COURSE NAME: Civil Procedure III

PROFESSOR: Klonoff

ESSENTIAL PREREQUISITES: Civil Procedure

DESIRABLE PREREQUISITES: None. Enrollment will be limited.

COURSE BOOKS: I am currently in the process of selecting the course materials.

METHOD OF GRADING & APPRAISAL OF STUDENT FOR GRADE: The grade will be based primarily on a research paper, but class participation will also be considered.

SUMMARY DESCRIPTION OF COURSE: This course will provide an in-depth study of the appellate court system – an advanced civil procedure course focused on the appellate process. It will cover important topics that are not typically covered either in civil procedure or complex litigation (or, for that matter, in appellate advocacy courses). Students will learn about the structure of appellate courts, preservation of error, standing to appeal, the final judgment rule and its exceptions, standards of review (e.g., de novo, abuse of discretion), rules and mechanics for initiating appeals, alternative dispute resolution at the appellate level, preparing the record for appeal, brief writing, oral argument, rehearing en banc, certiorari, selection of appellate judges, opinion writing, and judicial canons of ethics. While there will be significant focus on techniques for effective brief writing and oral argument, the bulk of the course will focus on legal rules and concepts, not on skills. The principal emphasis will be on federal courts, but significant attention will also be paid to state appellate courts, particularly those whose rules and practices differ markedly from those in federal court.

COURSE CONTENT:
1) Structure of the Appellate Court System (state and federal)
2) Role of Specialized Appellate Counsel
3) Appellate decision-making (arbiters of individual cases v. making law)
4) Standing to Appeal
5) Issue Preservation (objections, exceptions to the preservation requirement, including plain error standard)
6) Appealability (as of right, by permission)
7) Final Judgment Rule
8) Exceptions to the Final Judgment Rule (e.g. collateral order doctrine, controlling questions of law, multiple claims or parties, injunctions)
9) Requirements for initiating the appeal
10) Harmless error doctrine
11) Standards of review (questions of fact; questions of law; mixed questions of law and fact; jury trials v. bench trials)
12) The record and appendices
13) Mediation/ADR at the appellate level
14) The appellate brief (technical requirements)
15) The appellate brief (techniques)
16) Amicus briefs
17) Motions at the appellate level
18) Oral argument (technical requirements)
19) Oral argument techniques
20) Rehearing/rehearing en banc
21) Certiorari, other extraordinary writs (e.g. mandamus, prohibition)
22) Sanctions at the appellate level
23) Ethical issues facing appellate lawyers
24) Selection/election of judges
25) The role of law clerks
26) Judicial opinions
27) Judicial canons of ethics
28) Ideas for reform of the appellate process

RELEVANCE OF COURSE FOR CAREER PURPOSES:
Very relevant for anyone interested in handling appellate cases, either civil or criminal.

RELEVANCE OF COURSE FOR MO/MULTI-STATE BAR EXAMINATION:
Not directly, although it could help for the Missouri and Federal Procedure portions of the exam.