

**Syllabus**  
**“Legal Writing for Law Clerks”**  
**Adjunct Professor Robert Luther III**  
**Fall 2021**

**Tuesday (August 24-October 8) from 6:05 pm–8:05 pm @ Hazel Hall**

Course Description and Learning Outcomes: Students enrolled in this course will learn to think like a judicial law clerk. Students will accomplish this goal by taking a critical look at pleadings, briefs, and judicial opinions filed within the last few years through the eyes of a neutral but engaged observer whose responsibility is to assist a Judge. Students will also be required to draft a bench memo, deliver an oral presentation on that bench memo, and draft a final judicial opinion from their bench memo. Specifically, after the third class, students will be provided with briefing on both sides of an undecided case filed in the U.S. Court of Appeals. By **September 23, 2021**, students must turn in a bench memo for that case. From **September 24-25, 2021**, in lieu of class, students will orally discuss their bench memo with me in 30 minute blocks as if they are conferencing with their Judge prior to the oral argument. A final judicial opinion drawn from the bench memo is due by **October 8, 2021**.

Grading: This course will be letter graded (i.e., on an A+\* to F scale). Students will have the opportunity to earn up to 100 points and grades will be determined by the scores earned on the following assignments: bench memo (25 points); oral presentation of bench memo (20 points); final judicial opinion (45 points); and class participation (10 points).

Contact Info: Students may contact me at [rluther@gmu.edu](mailto:rluther@gmu.edu) or (412) 720-0080.

<b>Date</b>	<b>Reading, Written, or Oral Assignment Due for Class this Day</b>	<b>In Class Lecture, Discussion, or Exercise</b>
Class 1: August 24, 2021	Read: <ul style="list-style-type: none"> <li>• David Lat, <i>How Should a Judge Be: In Defense of the Judge as CEO</i>, 69 Vand. L. Rev. En Banc 151 (2016) (If you cannot access this essay on Westlaw or Lexis, please email me and I will send you a PDF).</li> </ul>	Lecture: <ul style="list-style-type: none"> <li>• Introductions, overview of the role of the law clerk, including: overview/review of structure of state, federal, and specialty judiciaries and types and function of pleadings, motions, orders, and opinions.</li> </ul>

<p>Class 2: August 31, 2021</p>	<p>Read:</p> <ul style="list-style-type: none"> <li>• <i>Medina v. Whitaker</i> 913 F.3d 152 (D.C. Cir. 2019) available at: <a href="https://www.cadc.uscourts.gov/internet/opinions.nsf/E6D2F5DB6D09D99085258386005405FC/\$file/17-5248.pdf">https://www.cadc.uscourts.gov/internet/opinions.nsf/E6D2F5DB6D09D99085258386005405FC/\$file/17-5248.pdf</a></li> <li>• <i>Reserve Hotels PTY Ltd. v. Mavrakis</i>, 790 F. 3d 738 (7th Cir. 2015) available at: <a href="http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&amp;Path=Y2015/D06-23/C:14-2990:J:Manion:aut:T:fnOp:N:1574478:S:0">http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&amp;Path=Y2015/D06-23/C:14-2990:J:Manion:aut:T:fnOp:N:1574478:S:0</a></li> </ul>	<p>Lecture/Discussion:</p> <ul style="list-style-type: none"> <li>• How to draft a clerkship cover letter/edit cover letter template</li> <li>• How to draft clearly written opinions and discussion of <i>Medina</i> and <i>Reserve Hotels</i></li> <li>• Distribute briefs for bench memo assignment and bench memo template</li> </ul> <p>Take-Home Exercise:</p> <ul style="list-style-type: none"> <li>• draft clerkship cover letter</li> </ul>
<p>Class 3: September 7, 2021</p>	<p>Read:</p> <ul style="list-style-type: none"> <li>• Complaint in <i>Tobey v. Napolitano</i> (available at: <a href="https://docs.justia.com/cases/federal/district-courts/virginia/vaedce/3:2011cv00154/263761/1">https://docs.justia.com/cases/federal/district-courts/virginia/vaedce/3:2011cv00154/263761/1</a> )</li> </ul>	<ul style="list-style-type: none"> <li>• Introduction to the <i>Tobey</i> case and filed Complaint</li> <li>• Discussion of bench memo basics</li> </ul> <p>Take-Home Exercise:</p> <ul style="list-style-type: none"> <li>• Short bench memo for Judge: <i>Guinn v. General Motors, LLC</i></li> </ul>
<p>Class 4: September 14, 2021</p>	<p>Listen to:</p> <ul style="list-style-type: none"> <li>• Oral Argument in <i>Tobey</i> case (available at: <a href="http://www.ca4.uscourts.gov/OAarchive/mp3/11-2230-20121024.mp3">http://www.ca4.uscourts.gov/OAarchive/mp3/11-2230-20121024.mp3</a> )</li> </ul> <p>Read:</p> <ul style="list-style-type: none"> <li>• <i>Tobey v. Jones</i> (4th Cir. 2013) (panel and dissent) (available at:</li> </ul>	<p>Lecture/Discussion:</p> <ul style="list-style-type: none"> <li>• The majority and dissent in the <i>Tobey</i> case</li> <li>• Dissents: when to write them, who</li> </ul>

	<a href="http://www.ca4.uscourts.gov/Opinions/Published/112230.P.pdf">http://www.ca4.uscourts.gov/Opinions/Published/112230.P.pdf</a> )	is the audience, and what makes them persuasive?
Class 5: September 18-20, 2021	Exercise: individual mock judicial clerkship interviews Sign-up for time to orally present bench memo	• <b>Bench memo due via email by September 23, 2021</b>
Class 6: September 24-25, 2021	Full class will not meet this week—oral presentations of bench memos will count as class for this week	
Date TBA	Watch live oral argument of Court of Appeals case on YouTube	• <b>FINAL ASSIGNMENT: judicial opinion drawn from your bench memo</b>
Class 7: October 3-4, 2021	Full class will not meet this week—individual meetings with me to discuss mock interview results and other professional goals will count as class for this week	
	<b>Final judicial opinion due via email by Friday, October 8, 2021</b>	