



**Department of English and Writing Studies**

**Writing 2216F (2013)  
Rhetoric: Law Talk**

**Monday: 12:30 to 2:20; Wednesday: 1:30 to 2:20  
UCC Rm. 65**

**In this course we will test Gerald Wetlaufer's assertion that "Law is the very profession of rhetoric" and in doing so also acquire an introductory knowledge of contemporary rhetorical theory.**

**We will engage with the 'new rhetoric' and with the 'new legal rhetoric' through the work of Chaim Perelman, Stephen Toulmin, and Michael Frost among others. We will explore the relationship between 'rhetoric' and 'practical reason' specifically within the legal arena by using texts (and transcriptions of oral arguments) drawn from criminal and human rights proceedings, contract law, and international law. We will, for example, explore the language of the 'Introduction' to the appointment of the South African *Truth and Reconciliation Commission* together with the language of accounts of one or more of the proceedings under the 'Amnesty Committee' of that *Commission*. Throughout, our concern will be to understand how contemporary rhetorical theory can illuminate legal issues, a concern predicated on the assumption that the practice of law is a "clinical art," as Toulmin puts it.**

**Instructor: Brock Eayrs, Lawson Hall 3270L; phone UWO x85807; [beayrs@uwo.ca](mailto:beayrs@uwo.ca)  
Office hours: Tuesdays, 11 a.m. to 1 p.m. or by appt.**

**Required Text: The Rhetoric of Law. Ed. Austin Sarat and Thomas R. Kearns.  
Ann Arbor: The University of Michigan Press, 1994.**

**(Supplementary materials will be made available through the course Sakai site or by hand-out.)**

**Schedule of Readings and Topics**

***Please note: I will assume that you will regularly check our Course Sakai site for announcements, emails, and postings***

**Week of Sept. 9<sup>th</sup>: *Introduction to Rhetorical Theory*  
Sarat Kearns: "Editorial Introduction"**

**Week of Sept. 16<sup>th</sup>: *Introduction (cont.)***

Sarat Kearns: White, “Imagining the Law”

Week of Sept. 23<sup>rd</sup>: *The ‘New’ Legal Rhetoric*  
Sarat Kearns: Goodrich, “Antirrhesis ...”

Week of Sept. 30<sup>th</sup>: *The ‘New’ Legal Rhetoric (cont.)*  
Topic: Rhetorical Principles (forensic argument)

*In-Class Test (quiz) on basic principles of rhetorical analysis Wednesday October 2<sup>nd</sup>;  
10%*

Week of Oct. 7<sup>th</sup>: *‘Reading’ a Trial*  
Sarat Kearns: Sarat, “Speaking of Death ...”  
Case: ‘The Trial of Ned Kelly’  
Topic: Rhetorical Principles (forensic argument)

Week of Oct. 14<sup>th</sup>: *‘Reading’ a Trial (cont.)*

*Essay 1 (approx. 1000 words) – Rhetorical Analysis of ‘case file’ – due  
Wednesday October 16<sup>th</sup> (15%)*

Week of Oct. 21<sup>st</sup>: *Judicial Rhetoric*  
Sarat Kearns: Douglas, “Constitutional Discourse”  
Sarat Kearns: Ferguson, “Becoming American ...”  
Cases: Ridge v. Baldwin; Canadian Charter decision (t.b.a.)

Week of Oct. 28<sup>th</sup>: *Judicial Rhetoric (cont.)*

*Mid-Term Test in-class Wednesday October 30<sup>th</sup> (50 minutes;  
20%)*

Week of Nov. 4<sup>th</sup>: *The Language of Law and Political Appeals*  
Sarat Kearns: L. White, “Ordering Voice ...”  
Case: material from the South African ‘Truth and Reconciliation Commission’

Week of Nov. 11<sup>th</sup>: *The Language of Law and Political Appeals (cont.)*

Week of Nov. 18<sup>th</sup>: *‘Style’ and Law*  
Sarat Kearns: Johnson, “The Alchemy of Style and Law”

*Class Presentations on Case Files (5 – 10 minutes; 5%)*

Week of Nov. 25<sup>th</sup>: *‘Style’ and Law (cont.)*

*Class Presentations (cont.)*

Week of Dec. 2<sup>nd</sup>: *Review/Conclusions*

*Essay 2 (approx. 2000 words) – Topic in Legal Rhetoric – due Wednesday December 4<sup>th</sup> (30%)*

*Final Examination (2 hours; %): Exam. Period (t.b.a.)*

### Assignments and Grades

1. In-Class Test (quiz) on basic principles of rhetorical analysis Wednesday October 2<sup>nd</sup>: 10%

2. Mid-term test in class on October 30<sup>th</sup> (50 minutes): 20%

### *The Case File.*

*Early* in the term, you should begin to prepare a ‘file’ by assembling documents from outside sources raising and dealing with a legal issue (actual or potential) which is of interest to you. The documents may of course include legal materials, but as well you might be dealing with newspaper clippings, editorial or other articles of opinion, and so on. The object is to create a set of materials that you can use as the basis for writing Essay 1. You may also use those materials/issues as the basis for your Essay 2, **but note**: Essay 2 may not be simply an expanded version of your first (rhetorical analysis) essay. You must develop a new/different approach to your analysis, and incorporate further research.

3. Essay 1 (approx. 1000 words): a rhetorical analysis of the contents of your *case file*, explaining the various rhetorical strategies and assumptions you see being used to *present* and *frame* the legal issue(s) you have researched. In effect you are trying to answer the question: what methods or rhetorical strategies have been used to influence the debate on the issue? Due Wednesday October 16<sup>th</sup>: 15%

4. A *brief* presentation to the class (5 to 10 minutes), during which you outline the subject matter of your *case file*, and discuss the legal issue(s) you find in it from a ‘rhetorical’ point of view: 5%

5. Essay 2 (approx. 2000 words): extended research essay on a topic in legal rhetoric due Wednesday December 4<sup>th</sup> (end of term): 30%

6. Final examination (to be written during formal exam. period; date/time t.b.a.); two hours: 20%

### Course Policies

### **Attendance; Due Dates**

Attendance is mandatory in Writing courses. You may miss up to five (5) class periods (excluding class periods with graded components) without consequence. If you miss an additional class period (for a total of six), your final grade in the course **will** be reduced by one full letter grade (e.g. what would have been a B+ will be recorded as a C+). If you miss a total of seven or more class periods, you will receive a final grade of F (see also 'Medical Accommodation Policy').

The two essays are due on the dates set out in the course schedule. Your second, major essay is therefore due Wednesday December 4<sup>th</sup>, and **must be submitted on or before Friday, December 6<sup>th</sup>**, unless you have made arrangements with me in advance of that date for an extension. I reserve the right to refuse to accept and grade any essay submitted after the dates above in the absence of an agreed extension.

In-class work must be completed on the dates set out in the course schedule; permission to make up any of this work will be considered **only** if I receive a request for academic accommodation originating in your home faculty (see 'Medical Accommodation Policy' statement below).

### **Medical Accommodation Policy**

For UWO Policy on Accommodation For Medical Illness, see:

[http://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/accommodation\\_medical.pdf](http://www.uwo.ca/univsec/pdf/academic_policies/appeals/accommodation_medical.pdf)

(downloadable Student Medical Certificate (SMC): <https://studentservices.uwo.ca> under the Medical Documentation heading).

Students seeking academic accommodation **on medical or other grounds** for any missed tests, exams, participation components and/or assignments **worth 10% or more of their final grade** must apply to the Academic Counselling office of their home Faculty and provide documentation. Academic accommodation on medical grounds cannot be granted by the instructor or the Program in Writing, Rhetoric, and Professional Communication, and the Program requires students in these circumstances to follow the same procedure when seeking academic accommodation on non-medical (i.e. non-medical compassionate or other) grounds.

Students seeking academic accommodation **on medical grounds** for any missed tests, exams, participation components and/or assignments **worth less than 10% of their final grade** must also apply to the Academic Counselling office of their home Faculty and provide documentation. Where in these circumstances the accommodation is being sought on **non-medical grounds**, students should consult in the first instance with their instructor, who may elect to make a decision on the request directly, or refer the student to the Academic Counselling office of their home Faculty.

Students should also note that individual instructors are not permitted to receive medical documentation directly from a student, whether in support of an application for accommodation on medical grounds, or for other reasons (e.g. to explain an absence from class which may result in a grade penalty under an 'Attendance' policy in the course).

All medical documentation **must** be submitted to the Academic Counselling office of a student's home Faculty.

**Students who are in emotional/mental distress should refer to MentalHealth@Western: <http://www.uwo.ca/uwocom/mentalhealth/> for a complete list of options about how to obtain help.**

### **Scholastic Offences**

"Scholastic Offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following Web site:

[http://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/scholastic\\_discipline\\_undergrad.pdf](http://www.uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf)

“Students must write their essays and assignments in their own words. Whenever students take an idea, or a passage of text from another author, they must acknowledge their debt both by using quotation marks where appropriate and by proper referencing such as footnotes or citations. Plagiarism is a major academic offence.”

“All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>)

### **Prerequisites**

Unless you have either the requisites for this course or written special permission from your Dean to enroll in it, you may be removed from this course and it will be deleted from your record. This decision may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites.” The prerequisite for registration in this course is a) a final grade of 65 or more in one of Writing 2101, 2121, 2111, or 2131, or b) a final grade of 70 or more in Writing 1000F/G, or c) Special Permission of the Program.”