Political Science 401 – Legal Research & Writing
Fall 2018
Mondays & Wednesdays 5:00 – 6:15pm
Van Hise 474

Instructor: Danielle Delaney, lecturer political science
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Office Hours: Monday & Wednesdays 2:00-4:00pm

Course Description: The overarching theme of this course is straightforward: to introduce, explore, and familiarize you with the width breadth of legal arguments, writing, and presentation. While court opinions are the most familiar forms of legal writing we see in academia, they are by no means the only or even most common form of legal writing & argumentation. The second goal is to prepare for the 2018-2019 American Moot Court Association competition, including the written and/or oral portions of the competition. Members of the class are not required to participate in the 2018-2019 AMCA competition, but all Moot Court team members must take this class. Therefore, the primary goal of this course is to develop and refine research and writing skills through a mix of class drills, simulations, class discussion and a variety of readings to deepen students' understanding of legal arguments.

The first half of this course will focus heavily upon appellate advocacy; specifically, appellate brief writing & oral arguments. These are the types of legal reasoning with which you should be most familiar if you have taken other law related courses within political science. We will read the 2018-2019 AMCA problem case and focus on the legal issues presented therein. While this is not a Constitutional Law course we will be exploring the 14th and 1st amendment questions presented in the problem case.

The second half of the course will focus on other forms of legal writing (legal memorandum, alternative dispute resolution, motions) and different types of legal research. The type of legal research and writing skills we developed during the first half the course will be put to work in different arenas.

Course Credits & Hours: this is a 3-credit course following the traditional Carnegie definition for course instructions, thus we will be meeting twice a week for lecture/class activities, and you’ll have roughly two hours of outside course work in the form of reading, writing assignments, and oral presentations to prepare. There is no final exam, instead your final appellate brief will be your final project for the course.

Required Texts

- Miscellaneous cases and the case problem available through CANVAS
- The Bluebook: A uniform system of citation
- A Civil Action by Jonathan Harr
- Course moodle: https://canvas.wisc.edu/courses/86293
**Attendance & Participation:** You are adults and I will not be policing your time. However, participation is 25% of your grade and if you are not in class then meeting the participation requirement will be something of a challenge for you. Participation includes, but is not limited to, class discussion, participation in Moot Court, online discussions, and/or other activities as noted during class.

**General Education and Plagiarism:** By enrolling in this course, each student assumes the responsibilities of an active participant in UW-Madison’s community of scholars in which everyone’s academic work and behavior are held to the highest academic integrity standards. Academic misconduct compromises the integrity of the university. Cheating, fabrication, plagiarism, unauthorized collaboration, and helping others commit these acts are examples of academic misconduct, which can result in disciplinary action. This includes but is not limited to failure on the assignment/course, disciplinary probation, or suspension. Substantial or repeated cases of misconduct will be forwarded to the Office of Student Conduct & Community Standards for additional review. For more information, refer to studentconduct.wiscweb.wisc.edu/academic-integrity/.

**Students with Disabilities:** The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin State Statute (36.12), and UW-Madison policy (Faculty Document 1071) require that students with disabilities be reasonably accommodated in instruction and campus life. Reasonable accommodations for students with disabilities is a shared faculty and student responsibility. Students are expected to inform faculty [me] of their need for instructional accommodations by the end of the third week of the semester, or as soon as possible after a disability has been incurred or recognized. Faculty [I], will work either directly with the student [you] or in coordination with the McBurney Center to identify and provide reasonable instructional accommodations. Disability information, including instructional accommodations as part of a student's educational record, is confidential and protected under FERPA http://mcburney.wisc.edu/facstaffother/faculty/syllabus.php

**Class Readings:** Most of the class reading consists of the AMCA case problem, cases, and legal memoranda. All of which will available through canvas. The exception is a quick non-fiction book—*A Civil Action* by Jonathan Harr—which you should be able to pick up fairly cheap anywhere and I will ensure is available at the ‘A Room Of One’s Own’ on State Street as well as the campus book store.

There is an optional textbook called “Plain English for Lawyers” that you can review if you want. It is very short but has a nice way of presenting how to write ‘like a lawyer’.

**Late papers or other assignment:** Unless you make specific arrangements with me ahead of time or you have a serious emergency—funeral or hospitalization—late papers will be marked down 10% per day they are late.

**Course Grading:**

<table>
<thead>
<tr>
<th>Component</th>
<th>Points</th>
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<tbody>
<tr>
<td>Participation in class</td>
<td>250</td>
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<tr>
<td>Case briefs</td>
<td>200</td>
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<tr>
<td>BlueBook Quiz</td>
<td>25</td>
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Quiz on *A Civil Action* 25 points
Argument outline (roadmap)-petitioner 25 points
Argument outline (roadmap)-respondent 25 points
Argument-petitioner 50 points
Argument-respondent 50 points
Opening statement and closing statement-petitioner 25 points
Opening statement and closing statement-respondent 25 points
Statement of facts 50 points
Oral arguments 100 points
Appellate Brief 100 points
Memoranda to client 50 points

Total Points 1000 points

**Course Grading Scale**

A 93-100 %  
A- 90-94.99 %  
B+ 87-89.99 %  
B 83-86.99 %  
B- 80-82.99 %  
C+ 77-79.99 %  
C 70-76.99 %  
D+ 67-69.99 %  
D 63-66.99 %  
D- 60-62.99%  
F 59.99 % and below

**Communication:** The easiest way to communicate with me is through my email. My email address is listed above.

**Schedule**

**September 5th** Introduction

Readings:

“How to Read a Case”
“How to Read a SCOTUS Opinion”

What to do we mean by ‘the law’? What are the different fields of law and how are we to understand them? What makes legal research and writing substantively different from any other form of research and writing? This introductory lecture sets out the vocabulary we will be using over the course and gives a brief overview of the course in general.

**September 10th** The AMCA Problem Set & ‘Briefing’

Readings:

AMCA Problem Set
Field trip! Meeting with Law Librarians at the law school

September 12th
Fourteenth Amendment Cases

Readings:
Frontiero v. Richardson (canvas)
Regents of University of California v. Bakke (canvas)
Kirchberg v. Feenstra (canvas)

To Do:
Above readings
Online discussion

September 17th
Fourteenth Amendment Case Continued

Readings:
Michael M. v. Superior Ct (canvas)
United States v. Virginia (canvas)
Tuan Anh Nguyen v. INS (canvas)

To Do:
Above readings
Online discussion

September 19th
Fourteenth Amendment Case Continued

Readings:
Grutter v. Bollinger (canvas)
Fisher v. University of Texas at Austin II (canvas)

To Do:
Above Readings
Online discussion

DUE: Case briefs for the Fourteenth Amendment Cases
Pick any two (2) of the above cases and write a complete case brief for them.
September 24th
First Amendment Cases

Readings:
Pickering v. Board of Education (canvas)
Connick v. Myers (canvas)
Rankin v. McPherson (canvas)

To Do:
Above readings
Online discussion

September 26th
First Amendment Cases Continued

Readings:
Urofsky v. Gilmore (canvas)
Garcetti v. Ceballos (canvas)
Gorum v. Sessoms (canvas)
Weintraub v. Board of Education of City of New York (canvas)

To Do:
Above readings
Online discussion

October 1st
First Amendment Case Continued

Readings:
Adams v. Trustees of the University of NC-Wilmington (canvas)
Demers v. Austin (canvas)
Brown v. Chicago Bd. Of Education (canvas)

To Do:
Above readings
Online discussion

DUE: Case briefs for the Fourteenth Amendment Cases
Pick any two (2) of the above cases and write a complete case brief for them.

October 3rd
Brief Writing

Readings:
How to Write A Brief
To Do:
Above reading
Online discussion: List your 3 strongest 14th & 1st amendment arguments for the AMCA problem case—defend them.
First in class practice of the Petitioner’s Argument
The role of the rebuttal & how to craft one

DUE: Roadmaps for Petitioner & Respondent Arguments
Have one-page roadmaps for the petitioner & respondent arguments for the AMCA problem case ready to go. You will be exchanging your roadmaps with classmates and working through their arguments. I will be grading both the roadmap you wrote and how you marked-up someone else’s roadmap.

October 8th Petitioners Brief

Readings:
Garcetti Petitioner’s Brief

To Do:
Above Reading
First in class practice of the Respondent’s Argument

DUE: Revised Roadmaps
Turn in both your revised roadmap and the marked-up version

October 10th No Class

I’m away at a conference. Work on your arguments

October 15th Respondents Brief

Readings:
Garcetti Respondent’s Brief

To do:
Above Reading
First in class practice of the Respondent’s Argument

Due: Statement of Facts
Like with the roadmaps you will exchange your statement of facts with someone else in class and mark them up. Consider how the briefs that we’ve read present the facts to support their arguments. Think of how the statement of facts may change in terms of presentation and emphasis depending upon whether you are the Petitioner or Respondent.

**October 17th Amici Curiae Briefs**

Readings:
ADL Amici Curiae Brief in *Bakke* (canvas)
AERA Amici Curiae Brief in *Grutter* (canvas)
US Amici Curiae Brief in *Bollinger* (canvas)

To do:
Above reading
In-class run through of full Petitioner & Respondent arguments

**Due:** 1.) both the marked-up version of your statement of facts & your revised version  
2.) Opening statements for the Petitioner & Respondent – once again, you’ll swap with a classmate

**October 22th Law Reviews & Articles**

Readings:
Federal Society article on Demers
“*Demers v Austin*: the Ninth Circuit Resolves the Public Employee’s Speech Doctrine’s Uncertain Approach to Academic Speech”
“Anatomy of a Free Speech Lawsuit: Demers against Washington State University”

To do:
Above reading

**Due:** 1.) marked up and revised versions of your opening statements  
2.) Closing statement for the Petitioner & Respondent – swap!

**October 24th Oral Arguments**

To Do:
Listen to the oral arguments on canvas
Online discussion

**Due:** 1.) Marked up and revised versions of your closing statements
2.) Final arguments for both sides – swap!

**October 29**  
**Oral Arguments**

**To Do:**
Listen to oral arguments on canvas
Online discussion

**Due:** Marked up and revised versions of your final arguments

**October 31**

**Oral Arguments Presentations**

**Due:** less presentations, more you will be doing your oral arguments in front of a three-judge panel of your peers. Be prepared not only to present your oral arguments as we have developed them over the course of the class, but also to serve as one of the judges asking your peers questions during oral arguments.

**November 5**

**Oral Arguments Presentations Continued**

Continuation of October 31

**November 7**

**No Class**

(Moot Court: Regional is 9-10th)

**November 12**

**Legal Memorandum**

**Readings:**
CUNY ‘how to draft a legal memo’
Schimel Memo

**To do:**
Above readings

**Quiz:** on Bluebook citations!

**November 14**

**Legal Memorandum**
Readings:
Memorandum to the President re: Bakke

Due: Legal memo to the client based in the facts presented in the AMCA problem set

November 19th

Alternative Dispute Resolution

Readings:
The ADR Handbook
ADRA 1998 Federal Regulations
Report to the President re: ADR

To Do:
Above readings
Online Discussion

November 21st

Alternative Dispute Resolution

Readings:
Marmet v. Brown (canvas)
“Recent Cases involving ADR” (canvas)

To Do:
Above readings
Online discussion

November 26th

“A Civil Action”

Readings:
A Civil Action by Jonathan Harr

Quiz: to check you’ve read A Civil Action

November 28th

“A Civil Action”

Readings:
A Civil Action by Jonathan Harr

To do:
Movie!
December 3rd

Reading:
“What is International Law” (canvas)
“The Politics of Precedent in International Law”

To Do:
Above reading

December 5th

Readings:
International Labour Organization Convention 169
United Nations Declaration on the Rights of Indigenous Peoples

To Do:
Above Readings

Due: Draft appellate briefs are due

December 10th

Readings:
Case of Vatan v. Russia
Kichwa Indigenous People of Sarayaku v. Ecuador

To Do:
Above Readings

December 12th

Due: Final appellate briefs are due