

## Supreme Court Practicum Fall 2022 Syllabus

### Faculty & Staff

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### General Course Information

- **Seminar:** The Clinic will meet once each week on Fridays promptly at 12:00 p.m. for eighty minutes. The seminar portion of the Clinic provides context for the applied work we will do through our case work and moots. The objectives of the Clinic seminar are:
  1. Understanding case strategy, and marshaling the below skills in service of the overall strategy
  2. Strategic and applied analysis of Supreme Court precedent and relevant law from lower federal and state courts
  3. Developing—and selecting—potential arguments
  4. Designing effective and efficient research and writing plans
  5. Completing precise, thorough, and efficient research
  6. Contributing productively to collaborative drafting and editing processes, including in specialized brief formats (e.g., petitions for certiorari, briefs in opposition, replies, and amicus briefs)
  7. Understanding and applying relevant procedural and jurisdictional rules
  8. Developing oral advocacy skills and understanding the relationship between oral and written advocacy
  9. Understanding the Court as an institution, including its location and agency within Constitutional structure and jurisdictional design
- **Case Teams:** Research projects, petitions, and briefs will be staffed in teams. Teams will meet both in person and via teleconference at least on a weekly basis, and participants should expect meetings to convene more frequently as the due dates approach for petitions and briefs.
  - Each team shall consist of:
    - Two or three Northwestern students

- Students are expected to perform excellent and impeccable legal research, draft and revise sections in an iterative process, and be aware of developments within the case and in related matters.
  - Three to five Sidley attorneys
    - Sidley attorneys will supervise the case and provide an organizational framework for the team. They can offer advice on how to structure legal research, and can undertake research as necessary.
  - Professor Xiao Wang
  - Local counsel
- **Speakers:** Speakers will be invited for both semesters. These sessions will be open to all students.
- **Moot Courts:** Moot courts for attorneys who will argue before an en banc court or the Supreme Court will be convened at the Law School with panels of professors and practitioners. The opposing side and (if appropriate) amicus or U.S. government roles shall be argued by Clinic students.
  - Moot courts will be open to all students, but all students who attend are required to assure confidentiality and the absence of any other conflict (for example, work on the case as a judicial extern).
  - Students who volunteer for a moot court must reach out to at least two faculty members, to see if the faculty member will attend as a Justice.
  - Students will be prepared by attorneys from Bartlit Beck. At minimum, students must meet with the Bartlit Beck attorney twice (at least once in person) for an hour each, to prepare his or her oral argument.
- **Travel:** If circumstances permit, the Clinic will meet once in Washington each year to coincide with an oral argument in a case in which the Clinic has been involved. Participants will attend the argument and a post-argument lunch meeting (if possible, with the advocate) to discuss the case. Participants will also tour the Court and attend a dinner with the Clinic faculty.

### Course Requirements and Expectations

- **Attendance:** Students are expected to attend the weekly seminar and hold regular calls with their teams.
- **Assignments:** Students are expected to complete all listed assignments on a given day *before* coming to class. Readings are provided below, but may change from time to time.

- **Case Rounds:** When we have case rounds, case teams should circulate to the class a short agenda (max. one page single-spaced), reviewing the relevant facts, issues, and questions that they would like the class to discuss.
- **Laptop & Phone Use:** Please refrain from non-class related laptop or phone use during clinic sessions.
- **Grading:** Please note that the following expectations and guidelines are illustrative.
  - **Seminar Attendance and Class Participation: 25%**
    - Attend class and complete assigned readings and work
    - Contribute regularly to class discussions
    - Model collegial and professional working environment
  - **Legal Writing / Case Work: 50%**
    - Organize a team agenda
    - Complete research and writing assignments on time
    - Implement feedback in a timely and efficient manner
    - Bring up issues for team and faculty to workshop
    - Work is properly Bluebooked and cite-checked, and “file ready”
  - **Case Monitoring: 15%**
    - Preparation of two short one-page summaries of cert-worthy cases
    - Consistent monitoring of case dockets and interacting with counsel
  - **Moot/Oral Advocacy Participation: 10%**
    - All students will be expected to demonstrate learning in the area of oral advocacy through one or more of the following:
      - Arguing a moot: Attendance at all preparation sessions with Bartlit Beck; preparation of high-quality opening statement and closing remarks; facility with question and answer
      - Assisting in the preparation of an advocate for a moot or oral argument: Development of thoughtful questions and answers based on research and facility with the case; providing collaborative and helpful constructive feedback to the advocate
      - Understanding the relationship between oral and written advocacy: Drafting and revising of briefs in anticipation of how an advocate will argue the case orally, showing attention to how written arguments may be developed or challenged orally
      - Demonstrating oral advocacy and presentation skills in collaborative settings: Presenting updates on case work to classmates and teammates; making a compelling case for a

particular strategy or course of action; engaging in collaborative and constructive oral dialogue during editing sessions and other class and team meetings

The Clinic is not graded on a curve, and it is possible and even typical for all students to receive some variety of “A” grade. However, students must fulfill all course responsibilities competently and professionally to earn a good grade. Students *will* be marked down for unexplained absences, unprofessional behavior, assignments turned in late or not at all, poor communication, lack of attention to one or more areas of required learning (e.g., failure to participate in any oral advocacy development), and other substantial departures from the expectations outlined above.

- **Required Materials:**

- *Advanced Appellate Advocacy*, Susan E. Provenzano, et al.

## Schedule of Classes

*Note: Given travel schedules, the weather, and other exigencies, these classes are subject to change*

### **SEPTEMBER 2**

Introduction and Class Orientation

Course Expectations

#### **Assignment:**

- **Watch:**
  - “The Art & Science of Certiorari”
- **Schedule:**
  - Individual meetings with faculty

### **SEPTEMBER 9**

Overview of Supreme Court and Appellate Jurisdiction

The Art & Science of Certiorari

Introduction to Circuit Monitoring

#### **Assignment:**

- **Read:**
  - Cert Pool Examples (on Canvas)
  - Petition in *Wortham v. New York* (on [www.nlawappellate.com](http://www.nlawappellate.com))

### **SEPTEMBER 14**

Justice Elena Kagan Lecture

### **SEPTEMBER 16 – 10 AM**

Moot: *Sosa v. Martin County* (11th Cir.) (en banc)

### **SEPTEMBER 16 – NOON**

From Draft to Filing

The Clinic Style Guide

Reply Briefs

Guest Speakers: Kelsey Handschuh and Maggie Bahnson, Sidley Austin

#### **Assignment:**

- **Watch:**
  - “The Last Word: Reply Briefs”
- **Read:**
  - The Solicitor General’s Style Guide

### **SEPTEMBER 23**

The Supreme Court Commission and the Evolving Role of the Court

Guest Speaker: Michael Kang, Northwestern Pritzker School of Law

#### **Assignment:**

- **Read:**

- [Presidential Commission on the Supreme Court of the United States](#), Executive Summary and skim Chapter 4 (The Court’s Role in the Constitutional System)

**SEPTEMBER 29 – NOON**

Moot: *National Pork Producers vs. Ross* (Sup. Ct.) (two students)

**SEPTEMBER 30**

The Better Brief / Seven Habits of Effective Brief Writers

**Assignment:**

- **Watch:**
  - “The Better Brief”
  - “Effective Appellate Strategy”

**OCTOBER 6 – NOON**

Moot: *Wells v. Warden* (11th Cir.) (en banc)

**OCTOBER 7**

Moots and Oral Arguments

Guest Speaker: Tacy Flint, Sidley Austin

**Assignment:**

- **Watch:**
  - “Moots and Arguments; Dulcet Tones”
- **Read:**
  - AAA Ch. 14, “Preparing for and Delivering Oral Argument”

**OCTOBER 12 – 2:30 PM**

Moot: *Mallory v. Norfolk Southern* (Sup. Ct.)

**OCTOBER 14**

Case Rounds / Live Edit

**OCTOBER 21**

The Shadow Docket

Guest Speakers: Rob Hochman, Sidley Austin; Will Baude, University of Chicago Law School

**Assignment:**

- **Read:**
  - Will Baude, [Foreword: The Supreme Court’s Shadow Docket](#), 9 NYU J. OF L. & LIBERTY 1 (2015)
- **Listen**
  - [Remaking America: The Supreme Court, The Shadow Docket, And America’s Trust](#) with Jeffrey Rosen, Steve Vladeck & Carolyn Shapiro

## OCTOBER 28

Amicus Briefs

Guest Speaker: Luke McCloud, Williams & Connolly

### **Assignment:**

- **Watch:**
  - “With Friends Like These...Amicus Briefs”
- **Read:**
  - AAA Ch. 13 s. 2, “Amicus Briefs”
- **Skim:**
  - *United States v. Concepcion* amici (each person in class will be assigned one amicus brief)

## NOVEMBER 4

State Supreme Courts vs. the U.S. Supreme Court: Similarities and Differences

Guest Speaker: Judd Stone, Texas Solicitor General

### **Assignment:**

- **Read:**
  - AAA Ch. 7, “The Writing Phase: Developing a Personal Writing Process”

## NOVEMBER 7-9

Washington, D.C. Trip (tentative)

### **Assignment:**

- **Read:**
  - Lower court opinions and briefs in [\*Mallory v. Norfolk Southern\*](#)

## NOVEMBER 11

The U.S. Solicitor General’s Office

Guest Speaker: Sopan Joshi, Assistant to the Solicitor General

## NOVEMBER 18

Effective Appellate Strategy

### **Assignment:**

- **Watch:**
  - “The Better Brief”
  - “Effective Appellate Strategy”

## DECEMBER 1

Finality

End of Semester Celebration