

Supreme Court Seminar Fall 2014
Monday & Wednesday 1:30-2:45 p.m.
Room AL 420

Professor Elizabeth Samuels
Room AL 504
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410-837-4534, 240-475-6424

FIRST CLASSES ASSIGNMENT AND SYLLABUS

Welcome to the Supreme Court Seminar. It's a lively simulation course, as well as a writing course, and I look forward to participating with you in the "October Term 2014" of the United States Supreme Court.

For the first class (no assignment for the second class), read the syllabus and master schedule carefully (bring in questions about them!) and explore these two websites: the indispensable SCOTUSblog, www.scotusblog.com, and the official website of the U.S. Supreme Court, www.supremecourtus.gov Answer these questions using the SCOTUSblog:

How many opinions did the Supreme Court issue during its last term, its October Term 2013? What percent were unanimous decisions and what percent were 5-4 decisions? Which justice was most often part of the 5-member majority in the 5-4 cases?

Which U.S. Court of Appeals circuit had the most cases reversed during the Supreme Court during its last term, its October Term 2013? Which circuit had the highest percentage of cases reversed?

How many cases does the Supreme Court have scheduled for its October sitting?

At the justice's September 29th conference, one of the cert petitions the justices will consider was filed in a case involving the Federal Employees Health Benefits Act (FEHBA). What's the name of the case? If you're interested in learning more about the case, how can you use the website to access the decision below and the briefs filed in the Supreme Court that are seeking and that are opposing a grant of certiorari? And the docket entries on the Supreme Court's website?

What's the first thing that Justice Ginsburg says (at 4:53 minutes in) when she steps up to the podium to introduce the speaker Justice Elena Kagan at the 2014 Justice Ruth Bader Ginsburg Lecture on Women and the Law at the New York City Bar Association?

What kind of information is available in the "Special Features" section?

What is the second thing that attorney (and former Solicitor General) says in his argument in last term's *POM Wonderful LLC V. Coca-Cola Co.* case?

Answer these questions using the official website of the U.S. Supreme Court:

In which two cases will the Supreme Court hear oral argument on the first Monday in October?

When are there 30-minute programs that are led by trained docents and that are designed to introduce visitors to the Court, the history of the building, and the courtroom architecture?

Syllabus Part I
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OVERVIEW

The topics of the course relate to the U.S. Supreme Court as an institution: Setting the Court's Agenda, Collegial Decision Making, Arguing to the Court, Appointing Justices, and The Amicus.

The pending petitions for certiorari you adjudicate and the pending cases you argue and adjudicate will involve both constitutional law and federal statutory law.

In the seminar you'll take on a number of roles:

- As a Supreme Court law clerk, you write a brief cert memo and a brief bench memo.
- As a Supreme Court advocate, you write a brief memo in preparation for arguing a case currently pending in the Supreme Court.
- As a Supreme Court justice, you adjudicate a small number of cert petitions, hear oral arguments in two cases pending in the Supreme Court, deliberate in conference and vote on the two cases, and, finally, expand one of the earlier memos into an opinion. When working on your opinion, you'll have at least one conference with the professor.

The writings together satisfy either one of the upper-level writing requirements.

TEXT

There is no textbook. The reading assignments for the introductory class and for the five topics listed above consist of a total of approximately 100 pages, most of which are excerpted from secondary sources. This material will be provided in class. It has been selected and *rigorously* edited in order to complement the litigation documents and judicial opinions that comprise the bulk of the reading. Students therefore are expected to read this material *very* carefully in order to be prepared for class discussions, cert petition conferences, case arguments, and case adjudications.

ASSIGNMENTS

By means of simulated participation in the U.S. Supreme Court's current term, you work with your peers – as lawyers do in practice -- to develop legal skills, understand constitutional law and federal statutory law issues, and learn about the Supreme Court as a lawmaking institution.

Written assignments include **one cert memo** (4 to 6 pages) on a pending cert petition; **one bench memo** (4 to 6 pages) on a pending case; **one memo in preparation for oral argument** (4 to 6 pages) on a pending case; and in one of the cases for which you wrote a memo, an expansion of that memo into **an opinion** (majority, concurring, or dissenting) (15 to 20 pages). Only the preparation of the opinion may require substantial legal research. There is no final exam.

Students also arrange to attend a Supreme Court argument, and in consideration of the time involved, a number of class sessions are omitted from the class schedule.

COURSE WEBSITE

Information will be provided in class.

ATTENDANCE

Attendance is vital because the core of the course involves students participating with one another in simulations. A student who exceeds the maximum allowable absences will be withdrawn from the course. To conform to ABA and the Law School attendance policies, students are permitted a maximum of two absences. An attendance sheet will be distributed at each class and it is students' responsibility to ensure that they have signed in.

PARTICIPATION AND GRADING

Laptops may be used in class for parts of class sessions that consist of lecturing by the instructor or a guest lecturer and for parts of class sessions that involve researching together.

Because participation in simulations is such a central feature of the course, participation will count for 35 percent of the final grade. The written work will count for the balance (20 percent for the memos and 45 percent for the opinion).

INSTRUCTOR

Office: AL 504, 410-837-4534 (or 240-475-6424 or 301-589-0345), esamuels@ubalt.edu.

Administrative Assistant: Ms. Laurie Schnitzer, AL 1112, 410-837-4689, lschnitzer@ubalt.edu.

Office hours: 4 to 5:30 Monday and Wednesday. For other times, just drop by or make an appointment by email or phone. After class is a good time for quick chats.

MASTER SCHEDULE

This provides an overview of all the classes. Members of the class will (1) work together to select the cases to argue and adjudicate and (2) work together to establish an individual schedule for each class member under which each class member will argue one case, serve as both a law clerk (bench memo) and a justice in one case, and serve as a justice in one case.

SOME USEFUL WEBSITES

<http://www.scotusblog.com> Premier comprehensive Supreme Court blog

<http://www.supremecourtus.gov> United States Supreme Court

<http://supct.law.cornell.edu/supct> Supreme Court Collection, Legal Information Institute

<http://www.oyez.org> United States Supreme Court Multimedia

<http://www.abanet.org/publiced/preview/home.html> ABA's Supreme Court Preview

<http://www.llrx.com/features/supremectwebguide.htm> Web Guide to U.S. Supreme Court Research

Syllabus Part II
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MASTER SCHEDULE¹

	Assignment	Topic/Activity
WEEK 1		
8/18	Explore www.scotusblog.com and www.supremecourtus.gov	Introduction (bring laptops)
8/20		Introduction continued (bring laptops) Receive Cert Petition Assignment
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WEEK 2		
8/25	Letter to the Marshal due	Writing a Cert Memo Discussion
8/27	Read Setting the Court's Agenda Material	Discussion
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WEEK 3		
9/1	LABOR DAY/NO CLASS	
9/3	(Preparation materials provided 8/27)	Case selection & scheduling conference
	Cert Memos Due by 5 p.m., Sun., 9/7	
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WEEK 4		
9/8	Read Collegial Decision Making Material	Discussion
9/10	Read Cert Memos	Cert Conference (cases addressed in numerical order)
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WEEK 5		
9/15	Read Cert Memos	Cert Conference
9/17	T.B.A.	T.B.A.
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WEEK 6		
9/22	Read Arguing to the Court Material	Discussion
9/24	Read Case # 1 opinion below	Discussion
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WEEK 7		
9/29	NO CLASS (optional individual conferences) ²	
10/1	Read Case # 2 opinion below	Discussion

¹ Schedule subject to amendment in consultation with class members.

² The time made available by "no class" days will be "made up" by the Supreme Court visit.

Case # 1 Bench Memos due by 5 p.m., Fri., 10/3

WEEK 8

10/6	Advocates Memos/Justices Questions due at class	Case # 1 Argument
10/8		Case # 1 Conference

WEEK 9

10/13	NO CLASS (optional individual conferences)	
10/15	Read Case # 3 opinion below	Discussion
	Case # 2 Bench Memos due by 5 p.m., Fri., 10/17	

WEEK 10

10/20	Advocates' Memos, Justices' Questions due in class	Case # 2 Argument
10/22		Case # 2 Conference

WEEK 11

10/27	NO CLASS (optional individual conferences)	
10/29	Read Appointing Justices Material	Discussion
	Case # 3 Bench Memos due by 5 p.m. Sun., 11/2	

WEEK 12

11/3	NO CLASS (optional individual conferences)	
11/5	Advocates' Memos, Justices' Questions due in class	Case # 3 Adjudication

WEEK 13

11/10		Case # 3 Conference
11/12	Individual Conferences	

WEEKS 14

11/17	The Amicus Material Amicus Briefs Assignment	The Amicus Discussion
11/19	Individual Conferences	

Rough draft of discussion section of opinion due Mon., 11/24
Final draft of opinion due by 12/12
(Exam Period 12/2 -12/12)