

GEORGE MASON UNIVERSITY SCHOOL OF LAW
SUPREME COURT CLINIC
Law 185

Spring Semester 2022

Adjunct Professors Consovoy, McCarthy, & Bates

COURSE INFORMATION

- Class Meetings:** Class will be held through a variety of formats, including professor lectures, guest speakers, smaller group meetings, and a (possible) trip to the Supreme Court. Below is a tentative schedule with reading assignments, but additional classes, assignments, and events will be added throughout the year.
- Contact Info:** Professor Consovoy, will@consovoymccarthy.com
Professor McCarthy, tom@consovoymccarthy.com
Professor Bates, tbates@gmu.edu
- Course Book:** There is no assigned textbook. We will assign chapters and sections out of Stern & Gressman: Supreme Court Practice (10th ed.), which is the definitive guide on practicing before the Supreme Court. We also may have other reading assignments, such as articles and briefs that represent exemplars of the clinic's work product.
- Grades/Attendance:** Student grades will be based primarily on student writing assignments completed on behalf of the clinic. In particular, 50 percent of a student's grade will be based on the student's work preparing and drafting legal briefs on behalf of the clinic. The remaining 50 percent of a student's grade will be based on the student's completion of weekly assignments providing updates on circuit court and Supreme Court activity. A student's overall grade based on their weekly updates and brief-writing may be adjusted one step upward or downward (for example, from an A up to an A+ or down to an A-) based on the student's participation during in-class discussions. Class attendance is critical. In compliance with George Mason's attendance policy, students absent from 20 percent or more of classes may not receive credit for the course
- Class Structure** We will assign readings that we expect you to discuss in class. Most of our readings will cover the logistics, procedure, and strategy of practicing before the Supreme Court. Generally speaking, the first half of class will be devoted to discussing the clinic's projects, and the second half of class

will be dedicated to discussing the assigned readings. We also will have guest speakers, smaller group meetings, and trips to the Supreme Court.

Requirements

Each student is expected to work on at least two briefs over the course of the year, preferably one each semester. We usually assign three students to each brief. When we find a new matter, we will circulate an email to the class requesting volunteers for that matter. If no one volunteers, we will assign the brief according to relative contributions to date.

We also have two weekly tasks for you to complete. The first is an update of cases where the Supreme Court has called for a response to a petition for writ of certiorari. The second is a circuit report where each student monitors a circuit’s new opinions, on a weekly basis, for potential cases upon which the clinic could contribute.

Learning Outcomes By the end of the course, students should have acquired an understanding of the nuts and bolts of Supreme Court practice and the ability to draft an effective brief.

SYLLABUS/CALENDAR OF EVENTS

(Additional Classes, Assignments, and Events May Be Added Later)

Date	Event (Topic)	Reading Assignment
January 19	The Merits Brief	<ul style="list-style-type: none"> • S&G: 13 (Intro on page 714), 13.7, 13.9-13.11(G), 13.12, 13.12(A) • Petitioner’s Brief in <i>Shelby County v. Holder</i>, 2012 WL 6755130
February 2	Oral Argument (the role of oral argument as opposed to advocacy via the briefs; oral argument strategy; preparing for oral argument)	<ul style="list-style-type: none"> • S&G: Sections 14.1, 14.3-14.4, 14.7, 14.13-15 • <i>CIC Services</i> Oral Argument
February 16	The Supreme Court’s Non-Certiorari Jurisdiction	<ul style="list-style-type: none"> • S&G Appellate Jurisdiction Sections: 2.III.7, 2.IV.9, 2.IV.10(A) - (B), 2.IV.10(D)(4), 4.II.27, 4.II.27(A)-(B), • S&G Original Jurisdiction Sections: 10.I.1-2, 4, 10.I.6

March 9	How the Supreme Court Decides Cases	<ul style="list-style-type: none"> • S&G Sections: 6.XIII.25 (questions presented); 4.II.28-29 (appeals) • Justin Pidot, <i>Tie Votes in the Supreme Court</i> at pp. 2-11 • The Court & Constitutional Interpretation, https://www.supremecourt.gov/about/constitutional.aspx • The Court & Its Procedures, https://www.supremecourt.gov/about/procedures.aspx • The Court as an Institution, https://www.supremecourt.gov/about/institution.aspx
March 23	Supreme Court in Private Practice: How to Acquire Work and Practice Before the Supreme Court	(Guest Speaker)
April 6	Non-Merits Dispositions (GVRs, DIGs, summary reversals, stays, habeas corpus, etc.)	<ul style="list-style-type: none"> • S&G: Sections 5.I.12 (GVRs & Other Summary Dispositions); 5.I.15 (DIGs); 15.II.18-19 (summary affirmance/dismissal/reversal); 17.I.1 (stays); 17.III.21 (habeas corpus); 18.1-18.2 (death penalty)
April 20	The Role of Law Clerks	<ul style="list-style-type: none"> • David R. Stras, <i>Keynote Address: Secret Agents: Using Law Clerks Effectively</i>, 98 MARQUETTE L. REV. 151-80 (2014) <p>(Guest Speaker)</p>