

**Syllabus**  
**“Legal Writing for Law Clerks”**  
**Professor Robert Luther III**  
**Fall 2024**  
**Tuesdays @ 4:00 pm–6:00 pm in Rm. TBD**

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. 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 **September 28, 2024**, students must turn in a bench memo for that case. From **October 1-3, 2024**, 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 on **October 8, 2024**. A final judicial opinion drawn from the bench memo is due on **October 15, 2024**.

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 anytime at [rluther@gmu.edu](mailto:rluther@gmu.edu) for time-sensitive emergencies.

<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 27, 2024	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>

<p>Class 2: September 3, 2024</p>	<p>Read:</p> <ul style="list-style-type: none"> <li>• <a href="#"><i>Reserve Hotels PTY Ltd. v. Mavrakis</i>, 790 F.3d 738 (7th Cir. 2015)</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>Reserve Hotels</i></li> <li>• Distribute bench memo template</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>
<p>Class 3: September 10, 2024</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> <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> <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>	<ul style="list-style-type: none"> <li>• Introduction to the <i>Tobey</i> case and filed Complaint</li> <li>• <b>Bench Memo due via email by September 28, 2024</b></li> </ul>
<p>Class 4: September 17-19, 2024</p>	<p>Full class will not meet this week—mock clerkship interviews</p>	

Class 5: September 24-26, 2024	Full class will not meet this week—individual discussion of professional goals	
Class 6: October 1-3, 2024	Full class will not meet this week—oral presentations of bench memos	
Class 7: October 8, 2024	Listen to live oral argument of U.S. Court of Appeals for the Ninth Circuit Case No. 23-927, <i>USA v. Sullivan</i> - The former Chief Security Officer and Deputy General Counsel of Uber appeals his conviction for obstructing a proceeding of the Federal Trade Commission and misprision of a felony in connection with the concealment of a data breach. [3:20-cr-00337-WHO-1]	• <b>FINAL ASSIGNMENT: judicial opinion drawn from your bench memo</b>
	<b>Final judicial opinion due via email by 11:59 pm EST on Tuesday, October 15, 2024.</b>	

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