available on the Supreme Court of Canada website at: <http://www.scc-csc.gc.ca/case-dossier/cms-sgd/search-recherche-eng.aspx>. Type in the name of a case, click on the case number, then click on webcast in the left sidebar. Not every Supreme Court of Canada case is webcast. Another alternative is to watch SCC hearings on CPAC. You can watch online by visiting: <http://www.cpac.ca/en/programs/supreme-court-hearings/>.

9. Accommodation

Students with Special Needs/Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions or exam deferrals) must be made to the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests. Students are expected to use the appropriate form when making such requests. Forms are available in hard copy in W222 or on the school website. Please note that your request for accommodation is not approved until you receive written confirmation.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Student Accessibility Center (SAC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Student Accessibility Center directly at (902) 494-2836.

10. Accommodation

All students in this course must read the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the <http://academicintegrity.dal.ca/> website, and the Law School policy on plagiarism, as set out in the law school regulations, available online at <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>.

Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution

of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.