

COMM 421: Legal Communication (4.0 units) Syllabus

The course will examine the rhetoric of American legal discourse. Students will study, research, prepare, and present case briefs, legal memos, judicial opinions and news articles. The class will explore the analytical and communicative aspects of legal argument, the philosophy and techniques of appellate advocacy, and the law's impact on social justice movements.

Instructor:

William (Bill) Blum, JD

Class time:

Tuesdays, 2:00-4:50 pm

Class location:

ASC 209

Instructor contact info:

The best way to contact me is via e-mail: wblum@usc.edu.

Secondary email: wbluml@aol.com

Phone consultations can be arranged, as needed.

Texts:

This course will not use a textbook. Recommended and extra-credit reading materials are listed in several sections below. Some reading materials will be provided as handouts or via online links.

Course Description:

This course focuses on communication and discourse about law. We will look at how lawyers and judges communicate in the formal structure of courtrooms and in the world outside of the courtroom. We will also examine how law and legal issues are discussed by lay people outside of courts; and how lawyers and judges are viewed in popular culture. An emphasis throughout the course will be placed on the story-telling content of major lawsuits, and on the social, moral and political values they reflect and influence. Toward that end, we will explore how legal communications inside and outside of the formal legal system impact social justice goals.

No later than the fourth week of the course, each student will select a case from this United States Supreme Court's current term for which s/he will be a "lawyer" and a "journalist/commentator" for the remainder of the semester. Students will use the briefing from that case as the base material for applying the concepts and skills discussed in class.

We will also actively monitor the news on the selected cases for interesting legal communications in "real-time" in the "real world" during the semester. Starting in October, we will monitor the latest developments at the Supreme Court, looking at the oral arguments the court has held in the previous week, the decisions (if any) it issues, and any big cases it has decided to hear on the merits.

Students are encouraged for extra credit to visit either the United States Court of Appeals in Pasadena, or the California Court of Appeal or the California Supreme Court in downtown Los Angeles to observe an appellate court in action. Students may earn extra credit by writing a paper about their visits and the oral arguments observed. Students may also earn extra credit by writing book reports on the recommended texts listed below.

For written assignments, students will prepare one short legal memo, one short appellate brief, one news article or op-ed, and one mock Supreme Court opinion. Students will also engage in a mock appellate oral argument on their selected US Supreme Court cases and other students will serve as Justices of the Supreme Court during the mock arguments.

Course Objectives:

1. To understand and apply argumentation, persuasion, and rhetorical skills in a legal framework.
2. To explore how audience and context affect legal communication.
3. To explore what it means to “write like a lawyer” and “argue like a lawyer”.
4. To explore how legal communications are made outside the courtroom in academic, journalistic and popular media (radio, TV, Internet) contexts.
5. To explore the role and impact of legal communication on social justice movements.

Grading:

400 ...Attendance and overall participation.

200...Mock news article or op-ed on the death-penalty case of Richard Glossip.

300... Mock legal memo.

400...Mock appellate Brief.

400...Oral appellate argument, performance as attorney and/or judge.

400...Mock judicial Opinion, majority and/or dissenting.

2000... Total Points.

200...Extra Credit Points total: Reports on court visits or book reviews, maximum of two submissions.

Final:

The final paper in the form of a mock judicial opinion will be due on the last day of class. For good cause, students may request to submit their opinions via email by the end of the final examination period.

Academic Integrity Policy:

The Annenberg School for Communication is committed to upholding the University's academic integrity code as detailed in the USC campus guide. It is the policy of the School of Communication to report all violations of the code to the Office of Student Conduct. Any serious

violation or pattern of violations of the academic integrity code will result in the student's expulsion from the Communication major or minor.

ADA Compliance Statement

Any student requesting academic accommodation based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. Please be sure the letter is delivered to your instructor (or TA) as early in the semester as possible. DSP is located in STU 301 and is open 8:30 a.m. – 5:00 p.m., Monday through Friday. The phone number for DSP is 213-740-0776.

Attendance and Participation

Regular attendance is essential to success in this course; however, you may miss one class during the semester. Any additional absences, will lower your course grade, and may cause the student to fail the course. The two oral assignments must be delivered on the date assigned.

Arriving late and leaving early are extremely disruptive and, such behavior may be counted as an absence. You may arrive late or leave early one time during the semester; any additional late arrival/early departure will lower your participation score.

Any assigned readings should be completed *before class* on the day assigned. Lectures will not cover all portions of the assigned readings, and may cover additional materials not in the assigned readings; nonetheless, you are responsible for *all* materials, both those in the readings and in lecture. You must be prepared to answer substantive questions about content covered in the assigned readings. Following in the long tradition of students of the law being actively engaged by their teacher, the instructor will call upon students to answer questions, and the quality of your participation will be noted.

Recommended Reading:

Legal Research: How to Find & Understand the Law, Nolo Press

Extra-Credit Reading:

1. *Thinking Like a Lawyer*, Frederick Schauer, Harvard Univ. Press
2. *The Case Against the Supreme Court*, Erwin Chemerinsky, Viking Press
3. *The Federalist Society: How Conservatives Took the Law Back from Liberals*, Michael Avery and Danielle McLaughlin, Vanderbilt Press
4. *Law and Popular Culture*, 2nd Edition, Michael Asimow and Shannon Mader, Peter Lang Pub.
5. *Uncertain Justice: The Roberts Court and the Constitution*, Laurence Tribe, Joshua Matz, Henry Holt
6. *Madison's Music: On Reading the First Amendment*, Burt Neuborne, New Press

7. *They Know Everything About You: How Data-Collecting Corporations and Snooping Government Agencies Are Destroying Democracy*, Robert Scheer, with Sara Beladi, Nation Books

8. *Injustices: The Supreme Court's History of Comforting the Comfortable and Afflicting the Afflicted*, Ian Millhiser, Nation Books

Weekly Course Outline:*

Week 1: Introduction and class Overview. What is legal communication? Review of our court systems, federal and state.

Introduction of course theme: Every lawsuit tells a story about people and values: legal, social, and political. To illustrate the theme and emphasize the urgency of the issues raised in the biggest legal cases, we'll have a short discussion of the Oklahoma death penalty case involving Richard Glossip, who is scheduled to be executed on September 16. The class will follow Glossip's case for the next month as his execution date nears.

Resource Material on Glossip:

Glossip's Personal Website: <http://www.richardeglossip.com/>

Supreme Court Opinion: http://www.supremecourt.gov/opinions/14pdf/14-7955_aplc.pdf

From The Intercept: <https://firstlook.org/theintercept/2015/07/09/oklahoma-prepares-resume-executions-richard-glossip-first-line-die/>

From Truthdig.com:

http://www.truthdig.com/report/item/an_oklahoma_man_awaits_a_cruel_and_unusual_execution_20150720

On the Death Penalty Generally: <http://www.deathpenaltyinfo.org/>

First Assignment, due week 3: Write a 250-500 news report or op-ed on the pending execution of Mr. Glossip.

Week 2: The Supreme Court and the Constitution, an overview. Who sits on the current court? What are the politics of the Justices? Begin review of last term's biggest Supreme Court cases. Look at this term's biggest cases.

Resource Material:

The Constitution: <http://constitutioncenter.org/constitution;>

<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/billofrightsintro.html>

The Supreme Court: <http://law2.umkc.edu/faculty/projects/ftrials/conlaw/supremecourtintro.html>

The Justices, Past and Present: <http://www.supremecourt.gov/about/members.aspx> ;

<http://www.supremecourt.gov/about/biographies.aspx>;

https://en.wikipedia.org/wiki/List_of_Justices_of_the_Supreme_Court_of_the_United_States ;

Some Landmark Decisions:

https://en.wikipedia.org/wiki/List_of_landmark_court_decisions_in_the_United_States

Week 3: Continue with our review of last term's biggest Supreme Court cases and our look at this term's biggest cases. Begin selection of current cases to be followed by students during the semester.

Submission of short papers on the Glossip case.

New Assignment: students will review at least two legal briefs submitted by attorneys to the Supreme Court in last term's biggest cases by logging onto scotusblog.com in order to finalize their case selections, facilitate further discussion of the cases, and to become familiar with the style, formatting and content of legal briefs.

Resource Material:

October 2014 Term Supreme Court Decisions: <http://www.scotusblog.com/case-files/terms/ot2014/>

October 2015 Pending Supreme Court Cases: <http://www.scotusblog.com/case-files/terms/ot2015/>

Week 4: Continue with discussion of Supreme Court cases and any other legal cases that are making headlines. Students will choose at least one pending case to monitor and analyze in depth for the remainder of the semester so they ultimately will be able to argue the merits of each side in the case.

Begin discussion of the nuts and bolts of legal memo and legal brief writing.

New Assignment: preparation of a mock legal memorandum on a pending Supreme Court case. Memo should be in the range of 500 words, due week 5.

Resource Material:

Sample Legal Memo: <http://www.law.cuny.edu/legal-writing/students/memorandum/memorandum-3.html>;

Sample Opening Brief from California Appellate Project:

https://www.lacap.com/Knowledge_Base/Documents/PDF/sampleaob1.pdf

Appellate Brief Content and Style Requirements: <http://www.courts.ca.gov/documents/2DCA-SHM-Ch4.pdf>

Week 5: Submission of legal memos. Discussion of the issues, both legal and social, that are raised by the cases addressed in the memos. Discussion of the problems/questions students have in connection with brief writing. Further discussion of the nuts and bolts of legal brief writing.

Discussion of latest legal developments in the news, including the Glossip case.

Week 6: Trials versus appeals? What's the difference? What are the steps involved in each? Direct versus cross examination. Closing arguments. The role of juries. Fact-finding versus legal errors. The role of appellate judges.

Up-close look at famous trials, including the Chicago Eight, OJ Simpson, Rodney King, Tsarnaev.

Resource Material: <http://law2.umkc.edu/faculty/projects/ftrials/ftrials.htm> ;
http://www.truthdig.com/report/item/a_tale_of_two_terrorists_both_convicted_one_condemned_to_die_20150516 ;
http://www.truthdig.com/report/item/the_moment_of_decision_should_we_kill_dzhokhar_tsarnaev_20150413

New assignment: students will read articles available on the Internet on the legal issues raised by the surveillance practices of the National Security Agency (NSA).

Resource Material:

From California Lawyer Magazine:

https://www.callawyer.com/clstory.cfm?eid=933196&wteid=933196_Reining_in_the_NSA

Court Opinion of Second Circuit Court of Appeals in ACLU v Clapper:

https://www.aclu.org/sites/default/files/field_document/clapper-ca2-opinion.pdf

Week 7: Weekly Supreme Court Update, followed by a video presentation of the oral argument held before the Second Circuit US Court of Appeals in September 2014 in the case of ACLU v. Clapper. The video will be followed by discussion of the argument, with an emphasis on how the lawyers and judges in the argument used logic, story-telling, legal precedent, analogy and other rhetorical devices to get their points across.

Week 8: Continue with discussion of ACLU v. Clapper and our weekly Supreme Court update. Begin discussion of the relationship between law and popular culture with an emphasis on how law shapes popular beliefs, as reflected by news articles, books, movies, etc. The class will consider both opinion-type articles/books, and so-called viewpoint-neutral or “straight news” articles.

Resource Material:

Law and the Movies from the ABA Journal: <http://www.abajournal.com/gallery/top25movies/89>

Adam Liptak, legal journalist, New York Times: <http://www.nytimes.com/ref/us/bio-liptak.html>

Bill Blum, Truthdig.com legal columnist: http://www.truthdig.com/staff/bill_blum

Straight long-form legal journalism, California Lawyer magazine:

https://www.callawyer.com/Clstory.cfm?eid=939363&wteid=939363_California%27s_Triggerman

Week 9: Continue with our weekly Supreme Court updates and our exploration of the intersection between law and popular culture. The class will view the movie Dead Man Walking. Discussion to follow.

New assignment: students will convert their legal memos into more formal appellate briefs. Briefs are due in class, week 11.

Week 10: Continue with weekly updates. Begin discussion of the relationship between law and

movements for social change. Class will consider various movements for equal rights, with special emphasis on the Civil Rights movement.

Resource Material:

Dread Scott Case, upholding slavery: <http://www.ourdocuments.gov/doc.php?flash=true&doc=29>;
<http://www.ourdocuments.gov/doc.php?flash=true&doc=29>

Plessy v Ferguson, upholding the separate but equal doctrine:
http://www.pbs.org/wnet/jimcrow/stories_events_plessy.html;
<https://www.law.cornell.edu/supremecourt/text/163/537>;

Brown v Board of Education, overturning separate but equal:
http://www.pbs.org/wnet/supremecourt/rights/landmark_brown.html;
<https://www.law.cornell.edu/supremecourt/text/347/483>;

Loving v Virginia, striking down bans on interracial marriage: http://www.oyez.org/cases/1960-1969/1966/1966_395;

Voting Rights Act upheld in *South Carolina v. Katzenbach*: http://www.oyez.org/cases/1960-1969/1965/1965_22_orig ;

Voting Rights Act gutted in *Shelby County v. Holder*: http://www.oyez.org/cases/2010-2019/2012/2012_12_96

Current Status of Voting Rights: NY Times: <http://www.nytimes.com/2015/08/06/opinion/why-the-voting-rights-act-is-once-again-under-threat.html>;
<http://www.nytimes.com/2015/07/29/magazine/voting-rights-act-dream-undone.html>

Week 11: Submission of appellate briefs. Brief class discussion of problems encountered, challenges overcome in the preparation of the briefs.

Continue our examination of the role of law in movements for social change. Discussion of the movers and shakers in the legal movement for equal rights and the protection of civil liberties. A look who's who in the world of public interest law, from the NAACP to the ACLU and the Federalist Society to public defender and district attorney offices, the federal Department of Justice and legal aid societies.

Resource Material:

Is a career in public-interest law for you?

http://www.americanbar.org/publications/young_lawyer_home/young_lawyer_archive/yld_tyl_sept08_wimberly.html

http://www.law.sc.edu/loan_forgiveness/download/career_guide.pdf;

Week 12: International Law. As the world's most powerful nation, the US is involved in international legal disputes involving trans-national legal bodies such as the World Court and the International Criminal Court. We'll take a brief look at these institutions along with some discussion of the pending nuclear-weapons treaty with Iran. The class will examine the question of whether law and diplomacy can replace war as the primary means of achieving international justice.

Resource Material:

The International Court of Justice: <http://www.icj-cij.org/court/index.php?p1=1>

International Criminal Court: http://www.icc-cpi.int/en_menus/icc/Pages/default.aspx

Truthdig Op-Ed on Israel-Palestine Conflict:

http://www.truthdig.com/report/item/april_fools_day_will_be_no_joke_at_the_international_criminal_court_2015033;

Final Assignment, due week 15: Students will begin to prepare mock judicial opinions on the Supreme Court case they have been monitoring throughout the semester.

Weeks 13-14: Mock oral arguments on the Supreme Court cases that students have been monitoring, with students playing alternating roles of attorneys and justices. Instructor will perform as chief justice.

Week 15: Submission of a written mock judicial opinion, minimum 1000 words, on one of the selected cases. End of term wrap-up discussion, summarizing what we've learned, future areas of interest and need, etc.

*The schedule is subject to change, based on the needs and interests of the class as well as any late-breaking legal developments of great significance, including newly announced Supreme Court decisions.

Statement on Academic Conduct and Support Systems

Academic Conduct

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Section 11, *Behavior Violating University Standards* <https://scampus.usc.edu/1100-behavior-violating-university-standards-and-appropriate-sanctions/>. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct/>.

Discrimination, sexual assault, and harassment are not tolerated by the university. You are encouraged to report any incidents to the *Office of Equity and Diversity* <http://equity.usc.edu/> or to the *Department of Public Safety* <http://capsnet.usc.edu/department/department-public-safety/online-forms/contact-us>. This is important for the safety whole USC community. Another member of the university community – such as a friend, classmate, advisor, or faculty member – can help initiate the report, or can initiate the report on behalf of another person. *The Center for Women and Men* <http://www.usc.edu/student-affairs/cwm/> provides 24/7 confidential support, and the sexual assault resource center webpage sarc@usc.edu describes reporting options and other resources.

Support Systems

A number of USC’s schools provide support for students who need help with scholarly writing. Check with your advisor or program staff to find out more. Students whose primary language is not English should check with the American Language Institute <http://dornsife.usc.edu/ali>, which sponsors courses and workshops specifically for international graduate students. The Office of Disability Services and Programs http://sait.usc.edu/academicsupport/centerprograms/dsp/home_index.html provides certification for students with disabilities and helps arrange the relevant accommodations. If an officially declared emergency makes travel to campus infeasible, USC Emergency Information <http://emergency.usc.edu> will provide safety and other updates, including ways in which instruction will be continued by means of blackboard, teleconferencing, and other technology