

Spring 2020 – Monday – 2:00-4:50 p.m.

Section: 20633R

Location: ANN L116

Instructor: William Blum

Office: Faculty Lounge

Office Hours: By Appointment

Contact Info: Wblum@Usc.edu

I. Course Description:

This course examines the rhetoric of American legal discourse, with an emphasis on how lawyers and judges communicate in the formal structure of courtrooms and in the world outside of courtrooms. The course also examines how law and legal issues are discussed by lay people, and how lawyers and judges are viewed in popular culture.

The course will pay particular attention to the Supreme Court of the United States, its institutional history, the major decisions it has issued since the nation's founding, and the major cases currently pending before the court. When looking at specific Supreme Court decisions, the course will stress their "story-telling" content, their impact on the Constitution, and the social, moral and political values they reflect and influence.

By the fourth week of the course, each student will select a case from the United States Supreme Court's current docket for which s/he will be a "lawyer" and ultimately a Supreme Court justice for the remainder of the semester. Students will read and study the actual briefs filed in that case in the Supreme Court as the base material for applying the concepts and skills discussed in class to their selected cases.

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

Throughout the semester, we will also actively monitor the news on the latest legal issues affecting the country as the news breaks on a weekly basis.

II. Student Learning Outcomes

Do you want to learn to think, write and talk like a lawyer or a judge? Well, you've come to the right course.

Utilizing a combination of lectures, PowerPoint presentations, selected videos, and student-participation exercises, the course will examine the rhetoric of American legal discourse. Students will study how lawyers and judges communicate in the courtroom; how legal issues

are discussed by lay people; and how lawyers and judges are viewed in popular culture.

Four themes will be emphasized throughout the semester:

- 1. “*Everything old is new again.*” (songwriter Peter Allen, the movie “All That Jazz”): In the biggest legal cases and controversies, old issues reappear in new forms.
- 2. “*There is hardly a political question in the United States which does not sooner or later turn into a judicial one.*” Alexis de Tocqueville, Democracy in America, 1835, 1840
- 3. *Every lawsuit tells a story* about people, values, issues, and the nature of justice.
- 4. *Big Picture, Little Picture*: The biggest Supreme Court cases concern issues not only about particular parties, but that affect society in general.

By the end of the semester, students will be expected to:

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

Prerequisite(s): No prerequisite. However, it is recommended that students take Comm 322, Argumentation and Advocacy, prior to or in conjunction with this class.

III. Course Notes

PowerPoint Lectures will be made available to students via email or posted on Blackboard, if deemed helpful by Professor Blum or requested by students.

IV. Description and Assessment of Assignments

All assignments will be written, except for the presentation of oral arguments. The written assignments, as elaborated below, are a mock op-ed article, a mock case brief, a mock appellate brief, and a mock Supreme Court opinion. All written assignments will be promptly graded by Professor Blum, and grades will be emailed to each student on a confidential, individual basis.

V. Grading

300 ...Attendance and overall participation, 15 % of grade.

200...Mock op-ed, 10 % of grade.

300... Mock legal memo, 15% of grade.

400...Mock appellate Brief, 20% of grade.

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

judge, 20 % of grade.

400...Mock judicial Opinion, majority and/or dissenting, 20% of grade.

2000... Total Points...100%.

Final:

The final paper in the form of a mock judicial opinion will be due on or before the day scheduled for the final exam. All assignments should be submitted via email. Hard copies also may be submitted. There will be no final exam.

You will receive details about each assignment/exam separately. All assignments must be completed and handed in on time to avoid a grade reduction. If you are unable to turn in an assignment due to illness or a personal emergency, you must provide written documentation that will allow you to be excused, or discuss your situation with me in a timely manner. Do not wait until the end of the semester to sort things out.

In order to pass this class, you will need to complete ALL of the assignments. Failure to complete one or more of them will result in an F in the class.

Grades will be assigned as follows:

A/A- outstanding, thoughtful and enthusiastic work

B+/B above average work, demonstrating good insight into assignment

B-/C+ needs improvement on ideas, argument and follow through

C and below fulfilling the bare minimum and showing little understanding of the material

Each assignment will be worth 100 points and will be converted to a percentage score depending upon the weight assigned to each. Your percentage scores on the assignments will be totaled and translated to a letter grade per the scale shown below:

A = 100-94 C = 76-74

A- = 94-90 C- = 73-70

B+ = 89-87 D+ = 69-67

B = 86-84 D = 66-64

B- = 83-80 D- = 63-60

C+ = 79-77 F = 59-0

If you have concerns regarding a grade on a given assignment, you must appeal it in writing, stating the reasons why you feel the grade is inaccurate, within one week of receiving the graded assignment. No late appeals will be accepted for review.

VII. Assignment Submission Policy

- A. All assignments are due on the dates specified. Lacking prior discussion and agreement with the instructor, late assignments will automatically be given a grade of F.
- B. Assignments must be submitted via email.

VIII. Required Readings and Supplementary Materials

This course will not use a textbook. However, students will be assigned readings and resource materials related to the Supreme Court and other legal subjects, which will be available on the Internet.

IX. Laptop Policy

All undergraduate and graduate Annenberg majors and minors are required to have a PC or Apple laptop that can be used in Annenberg classes. Please refer to the **Annenberg Digital Lounge** for more information. To connect to USC's Secure Wireless network, please visit USC's **Information Technology Services** website.

X. Add/Drop Dates for Session 001 (15 weeks: 1/13/20 – 5/1/20)

Friday, January 31: Last day to register and add classes for Session 001

Friday, January 31: Last day to drop a class without a mark of "W," except for Monday-only classes, and receive a refund for Session 001

Friday, February 28: Last day to drop a course without a mark of "W." Please drop any course by the end of week three (or the 20 percent mark of the session) to avoid tuition charges.

Friday, February 28: Last day to change pass/no pass to letter grade for the session. All major and minor courses must be taken for a letter grade.

Friday, April 3: Last day to drop a class with a mark of "W" for the session.

XI. Course Schedule: A Weekly Breakdown

Week 1 (January 13): 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, we'll discuss some of the cases currently pending before the Supreme Court, and look at some of the biggest cases decided last term.

We will also discuss the current **impeachment inquiry** initiated against President Donald Trump and explore the constitutional, legal and political dimensions of the inquiry.

First Assignment: Due week 4. Each student will write an op-ed article of approximately 600-750 words either on one of the cases currently pending before the Supreme Court or the controversy surrounding the impeachment of President Donald Trump.

Basic Resource Materials:

The Constitution: <http://constitutioncenter.org/constitution>;
<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/billofrightsintro.html>

The Supreme Court:

[https://ballotpedia.org/History of the Supreme Court](https://ballotpedia.org/History_of_the_Supreme_Court)

<https://oxfordre.com/americanhistory/americanhistory/view/10.1093/acrefore/9780199329175.001.0001/acrefore-9780199329175-e-448>

<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](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](https://en.wikipedia.org/wiki/List_of_landmark_court_decisions_in_the_United_States)

Professor Blum's UCLA Lecture on the Supreme Court and Kavanaugh:
<https://vimeo.com/uclaextension/review/295469618/42db20bf02>

Week 2 (January 20): Class not in session, Martin Luther King holiday. Students will be given additional reading assignments.

Week 3 (January 27): The Supreme Court and the Constitution: an overview. Who sits on the current court? What are the politics of the Justices? How has the confirmation of Justice Kavanaugh affected the court and the future of American law? What impact has Donald Trump had on the court? Discussion of last term's biggest Supreme Court cases, as well as this term's big cases.

Week 4 (February 3): *Submission of op-ed papers.* Students wishing to present their op-eds orally to the class for extra-credit are encouraged to do so.

Students will select the case they will follow for the rest of the semester.

Continue with our review of last term's biggest Supreme Court cases, our examination of this term's biggest cases, and impeachment.

Begin discussion of the **nuts and bolts of legal writing** for both legal memos and appellate briefs.

Resource Materials:

Students will review at least two legal briefs submitted by the attorneys to the Supreme Court in this term's biggest cases by logging onto <https://www.scotusblog.com/case-files/terms/ot2019/> in order to facilitate further discussion of the cases, and to become familiar with the style, formatting and content of legal briefs.

Sample Legal Memos: <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>

New Assignment: Due week 8: preparation of a mock legal memorandum on the case students have selected to follow. Memo should be in the range of 750-1000 words. Professor Blum will email students a sample memo drafted by a student from a past semester of this class.

Week 5 (February 10): Continue with discussion of pending Supreme Court cases and any other legal cases or issues that are making headlines. Professor Blum will begin lectures on each of the cases students have elected to follow.

Continue discussion of **the nuts and bolts of legal memo and legal brief writing**, with emphasis on how to format and cite legal authorities (cases and statutes) in memos and briefs.

Week 6 (February 17): Class not in session, Presidents' Day holiday. Students will be given additional reading assignments.

Week 7 (February 24): Continue with discussion of pending Supreme Court cases and any other legal cases or issues that are making headlines. Professor Blum will continue with lectures on each of the cases students have elected to follow.

Continue discussion of **the nuts and bolts of legal memo and legal brief writing**, with emphasis on how to format and cite legal authorities (cases and statutes) in memos and briefs.

Week 8 (March 2): Submission of legal memos.

Continue with discussion of the issues, both legal and social, that are raised by the cases

students have selected to follow.

Further discussion of **the nuts and bolts of legal brief writing**.

Week 9 (March 9): 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 some famous trials and appeals, including the Chicago Eight, OJ Simpson, and Rodney King.

New Assignment: Preparation of mock appellate brief, due week 13, minimum 1200 words.
Students will be emailed a sample student-written brief.

Week 10 (March 16): Class not in session. Spring break.

Week 11 (March 23): Weekly Supreme Court update, followed by a video presentation and in-class discussion of the **oral argument** held before the California Supreme Court in the case of **In re Sergio Garcia** (2014), dealing with whether an undocumented immigrant can be licensed to practice law in California:

Resource Material: <http://www.courts.ca.gov/documents/S202512.PDF>
<https://www.youtube.com/watch?v=uZEgYFN-EEk>

Further discussion of the nuts and bolts of appellate brief writing.

Discussion of the mechanics of oral argument.

Week 12 (March 30): What is the relationship between law and popular culture? The class will examine 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>

Law and Popular Culture, by Michael Asimow and Shannon Mader:
https://www.amazon.com/Law-Popular-Culture-Course-Politics-ebook/dp/B0768K8MM1/ref=sr_1_1?keywords=law+and+popular+culture&qid=1578168

948&s=digital-text&sr=1-1

Further discussion on appellate brief writing. Resource Material:

The case of *Kansas v. Gleason*, found at: <http://sblog.s3.amazonaws.com/wp-content/uploads/2015/06/14-452-ts.pdf>

Week 13 (April 6): Continue with our weekly Supreme Court updates and our exploration of the intersection between law and popular culture. The class will watch the movie *All the Presidents' Men* on Watergate the impeachment of Richard Nixon. Discussion to follow.

Week 14 (April 13): *Submission of appellate briefs.* Discussion of problems and challenges encountered in the preparation of the briefs. Further discussion of the mechanics of oral argument.

What is the relationship between **law and movements for social change**? The 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

Week 15 (April 20):

Continue our examination of the role of law in movements for social change, and the

mechanics of oral argument. Discussion of judicial opinion writing.

Who are the movers and shakers in the legal movement for equal rights and the protection of civil liberties? A look at 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 United States 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;

Final Written Assignment, due finals week: Students will begin to prepare mock judicial opinions on the Supreme Court case they have been monitoring throughout the semester. Students will be emailed sample student-written opinion.

Resource Material: https://www.supremecourt.gov/opinions/15pdf/14-449_9o7d.pdf

Weeks 15-16 (April 20, 27): Mock oral arguments on the Supreme Court cases that students have been monitoring, with students playing alternating roles of attorneys and justices. Professor Blum will perform as chief justice.

Depending on class size and the number of oral arguments, week 16 may also examine international law. In addition, we will conduct an end of term wrap-up discussion, summarizing what we've learned, and identifying future areas of student interest in legal careers and education.

Finals Week: Submission of a written mock judicial opinion, minimum 1200 words, on the selected cases.

XII. Policies and Procedures

Communication

Students are encouraged to communicate with Professor Blum via email. The professor will respond to most emails within 48 hours.

Statement on Academic Conduct and Support Systems

a. Academic Conduct

Plagiarism

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 Part B, Section 11, "Behavior Violating University Standards" policy.usc.edu/scampus-part-b. Other forms of academic dishonesty are

equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, policy.usc.edu/scientific-misconduct.

b. Support Systems

Counseling and Mental Health - (213) 740-9355 – 24/7 on call
studenthealth.usc.edu/counseling

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call
suicidepreventionlifeline.org

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention and Services (RSVP) - (213) 740-9355(WELL), press “0” after hours – 24/7 on call
studenthealth.usc.edu/sexual-assault

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

Office of Equity and Diversity (OED)- (213) 740-5086 | Title IX – (213) 821-8298
equity.usc.edu, titleix.usc.edu

Information about how to get help or help someone affected by harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following *protected characteristics*: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations. The university also prohibits sexual assault, non-consensual sexual contact, sexual misconduct, intimate partner violence, stalking, malicious dissuasion, retaliation, and violation of interim measures.

Reporting Incidents of Bias or Harassment - (213) 740-5086 or (213) 821-8298
usc-advocate.symplicity.com/care_report

Avenue to report incidents of bias, hate crimes, and microaggressions to the Office of Equity and Diversity |Title IX for appropriate investigation, supportive measures, and response.

The Office of Disability Services and Programs - (213) 740-0776
dsp.usc.edu

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

USC Support and Advocacy - (213) 821-4710

uscsa.usc.edu

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

Diversity at USC - (213) 740-2101

diversity.usc.edu

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

USC Emergency - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

dps.usc.edu, emergency.usc.edu

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

USC Department of Public Safety - UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call

dps.usc.edu

Non-emergency assistance or information.

Annenberg Student Success Fund

<https://annenberg.usc.edu/current-students/resources/additional-funding-resources>

The Annenberg Student Success Fund is a donor-funded financial aid account available to USC Annenberg undergraduate and graduate students for non-tuition expenses related to extra- and co-curricular programs and opportunities.

Breaking Bread Program [undergraduate students only]

<https://undergrad.usc.edu/faculty/bread/>

The Breaking Bread Program is designed to provide individual undergraduate students with an opportunity to meet and have scholarly discussions with faculty members outside of the normal classroom setting. Through this program, students and faculty enjoy good company and great conversation by literally “breaking bread” over a meal together and USC will pick up the tab! Your meal event can take place anywhere outside of the normal classroom setting. Your venue can be a restaurant or eatery on or off-campus.

XIII. About Your Instructor

William (Bill) Blum is a Los Angeles lawyer, a former death-penalty defense attorney, and a former state of California administrative law judge. He is the author of three popular legal thrillers published by Penguin, and is a columnist with Truthdig.com and The Progressive magazine.