

SCHOLARLY WRITING

Course #510/002

FALL 2023 SEMESTER

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This course will meet three times in the beginning of the semester as a full class. Thereafter you will have a break during which to conduct research and writing and to seek any individual input you would like from me. Towards the middle/end of the semester, beginning on October 17, you will sign up to meet with me in small groups to discuss and comment on work in progress during the regularly scheduled class time or during office hours at times selected by you via sign-up sheets on TWEN.

I am aware of the deadlines set for submitting various drafts to your journals. I have set class deadlines to roughly coincide with what you are aiming for with your journals, but my deadlines are slightly different and also include additional class elements. **Please submit via the TWEN course portal where a submission tab is provided, otherwise an email to me cc'd to yourself to ensure it has gone through/can be resent is fine.** Note that due dates do not necessarily correspond with days or weeks on which classes meet.

REQUIRED TEXTS:

Eugene Volokh, *Academic Legal Writing: Law Review Articles, Student Notes, Seminar Papers, and Getting on Law Review* (5th ed.)

Columbia Law Review *et al.*, *The Bluebook: A Uniform System of Citation* (21st ed.)

COURSE ASSIGNMENTS/SCHEDULE:

This schedule may be refined once class enrollment is known or if circumstances change during the semester.

(Aug. 29) SESSION 1: TOPIC SELECTION; CRAFTING A NOVEL, NON OBVIOUS, USEFUL AND SOUND THESIS Read Volokh – Foreword, Chapter I Finding What to Write About (The Claim), Chapter II Test Suites: Making Prescriptive Claims More Sound

Please come to the first class with your topic idea in mind and be ready to discuss it. We will do an in class writing exercise to help you articulate and refine your ideas to get you on your way to a proper thesis.

(Sep. 5) SESSION 2: RESEARCH, BLUEBOOKING; STRUCTURING YOUR INTRODUCTION

Read Volokh – Chapter IX Tips on Researching, Chapter III Writing Strategy, Chapter IV Writing The Introduction

- In class meeting with library research professionals on research & bluebooking.
- You are required to schedule a research meeting with a librarian after this session and copy me on a thank you note to the person you meet with after the meeting has occurred.

(Sep.12) SESSION 3: ASK ME ANYTHING – about getting ready to write that is ... this is our last session together before you go on an intensive writing sprint. This will be an open session for you to raise any last-minute questions about topics, how to craft a thesis, challenges with preemption checks, how to build a writing schedule/practice, tricks to keep your pet off the keyboard. . .

- **Submit 3 questions to me by noon on Thur. Sep.7**

(Sep. 17) REFINED THESIS DUE /PREEMPTION CHECK DUE – TURN IN THESIS TO ME

(Oct. 10) INTRODUCTION & OUTLINE OF ANALYSIS DUE - TURN IN TO ME AND TO YOUR FELLOW GROUP MEMBERS- This document should consist of your first attempt to organize your thoughts into a coherent argument. State your thesis up front so we know what it is. Then give us a 5-7 paragraph introduction to grab our attention and outline your top level arguments. Provide a path for us to follow. You may use an outline format for the rest of the document. Provide a topic sentence followed by bullet points summarizing sub points in each section. Include references to important statutes and cases you are relying on.

(Oct. 17) SESSION 4: DISCUSSION OF OUTLINES – READ ABOUT THE BACKGROUND SECTION
Read Volokh – Chapter V Writing the “Background Section”, Chapter VI Writing the Proof of The Claim, VII The Conclusion, And After the Conclusion

- Small group meetings to discuss outlines. Please sign up for your desired slot well in advance and circulate your outline on a group email to me and those students participating in your session as you turn it in. (One email per group, so please reply all to the first person who circulates their draft to the small group.) You will keep these groups for the rest of the semester.
- **Discussants: Provide your comments to me in a succinct email by noon Thur. Oct. 12 focused on**

- Whether the thesis is stated in the form of a legal problem and a legal solution. Is it also novel, nonobvious, useful and sound.
- Does the author set out a compelling case for reading the paper in the introduction, and provide a preview of the argument. (That is neither merely a policy argument nor a report of someone else's scholarship)
- Do the remaining sections each begin with a clear proposition pointing towards the author's ultimate conclusion? And is each section supported by thoughtful legal arguments/explanations with citations to primary sources
- Are there holes or gaps in reasoning?
- Are there issues you (or other generalist readers) do not understand or need explained better?
- Do arguments seem logical to you?
- Do the arguments seem too obvious? Do you find yourself saying "I could have figured that out if I just thought about it for a minute?"
- Do you have idea/analogies/modes of analysis/useful cases/interesting journal articles etc. to suggest?
- Other issues you notice?

(Nov. 5) FIRST DRAFT DUE – TURN IN FIRST DRAFT TO ME AND TO YOUR JOURNAL

(Nov.14) SESSION 5: DISCUSSION OF FIRST DRAFTS Read Volokh — Chapter VIII Finishing the First Draft, And the Zeroth Draft

- Small group meetings to discuss first drafts. Please sign up for your desired slot well in advance and circulate your draft to me and those students participating in your session no later than Nov. 5 so that everyone has time to review and prepare to discuss.
- **Discussants: Provide your comments to me in a succinct email by noon Thur. Nov. 9 focused on the same issues as above on outline review, note:**
 - Has the author's thesis changed/improved/refocused? Have they taken comments into account? Is it stated in the form of a legal question and a legal solution?
 - Did author take group advice into account on other points how yes/no
 - How has the draft evolved from the outline?
 - Is it staying true to the form of a scholarly article or morphing into a policy think piece/report or literature review of other scholarship
 - What do you like/what would you suggest changing?
 - Is the writing style or paper organization easy and pleasant to read? How could it be improved for the reader?
 - How convinced are you by what you are reading? (Even if you disagree generally for some reason, does the author make a plausible/compelling case for their view and support it with strong legal reasoning and analysis. Conversely, what do you see as the paper's greatest logical and analytic weakness or areas where more support is needed?)

(Nov. 21) SESSION 5: FINAL FEEDBACK VIA ZOOM

- **Optional individual or small group meetings available** for those students who have made additional progress on their current draft, or are still working on challenges. Since your papers are due during the break this is your opportunity to obtain any final feedback.

Please sign up for your desired slot well in advance and circulate your draft to me and those students participating in your session at least 48 hours in advance of the session so that everyone has time to review and prepare to discuss. These sessions will be by Zoom. You don't have to remain with your original group for this session.

(JAN. 8) FINAL DRAFT DUE – TURN IN FINAL DRAFT TO ME AND TO YOUR JOURNAL

OFFICE HOURS: Office hours are Tuesdays directly after class or by appointment. I am happy to meet via zoom as well as in person.

OTHER MATERIALS: The TWEN page for this class contains important resources to assist you in conducting research and bluebooking. I have also tagged a host of potentially useful CALI exercises on topics like researching and using various types of primary and secondary authority that could save you a lot of time if you elect to spend the 30 or so minutes using an exercise to learn a new area of research, but it is entirely up to you whether you choose to use the exercises. Since I don't know in advance what you may choose to write about, there may be additional useful specialized topics to explore (e.g. Researching international environmental law). I will be happy to help you explore and to add further topics should you find them useful. Please just ask. These are also available on TWEN.

COURSE OVERVIEW/DESCRIPTION: This course is a 2 credit CR/NC writing course. My aim is to assist you in writing the best article, relevant to academics and practitioners, with the least amount of pain possible. I practiced law in various settings for over 20 years before coming to Scalia Law to run the Arts and Entertainment Advocacy legal clinic full time, so will encourage you to write articles that are articulate and clear and advance not only your own scholarship but are useful to the legal profession generally. Recognizing that many of you will not go on to write academic articles for a living, I will also endeavor to help you recognize the utility of academic writing to your professional research, and to spot quality academic writing quickly. Nevertheless, writing is hard, and the best writers are often the least facile.

I have found that giving and receiving comments on works in progress is the most productive way to improve my own writing. It alerts me to new perspectives and cases/scholarship I may have not been as attuned to in my practice/research, keeps me on task, and quickly exposes the places where my writing is less than clear, needs more support or could otherwise use editing. It builds trust and community, and as a reader and commenter I am always learning something new and interesting from my colleagues as well. Accordingly, this is how we will run the seminar.

More details follow below, but please sign up for this section only if you are willing to treat it as an active writing seminar and engage with your work and that of your colleagues professionally and with interest during the course of the seminar.

LEARNING OUTCOMES: By the end of the course students should have

- Identified a novel, non-obvious, useful, and sound claim upon which to write an article;
- Completed research appropriate to writing a publishable academic article;
- Drafted a compelling introduction of 5-8 paragraphs;
- Drafted an authoritative background section providing context for the thesis, that

includes primary and secondary authority both supporting and opposing the

proposition, and briefly defends the thesis against the main counterarguments;

- Outlined (or completed what Volokh calls a “zeroth” draft) of an article; and
- Written an academic article incorporating all of the above that also includes thorough

citations supporting every proposition pro and contra (using appropriate signals) formatted consistent with the Bluebook rules for academic works.

BASIS OF EVALUATION & ASSESSMENTS

- This course is a CR/NC course, however in order to successfully complete the course with credit your paper and class participation must show you have mastered all of the above referenced “learning outcomes” by the assigned dates, and you must actively and courteously participate in class discussions and activities
- Under Academic Regulation (“AR”) 4-3, the use of Generative AI resources in drafting your paper is prohibited. This means you should also not use GAI resources to comment on and review peer papers. See the regulation in part:

AR 4-3: Limitations on the Use of Generative Artificial Intelligence (GAI) in Academic Work

(a) Definition: Generative artificial intelligence (GAI) is a type of artificial intelligence that uses algorithms to generate new content, such as text or images, based on the data it has been trained on. For purposes of this regulation, GAI is not intended to encompass legal research databases and word processing applications that, while incorporating AI-based elements or enhancements, do not generate novel text.

(b) Papers and coursework: The use of GAI in drafting or writing coursework, including papers and reaction papers, is prohibited unless expressly identified in writing by the instructor as an appropriate resource for the work in the instructor's course.

- Under Academic Regulation ("AR") 4-5, "CR indicates work equivalent to a C or better on the A+ through F scale," and "[t]he grade of NC indicates work that falls below the equivalent of a C on the A+ through F scale and does not qualify for credit towards the Juris Doctor degree."
- To determine whether a student will receive credit for the course, I'll first assign each final paper a letter grade from A through F, depending on the student's understanding of the various organizational, structural, stylistic, and analytical concepts that are the substance of the course. Grading is objective, i.e. not on a curve.
- Per AR 4-4.1(b)(iii), I must deduct a full letter grade for each 24-hour period that the paper is submitted beyond the deadline.
- I may add one-third of a letter grade for exceptional participation in class meetings.
- **Class participation:** students will be required to complete in class writing exercises designed to help refine and polish selected topics, including presenting research and writing progress throughout the course of the seminar, and providing constructive feedback and advice to classmates. Active and professional participation in all seminar discussions is required to earn a CR.

FINAL PAPER FORMATTING REQUIREMENTS

Your final paper should be submitted as a Microsoft Word file (.doc or .docx). The filename should be your last name. Do not send a .pdf or any other type of file. **Submit your papers before 11:59 pm, January 8, 2024.**

The paper should be double-spaced and left-justified in 12-point font with 1" margins (0.5" margins for header and footer). The only exception is block quotations, which should be single-spaced in 12-point Arial, indented 0.5" on each side. The title should be in all caps. Do not include an abstract. The paper should be between 30 and 45 pages long.

Scholarly writing must be thoroughly supported by original student research, with proper credit attributed. Insufficiently or inaccurately attributed writing will result in a grade of NC and potential Honor Code referral. Footnotes should be single-spaced in 10-point Arial; block

quotations should again be indented 0.5" on each side. All footnotes must conform to the Bluebook (21st ed.) for academic works, including the requirements of the Tables.

Every page should have a page number centered at the bottom in 12-point font. Every page should have a header with your last name centered at the top in 12-point font.

COURSE RULES/STRUCTURE:

- We will conduct the bulk of our seminar in the style of professional scholarly discussions in which peers carefully evaluate and present feedback on each other's work. Whether presenting or receiving comments in academic roundtables, I have found this to be one of the most rewarding means not only of improving my own work, but of engaging meaningfully with the work of colleagues.
- To facilitate this, students will sign up for small group sessions to discuss works in progress towards the end of the semester. **Students must circulate their drafts including questions for feedback by the deadlines in the syllabus so that classmates and I have a chance to review and prepare thoughtful comments prior to class.**
- In the event we must meet via zoom, class sessions will be held with cameras on (directed at the student), mics off unless speaking. Please ensure your name is correctly displayed in Zoom for attendance purposes and so that all participants may address you as you prefer to be addressed. Put your name and or a question in the chat box to be recognized to speak, and use the chat function only in the message all mode.

EMAIL COMMUNICATION: Students must use their MasonLive email account to receive important University information, including communications related to this class. In accordance with University policy I will not respond to messages sent from or send messages to a non-Mason email address.

ATTENDANCE: Regular and punctual attendance is required to earn academic credit. Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1. Should circumstances occur where you anticipate the possibility of missing a substantial number of class sessions (e.g. a serious illness), you should immediately contact the Assistant Dean, Student Academic Affairs to make appropriate arrangements and notify me.

CLASS RECORDINGS PROHIBITED: Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. This is especially important given the nature of our seminar where we will be discussing works in progress and want to ensure an atmosphere of trust and open discussion.

PAPER EXTENSIONS: Except for instances described in AR 4-4.1(b)(ii), faculty may not grant deadline extensions for final papers (i.e. any written assignment that accounts for 50% or more of the final course grade); all authority in this matter is delegated to the Assistant Dean, Student Academic Affairs. Excuses and requests for a deadline extension must be presented,

with appropriate documentation, to the Assistant Dean, Student Academic Affairs. Except in emergencies, deadline extensions must be sought in advance of the scheduled deadline. Note that there are steep deductions in grades required for every day past the scheduled deadline a paper is turned in.

ACADEMIC INTEGRITY: It is expected that students adhere to the Antonin Scalia Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment. The Honor Code is available here: <https://sls.gmu.edu/honor/>.

CLASSROOM ACCOMMODATIONS: Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit <http://ds.gmu.edu/> for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability Services directly via email at ods@gmu.edu or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.