This is a course for the law student who wishes to secure a position as a law clerk in the state or federal judiciary or administrative court systems. The goal is to provide the student with an understanding of judicial decision-making and other skills necessary to successfully obtain and succeed as a judicial law clerk. This course will involve regular writing assignments as well as a final term project. At the conclusion of the course the student should have the knowledge and understanding required to interview for a clerkship with confidence and to perform as a clerk at an exemplary level.

REQUIRED TEXT
Ruggero J. Aldisert, Opinion Writing (2nd ed. 2009) [Hereafter referred to as “Aldisert Text”]


Recommended References

West’s Law Clerk Guide to Success [Find on Westlaw]


GRADING
20% Class Participation
50% Judicial Writing Assignments
30% Final Term Judicial Opinion

CLASS SCHEDULE AND ASSIGNMENTS
Class day is Thursday at 3:35 pm – Oaks

Week 1: September 1, 2016

Read:


1 All assignments and supporting materials are provided or cited on TWEN, unless provided in class.
• Gerald Lebovits, Alifya V. Curtin & Lisa Solomon, Ethical Judicial Opinion Writing 23 Geo J. Legal Ethics 237 (Spring 2008)

• Review: Maintaining the Public Trust- Ethics for the Federal Judicial Law Clerks, (Federal Judicial Center, 2002)

• Law clerk ethics problem for discussion in class.

This first class of the semester will be an overview of judicial opinion writing and a discussion of the law clerk’s role and the role of ethics in judicial writing. We will also discuss the ethical considerations related to obtaining judicial clerkships and the continuing ethical obligations during a clerkship. In addition I will go over with the class the details of the Final Term Project.

Writing Assignment #1 (due Sept. 8)

• Using the ethics problem from week 1, prepare a “bench memo” for your judge (no more than 8 pages) identifying ethical issues and concerns and recommendations for the judge. Consult Chapters 2 and 3 of the Guide to Judicial Policy (United States Judicial Conference, Revised 2011) as well as your independent research.

Week 2: September 8, 2016

Read:

• Aldisert Text -- Chapter 10, “Writing the Reasons for the Decision” and Chapter 11, “Opinions of Trial Courts and Administrative Agencies”
• Dunnewold Text Chapter 9, “Drafting Appellate Opinions”

Writing Assignment #1 is due in class

Writing Assignment #2 (due September 29)

• There will be a discussion in class regarding writing assignment #2, i.e., writing a bench memo in an appellate case. The record of the case will be provided. The issue on appeal is whether the trial court erred in denying a motion for reconsideration of a motion for summary judgment. (two common but very important civil motion types) 10 pages max

Week 3: September 15, 2015

Guest Speaker: Hon. Peter Hall, U.S. Court of Appeals for the 2nd Circuit

Come to class prepared with your questions for Judge Hall: Try to focus on judicial writing challenges.
Week 4: September 22, 2016

Read:

- “How Not to Write a Judicial Opinion,” Andrew Baida (*The Daily Record*, April 2, 2001)
- *Tierney v. Vahle*, 304 F. 3rd 734 (7th Cir. 2002)

Discussion of Need for Style Sheet

Week 5: September 29, 2015

Read:

- *Dunnewold* Text-Chapter 8, “Drafting Trial Court Documents”

Writing Assignment #2 is due

Submit in writing your selected case for your Final Term Judicial Opinion, with issues to be decided (no more than two pages).

Writing Assignment #3: (due October 6)

- You will prepare a proposed decision on a motion for Summary Judgment submitted to a trial court. You will be provided with the motion filings (no more than 8 pages).

Week 6: October 6, 2016

Read:

- *Dunnewold* Text-Chapter 13 Writing Style

Speaker:
The Hon. Patricia Richmond, of the New Jersey Superior Court (Retired T/A on Recall)

Ten common writing mistakes made by new law clerks
Writing Assignment #3 is due

Writing Assignment #4 (due October 20)

• You will prepare and submit a bench memo on a “motion for an additur or in the alternative, a new trial” following a verdict in a personal injury case. The motion papers will be provided (no more than 8 pages).

Week 7: October 17, 2016

Read
• Aldisert Text-Chapter 13, “Writing Style”

Writing Assignment #5 (due November 3)

• Prepare a bench research memo for your judge explaining the distinctions between Temporary, Preliminary, and Final Injunctive Relief and the general standards a judge needs to consider before deciding whether to grant or deny such relief (no more than 8 pages).

Week 8: October 20, 2016

Writing Assignment #4 is due

Guest Speaker: Hon. Paul Reiber, Chief Justice of the Vermont Supreme Court

Come prepared with questions for Justice Reiber, related to writing and clerkships.

In addition Elizabeth Tisher, a former student in this class who formerly clerked in the Vermont Supreme Court for the Hon. Justice Dooley will provide her insights to clerking and judicial writing.

Week 9: October 27, 2016

Discuss Writing Assignment #4

Read:
• Richard A. Posner, Judges’ Writing Styles (And Do They Matter), 62 U. Chi. L. Rev. 1421 (Fall 1995)
• Hon. Patricia Wald, Reply to Judge Posner, 62 U. Chi. L. Rev.1451 (Fall 1995)
• Funny Cide Ventures, LLC. v. The Miami Herald Publishing Co. 95 So.2d. 1241 (Fla. 2007)
• Legally Speaking, John Brown
**Brief Status Report on Term project due November 3.**

- Prepare a brief status memo for next week’s class on your efforts and progress on preparation of your Final Term Judicial Opinion. I will be available to meet individually to resolve any questions or difficulties you may be having.

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**Week 10: November 3, 2016**

Read:


(Be prepared to answer the question in class)

Writing Assignment #5 is due.

Status Report due.

Speaker: **Attorney Megan Knowlton Balne**—former state court and federal court law clerk

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**Week 11: November 10, 2016**

Read:


If needed I will meet individually with any class member for a few minutes to discuss your project and help with any difficulties you may be having.

**Week 12: November 17, 2016**

The draft of your Final Term Project is due. We will discuss the individual projects and issues and problems associated with completing the proposed decision. **You should be prepared to present your case orally to the class.** This should take about 10 minutes for each presentation. Include in your presentation the issues to be resolved by the court, and the factual and legal contentions of the litigants, together with your legal analysis and recommendations for a decision. Be prepared to answer and ask questions of your class participants. **Your presentation will be factored into your Final Term Project Grade.**
Week 13: December 1, 2016

Read:

- J. Daniel Mahoney, Law Clerks: For Better or For Worse?, 54 Brook L. Rev. 321 (1988), (pages 321 to 345)

Speaker: Attorney Katelyn Atwood—former state court law clerk (one of my former clerks) who until recently was a Vermont Poverty Law Fellow working here at VLS. Katelyn currently is an associate at a firm in Rutland, Vt.

Week 14: December 8, 2016

Last Class: FINAL TERM PROJECT DUE

NOTE: ALL ASSIGNMENTS SHALL BE DOUBLE SPACED, USING COURIER FONT #12 (footnotes use #10, AND SINGLE SIDED. USE STANDARD MARGINS