



FALL 2026 COURSE SYLLABUS

Course Number: 217-001
Course Title: Public Interest Litigation
Credit Hours: 2
Grading Mode: Letter grade
Meeting Day(s)/Time(s): WED 6:05-8:05P
Meeting Mode: ON CAMPUS
Exam Day(s)/Time(s): N/A
Final Exam Mode: PAPER
Prerequisite(s): N/A
Corequisite(s): N/A
Instructor(s): Mark Chenoweth
Contact Information: mchenow2@GMU.EDU
Office Hours: By appointment only

Course Overview

This introductory course will cover the theory and practice of strategic public-interest litigation from the perspective of the President of a highly successful public-interest law firm that has won multiple Supreme Court cases in recent years—including overturning *Chevron* deference in a landmark decision. Lessons will be taught in the context of exactly how these cases were won and how other ongoing, precedent-setting cases are being fought. Other lessons will be gleaned from how some less successful cases have turned out. Once students have had an opportunity to learn these fundamental trial-level and appellate litigation techniques, they will then be expected to demonstrate the basic skills they have acquired and would be expected to use early on in their public-interest litigator careers, such as:

- (1) how to structure public-interest challenges (*e.g.*, which claims to assert and remedies to seek in a complaint);
- (2) how to prepare a case-evaluation memo for a cutting-edge constitutional challenge;
- (3) how to pitch a case internally to the decision makers within one's organization;
- (4) how to write a 28(j) letter alerting an appellate court to new, post-argument authority;
- (5) how to evaluate a request for amicus help sent to your organization;
- (6) how to solicit amicus briefs and request support from (other) public-interest organizations.

Course Learning Outcomes

By the end of the course, students should have acquired an understanding of how to:

- Assess a potential public-interest lawsuit
- Recruit and vet public-interest clients
- Choose a suitable jurisdiction
- Draft a case-evaluation memo for a public-interest lawsuit
- Structure public-interest challenges and determine what claims to assert and remedies to seek
- Address the particular challenges with suing federal agencies and officials
- Help an attorney prepare for and deliver effective oral argument
- Draft 28(j) letters alerting an appellate court to newly available legal authority
- Evaluate a request for amicus help sent to your organization
- Draft an amicus memo targeted at persuading public-interest groups to support your case

Reading(s) & Supplement(s):

Readings will be assigned for most but not all classes during the semester and will be posted at least four days in advance of class (as well as during each class period for the following class). Readings will comprise examples of the kind of writings the students will be expected to do, as well as briefs and court opinions. There are no assigned readings for the first day of class.

Grading Policies

Your grade will be based on three written assignments, the last of which is due at the end of the exam period. First, everyone will draft a case-evaluation memo (4-6pp.), explaining why you would or would not recommend a case idea to a particular public-interest organization for litigation and on what bases. That memo will comprise 30% of your grade in the course.

Second, you will be assigned a 300-word 28(j) letter to write in class on the day we discuss that process. That letter will comprise 20% of your grade. If you must miss that class, you will have to make up the letter assignment before or after another class period.

As the final assignment, comprising 50% of your grade, all students will draft a memo (8-10pp.) soliciting amicus briefs in support of your organization's brief. The memo must seek to persuade targeted recipient organizations to write briefs in your case.

Written Assignments:

As discussed above, your grade will be determined based on the following THREE written assignments:

1. Case-Evaluation Memo. Students will be assigned a specific case idea to evaluate in memo form and a particular organization to which to present it. (4-6 pages, double-spaced, 12-point Times New Roman, 1-inch margins). -AND-

2. 28(j) Letter. Students will be given a brief to read ahead of class. In class, they will be given a post-briefing opinion that comprises relevant precedent to that pending case. Students will draft a 300-word 28(j) letter addressed to the court where the case is pending, telling it about the new precedent. -AND-

3. Amicus Memo. Students will be assigned a specific case and given a brief from that case. Students will then have to write a memo seeking amicus support from several other public-interest organizations chosen from a list of candidate organizations. The memo should be persuasive and suggest reasons (including at least one different reason for each organization) and arguments (suggesting at least one specific argument to each organization). One additional page may be devoted to explaining any strategic decisions behind the choices you made in the amicus memo. (Due: Last day of exam period; 8-10 pages, double-spaced, 12-point Times New Roman, 1-inch margins).

YOU MAY NOT USE AI LLMs (e.g., ChatGPT, Claude) on any writing assignments.

Participation & Preparation %: See below re moving grade one increment.

Classroom Policies

Attendance: Per AR 3-1.4, "maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student's program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements."

Attendance is required and participation is expected. If you are unprepared for class, once during the semester you may come up to me before class and let me know that you are not prepared, and I will not call on you. Use this lone freebie wisely. If you don't tell me in advance that you are unprepared and I call on you and only then discover that you are unprepared, you will get no credit for participation that day and you will lose any unused freebie. Students may have a chance to participate in a moot court, press conference, or other public-interest advocacy opportunity. Given when this class meets, you may choose to bring some food to eat during class; however, please do not show up late with food.

Absences: Per AR 4-1.1, "if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session."

Participation & Preparation:

Student participation and attendance may be factored into a student's grade by increasing or reducing a student's final course grade by a single-increment adjustment (e.g., from B to B+ or from A- to B+). There is no final examination for this class.

USE of Technology & AI:

Strict Use Policy: The use of generative AI tools is not permitted for any coursework in this course. Unauthorized use will be treated as a violation of academic standards.

YOU MAY NOT USE AI LLMs (e.g., ChatGPT, Claude) on any writing assignments.

Course Schedule & Assignments

Week 1:

Date: August 19

Topic: How to find and recruit plaintiffs

Overview of instructor's expectations, written assignments, and grading • Answer questions • Which Comes First: The Plaintiff or the Case? • Real-world dilemmas • Investigating the facts and the client(s) • Problematic plaintiffs • Bad facts • No-nos • Keeping clients aboard • Dumping clients? • How many clients per complaint? • Adding clients to amended complaints

Assignment(s): None for first class

Week 2:

Date: August 26 [INSTRUCTOR HAS A CONFLICT; MAY HAVE GUEST LECTURER]

Topic: Engagement letters

Ethical issues when representing a client and cause • Who to represent? • Limiting scope of representation through informed client consent and agreement • Truly representing and understanding clients • Fees and costs • Duties attorney owes to firm (e.g., no clients on the side)

Assignment(s):

Week 3:

Date: September 2

Topic: How to write a case-evaluation memo • Evaluating/designing public-interest lawsuits • General principles • Choice of venue (location, location, location) • Opportunity cost and potential impact • Evaluating judges and precedent • Always check the local rules • How many cases to bring? • Parallel proceedings? • Seeking stays • Initiate new case, intervene, or file an amicus?

Assignment(s):

Week 3/4:

Date: September 9 (NB: this is a Monday, according to the [academic calendar](#), classes on September 9 observe a Monday schedule.) **HOWEVER: Because this class will not meet on 11/11, we will need to meet this week; date/time TBD**

Topic: Litigation Meetings • How to run an effective internal meeting • How to participate effectively in meetings • Active listening • Adding value to other people's cases • Giving/receiving constructive criticism • Handling "unconstructive" criticism • Being self-aware • Knowing your area(s) of expertise • Each person will have 4-5 mins in second half of class to orally pitch whether to take on amicus request

Assignment(s):

Week 4/5:

Date: September 16

Topic: Issue Spotting, Issue Winnowing, and Winning Issues • Constitutional versus statutory claims • Framing claims and remedies • Choosing your battles • Nationwide injunctions • Problems unique to admin. adjudication • Magic deadlines • Tolling

Assignment(s):

Week 5/6:

Date: September 23

Topic: The "Full Court Press" • Formulating the "story" of the case • Mock press conferences and effective use of Talking Points • Social media promises and perils • Changing hearts and minds: parallel advocacy in the court of public opinion • Case videos • Managing client communications and deciding when to use the client in the communications plan • writing op-eds • radio/TV/podcast appearances

Assignment(s):

Week 6/7:

Date: September 30

Topic: Virtues and Pitfalls of Preliminary Injunctions • Being right is not enough • Likelihood of success • Irreparable harm • Maintaining SQ • Balance of equities • Public interest • To appeal or not to appeal? Real-world strategy tips around tariff/eviction ban/student loan debt/social media censorship cases

Assignment(s):

Week 7/8:

Date: October 7

Topic: Challenges to suing federal agencies, part I: Common government strategies to win motion practice with avoidance doctrines • Standing/ripeness • Immunity (sovereign, qualified, absolute) • Mootness • Abstention and preclusion doctrines • Facial vs. as-applied challenges • State/federal court • Service of Process challenges • What to expect from the defendant(s) and how to respond to dispositive motions • APA traps for the unwary (e.g., deadlines/SOLs) • Transfer • Muddying the waters • Strategic dismissals

Assignment(s):

Week 8/9:

Date: October 14

Topic: Challenges to suing federal agencies, part II (after defeating the Motion to Dismiss): The Dirty Dozen deference doctrines • Government litigant deference • Due process deficit • Judicial independence • The party presentation principle (2d Cir. saga) • After *Loper/Relentless* • SEC's internal controls problem

Assignment(s):

Week 9/10:

Date: October 21

Topic: How to draft 28(j) letters • Deciding whether or not to send a 28(j) letter • Responding to 28(j) letters (or not) • Students will draft a 28(j) letter during class time informing a court of new precedent that emerged post-briefing relevant to a pending matter • (NB: class session could be a moot court; it will depend on when a litigator's trial date falls who is willing to come and present an argument for the class to moot)

Assignment(s):

Week 10/11:

Date: October 28

Topic: How to Craft Effective Amicus Briefs • Best practices and common pitfalls • One point or many? • Choice of counsel • Recusing judges • Grammar/typos • Working with (scratching backs of) other public-interest orgs • Going solo or adding other amici? • Rules around amicus efforts • "Dark money"

Assignment(s):

Week 11/12:

Date: November 4

Topic: How to write an amicus memo seeking amicus support • Best practices and winning strategies for mustering support/ soliciting amici • Moot court where students have opportunity to prep litigator • Ethics of mootings • Confidentiality • (NB: the moot court part of this session will have to proceed any moot court that takes place)

Assignment(s):

Week 12:

Date: November 11 Veterans Day Federal Holiday

[INSTRUCTOR HAS A CONFLICT; NO CLASS]

Week 13:

Date: November 18

Topic: Group discussion with public-interest lawyers from various orgs • Opportunities and career strategies in public-interest law • Discuss various paths to becoming a public-interest lawyer • How best to maximize one's chances of getting on that career track • Discuss current issues in public-interest law • Answer questions about final assignment • Leave room and leave time for class/instructor evaluations

Assignment(s):

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-993-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[University Life](#)