

POLS 394RSCH: American Legal System

Emory University

Fall 2019

Meeting room: Tarbutton 106
Meeting time: Mondays and Wednesdays, 4:00pm–5:15pm

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Office hours: Clark: Wednesdays, 2:30-3:30
Cheruvu: Mondays, 11:00-12:00

Overview

Grading and Evaluation

Your grade in class will be based on three items: (1) short response papers, (2) a research paper, and (3) participation.

Response papers. There will be two short paper assignments. These assignments, along with their due dates, are indicated on the class schedule below. The papers will be assigned roughly once every month. Response papers should be roughly 2-3 pages long. The goal for each paper is to provide some analytic interpretation of the material we have covered in class. The paper assignments will ask you to evaluate a legal problem, making use of the theories and evidence we have encountered in class. To most effectively respond to the question, you will need to make use of the research design material as well as the material related to the substantive content of law and legal institutions. More details will be provided with each assignment. Each of the two papers will constitute 20% of your final grade.

Research paper. You will write a research paper. The paper will apply the theories and findings from our class to analytically recount the history of a Supreme Court case. You will select the case and write a paper that tells the history of the case, from the original dispute, through the legal system and the Supreme Court's decision. We will make available a list of cases for which ample background resources are known to be available along with list of "starter" resources for each case. Further details about the expected content will be provided during the semester. The paper will be due on December 12, 2019, by 1:00pm. The research paper will constitute 45% of your final grade.

Participation. Your regular attendance and active participation in class is required. You will also be required to submit three discussion questions on Canvas for two separate weeks' readings during the semester. The weeks during which you will submit discussion questions will be decided at the beginning of the semester. If you are assigned to submit discussion questions for a Monday

class session, you must submit your discussion questions on canvas by 11:59 p.m the previous Saturday. If you are assigned to submit discussion questions for a Wednesday class session, you must submit your discussion questions on canvas by 11:59 p.m the previous Monday. You should come to class each week motivated and prepared to discuss the week's readings. The class will be an interactive seminar, and you will be called on to engage with the instructors. You need to have done the reading to participate effectively. You should bring copies of the readings with you and have your own agenda for points that you would like to make. Participation will constitute 15% of your final grade.

Required Texts

The text for this class is Barry Friedman, Andrew Martin, Margaret Lemos, Tom Clark, Alison Larson, and Anna Harvey, *Judicial Decision Making*. The materials for class from this book will be provided to you electronically, free of charge. The materials will be available on Canvas, typically at least two weeks before the assigned class.

Please note, the amount of assigned reading varies considerable from meeting to meeting. It is important to make note of the variation in the workload over the semester and plan accordingly.

Other Policies

Please arrive to class on time. We will begin class promptly at 4:00pm each meeting. Please disable cell phones and other devices that make noise or otherwise distract you from class. If you have some pressing personal situation that requires your distraction during class, please see the instructors beforehand to discuss how best to handle the distraction.

All assignments are due at the indicated time. Any late assignment will be penalized 5%. The penalty increases by an additional 5% each additional day it is late. There are no exceptions to this policy. If you have a conflict or other reason why you cannot complete your assignment in time, please discuss this with the instructors as soon as you are aware of the conflict.

Laptop computers are permitted in class, provided they do not begin to create a distraction. Our expectation is that you will use laptops *only* to access the readings and take notes. If it becomes apparent that laptops are being used to multitask or otherwise distract you from class, we will prohibit their use in class. You need to bring paper and a pen to class every meeting. In addition to taking notes, we will often have in-class activities that will require the use of pen and paper.

You will find contact information on this syllabus and should feel welcome to contact the instructors for any assistance we can provide. You should expect that email will be answered the following business day; the instructors do not check email consistently throughout the day or on weekends. Please note, there are officer hours for each instructor, and that should be the primary mechanism for seeking clarification or further elaboration of topics from class about which you have questions.

Students with Disabilities

Students requiring any type of academic accommodation should consult with the Office of Disability Services (<http://www.ods.emory.edu/> or 404-727-6016) and discuss the issue with the instructor within the first week of class.

Course Schedule

Below is a schedule of meetings for the class. We will do our best to keep to this schedule, but you should anticipate there will be modifications throughout the semester. The most recent version of the syllabus will always be available on Canvas. When in doubt, check there.

The readings listed for each meeting should be completed before class. We expect you to come to class prepared to discuss the day's assigned readings. Please note, the amount of reading assigned per class meeting varies a lot. Read the entire class schedule now and plan ahead accordingly.

Meetings and Assignments

August 28: Introduction

No readings

September 4: Introduction to Judicial Politics

Judicial Decision Making, chapter 1

September 9: The Limits of Law I: Posing the Question

Judicial Decision Making, chapter 2, pages 1-6

September 11: The Limits of Law II: Formalism and Realism

Judicial Decision Making, chapter 2, pages 6-13

September 16: The Limits of Law III: Cabining Indeterminacy

Judicial Decision Making, chapter 2, pages 13-20

September 18: The Limits of Law IV: Hard Cases

Judicial Decision Making, chapter 2, pages 20-41

September 23: The Identity of the Judge

Judicial Decision Making, chapter 3, pages 1-7

September 25: Empirically Studying the Judicial Ideology

Judicial Decision Making, chapter 3, pages 7-38

September 30: Modeling Judicial Preferences

Judicial Decision Making, chapter 3, pages 38-52

October 2: Measuring Judicial Preferences

Judicial Decision Making, chapter 3, pages 52-68

First short paper assignment distributed

October 7: Non-Ideological Judicial Characteristics

Judicial Decision Making, chapter 3, pages 68-95

October 9: Setting the Judicial Agenda: Case Sequence

Judicial Decision Making, chapter 4, pages 1-25

First short paper due

October 14: Fall break - no class

Relax

October 16: Setting the Judicial Agenda: Litigants and Attorneys

Judicial Decision Making, chapter 4, pages 25-79

October 21: Setting the Judicial Agenda: Legislative and Judicial Control

Judicial Decision Making, chapter 4, pages 79-114

October 23: Institutional and Structural Constraints on Judging I

Judicial Decision Making, chapter 5, pages 1-36

October 28: Institutional and Structural Constraints on Judging II

Judicial Decision Making, chapter 5, pages 36-87

October 30: Judicial Hierarchies I: How Should We Organize a System

Judicial Decision Making, chapter 6, pages 1-21

November 4: Judicial Hierarchies II: Precedent

Judicial Decision Making, chapter 6, pages 21-58

November 6: Judicial Hierarchies III: Principal-Agent Models of Hierarchy

Judicial Decision Making, chapter 6, pages 58-88

Second short paper assignment distributed

Research paper outline due at beginning of class

November 11: Judging on a Collegial Court I

Judicial Decision Making, chapter 7, pages 1-33

November 13: Judging on a Collegial Court II

Judicial Decision Making, chapter 7, pages 33-53

November 18: Judging on a Collegial Court III

Judicial Decision Making, chapter 7, pages 53-182

Second short paper due at beginning of class

November 20: Judging on a Collegial Court IV

Judicial Decision Making, chapter 7, pages 82-110

November 25: Thanksgiving week - no class, work on paper

Please spend this week's class time on your research paper

November 27: Thanksgiving week - no class, work on paper

Please spend this week's class time on your research paper

November 28: Catch up

TBD

December 2: Judging in a System of Separated Powers I

Judicial Decision Making, chapter 8, pages 1-41

December 4: Judging in a System of Separated Powers I

Judicial Decision Making, chapter 8, pages 41-72

December 9: Conclusion

No readings