

**Syllabus**  
**“Legal Writing for Law Clerks”**  
**Adjunct Professor Robert Luther III**  
**Summer 2023 (May Section)**  
**Tuesdays from 6:00 pm–7:50 pm**

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 second class, students will be provided with briefing on both sides of an undecided case pending in the U.S. Court of Appeals for the Ninth Circuit. By **June 8, 2023**, students must turn in a bench memo for that case. From **June 9-10, 2023**, in lieu of group class, students will individually discuss their bench memo with me in 30 minute blocks as if they are conferencing with their Judge prior to the oral argument. Students will then watch/listen to that oral argument in real time when it is argued. A final judicial opinion drawn from the bench memo is due by **July 7, 2023**.

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.

Date	Reading, Written, or Oral Assignment Due for Class this Day	In Class Lecture, Discussion, or Exercise
Class 1: May 23, 2023	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)</li> <li>Adam Liptak, <i>An Exit Interview With Richard Posner, Judicial Provocateur</i>, THE NEW YORK TIMES (Sept. 11, 2017).</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>

		<ul style="list-style-type: none"> <li>Distribute briefs for bench memo assignment and bench memo template</li> </ul>
Class 2: May 30, 2023	<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> </ul>	<p>Lecture/Discussion:</p> <ul style="list-style-type: none"> <li>How to draft a clerkship cover letter/edit mock cover letter templates</li> <li>How to draft clearly written opinions and discussion of <i>Medina</i></li> <li>Discussion of bench memo basics</li> </ul> <p>Take-Home Exercise:</p> <ul style="list-style-type: none"> <li>draft clerkship cover letter</li> </ul>
Class 3: June 6, 2023	<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> <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: <a href="http://www.ca4.uscourts.gov/Opinions/Published/112230.P.pdf">http://www.ca4.uscourts.gov/Opinions/Published/112230.P.pdf</a> )</li> </ul>	<ul style="list-style-type: none"> <li>Introduction to the <i>Tobey</i> case and filed Complaint</li> </ul> <p><b>• Bench memo due via email by June 8, 2023</b></p>

Class 4: June 9-10, 2023	Full class will not meet this week—oral presentations of bench memos	
Class 5: June 12, 2023 @ 12:30 pm EST	Watch Oral Argument in 21-55312, <i>Jose Nogales v. Xavier Becerra</i> - An appeal from the district court's dismissal of an action alleging that California's failure to accord the benefits of Proposition 57 and SB 1391 to individuals with already-final convictions violates the Equal Protection Clause of the Fourteenth Amendment.	
Class 6: June 23-25, 2023	Full class will not meet this week—mock clerkship interviews	
Class 7: June 30, July 1-2, 2023	Full class will not meet this week—individual meetings to discuss mock interview results and other professional goals	• <b>FINAL ASSIGNMENT: judicial opinion drawn from your bench memo</b>
	<b>Final judicial opinion due via email by 11:59 pm EST on July 7, 2023.</b>	

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