

Syllabus
“Legal Writing for Law Clerks”
Professor Robert Luther III
Spring 2025
Mondays @ 6:05 pm–8:05 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 **February 23, 2025**, students must turn in a bench memo for that case. From **February 24-26, 2025**, 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 **March 3, 2025**. A final judicial opinion drawn from the bench memo is due on **March 23, 2025**.

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

| Date | Reading, Written, or Oral Assignment Due for Class this Day | In Class Lecture, Discussion, or Exercise |
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| Class 1: January 27, 2025 | Read: <ul style="list-style-type: none"> David Lat, <i>How Should a Judge Be: In Defense of the Judge as CEO</i>, 69 Vand. L. Rev. En Banc 151 (2016) Adam Liptak, <i>An Exit Interview With Richard Posner, Judicial Provocateur</i>, THE NEW YORK TIMES (Sept. 11, 2017). | Lecture: <ul style="list-style-type: none"> 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. |

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| Class 2: February 3, 2025 | <p>Read:</p> <ul style="list-style-type: none"> • <i>Reserve Hotels PTY Ltd. v. Mavrakis</i>, 790 F.3d 738 (7th Cir. 2015) | <p>Lecture/Discussion:</p> <ul style="list-style-type: none"> • How to draft a clerkship cover letter/edit mock cover letter templates • How to draft clearly written opinions and discussion of <i>Reserve Hotels</i> • Distribute bench memo template • Discussion of bench memo basics <p>Take-Home Exercise:</p> <ul style="list-style-type: none"> • Draft clerkship cover letter |
| Class 3: February 10, 2025 | <p>Read:</p> <ul style="list-style-type: none"> • Skim Complaint in <i>Tobey v. Napolitano</i> (available at: https://docs.justia.com/cases/federal/district-courts/virginia/vaedce/3:2011cv00154/263761/1) • <i>Tobey v. Jones</i> (4th Cir. 2013) (panel and dissent) (available at: http://www.ca4.uscourts.gov/Opinions/Published/112230.P.pdf) • The Honorable Patrick J. Bumatay, <i>The Value of Dissent</i>, 47 HARVARD JOURNAL OF LAW & PUBLIC POLICY 75 (2024) <p>Listen to:</p> <ul style="list-style-type: none"> • Oral Argument in <i>Tobey</i> case (available at: http://www.ca4.uscourts.gov/OAarchive/mp3/11-2230-20121024.mp3) | <ul style="list-style-type: none"> • Introduction to the <i>Tobey</i> case and filed Complaint • Bench Memo due via email by February 23, 2025 |

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| Class 4: February 17-19, 2025 | Full class will not meet this week—mock clerkship interviews | |
| Class 5: February 24-26, 2025 | Full class will not meet this week—oral presentations of bench memos | |
| Class 6: March 3, 2025 | <p>Watch/listen to live oral argument of case from U.S. Court of Appeals for the Ninth Circuit:</p> <p>24-2974 <i>Iten v. County of Los Angeles</i> - An appeal from the district court's dismissal of an action challenging the County of Los Angeles' commercial eviction moratorium enacted in response to COVID-19. [2:21-cv-00486-DDP-SSC] Civil C. CA 15 min</p> | <p>• FINAL ASSIGNMENT: judicial opinion drawn from your bench memo</p> |
| Class 7: March 17-19, 2025 | Full class will not meet this week—individual discussion of professional goals | |
| | Final judicial opinion due via email by 11:59 pm EST on Sunday, March 23, 2025. | |

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