Syllabus
"Legal Writing for Law Clerks"
Professor Robert Luther III
Summer 2025 (Wednesday Section)
4:00 pm–5:50 pm on ZOOM

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, 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 3, 2025**, students must turn in a bench memo for that case. From **June 3-5, 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. A final judicial opinion drawn from the bench memo is due by **July 4, 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 at rluther@gmu.edu.

Date	**Reading, Written, or Oral Assignment Due for Class this Day**	**In Class Lecture, Discussion, or Exercise**
Class 1: May 21, 2025	Read: • David Lat, *How Should a Judge Be: In Defense of the Judge as CEO*, 69 Vand. L. Rev. En Banc 151 (2016) • Adam Liptak, *An Exit Interview With Richard Posner, Judicial Provocateur,* THE NEW YORK TIMES (Sept. 11, 2017).	Lecture: • Introductions, overview of the role of the law clerk, discuss introductory readings In Class Exercise: • How to draft a clerkship cover letter/edit mock cover letter templates

		• Take-Home Exercise: Draft clerkship cover letter • Distribute bench memo template and discuss bench memo basics
Class 2: May 28, 2025	Skim: • Complaint in *Tobey v. Napolitano* (available at: https://docs.justia.com/cases/federal/district-courts/virginia/vaedce/3:2011cv00154/263761/1) Read: • *Tobey v. Jones* (4th Cir. 2013) (panel and dissent) (available at: http://www.ca4.uscourts.gov/Opinions/Published/112230.P.pdf) • The Honorable Patrick J. Bumatay, *The Value of Dissent*, 47 HARVARD JOURNAL OF LAW & PUBLIC POLICY 75 (2024) Listen to: • Oral Argument in *Tobey* case (available at: http://www.ca4.uscourts.gov/OAarchive/mp3/11-2230-20121024.mp3)	• Discussion of *Tobey* case and reasons to dissent
Class 3: June 3, 2025	Bench Memo Due in 24-3770, *Oregon Association of Hospitals and Health Systems v. State of Oregon, et al.* - An appeal from the district court's summary judgment for Oregon defendants in an action challenging Oregon House Bill 2362. [3:22-cv-01486-SI] Self-Schedule oral presentation of Bench Memo for June 3, June 4 or June 5.	• **Bench memo due via email by June 3, 2025**

Class 4: June 9, 2025 Class 5: June 9-12, 2025	Watch Oral Argument in 24-3770, *Oregon Association of Hospitals and Health Systems v. State of Oregon, et al.* and Self-Schedule mock clerkship interview between June 9-12.	
Class 6: June 16, 2025	Oral Argument Debrief as a class on Zoom (we will only meet for 1 hour)	
Class 7: Week of June 23, 2025	Full class will not meet this week—individual meetings to discuss mock interview results and other professional goals	**• FINAL ASSIGNMENT: judicial opinion drawn from your bench memo**
	Final judicial opinion due via email to RLuther@gmu.edu by 11:59 pm EST on July 4, 2025.	

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