Supreme Court Decisionmaking
May 2010
Melissa Hart
Tentative Syllabus

This class in Supreme Court Decisionmaking is designed to give students a chance to talk about the politics and processes of the United States Supreme Court (and other multi-judge courts in the U.S. system) and also to consider several cases currently before the Court as an opportunity to experience first-hand the benefits and the difficulties of collegial decisionmaking on important and sometimes contentious legal issues.

Class participation is essential to the success of this class. In addition to regular and active participation in discussion, each student will have several specific roles to fill over the course of the class. In a very abbreviated form, our class will follow the life cycle of a case at the Supreme Court.

> On the second day of the class, you will meet as a "conference" of justices to consider which cases your Court will hear during the Term. I have pre-selected the first case, which will be heard on the fourth day of class. I have also selected seven additional cases from which your conference must select the remaining cases to hear arguments and write opinions on. All of the cases I have selected are currently pending before the Supreme Court.
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> On four or five of the class days, we will be conducting oral argument sessions on the cases you select. For each of those days, 2 students will be assigned the roles of attorneys for petitioners and respondents. (Each student will serve as a lawyer at least once.) The attorneys will argue the cases for their clients and the remaining students will serve as an active bench, questioning the lawyers about the cases.
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> After each argument session, you will meet in Conference. Depending on the size of the class, we will have either one or two conferences. In conference, you will vote on the cases and determine who will be responsible for the majority opinion and who might author dissenting or concurring opinions.
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> Over the course of the 3-week class period, we will have several meeting/writing days. On those days, I will meet individually with students who are authoring opinions. I will also expect you to circulate drafts to each other and to report to me on whether and how votes on the different issues change over the course of the drafting process.

Students' grades will be based in part (25 percent) on in-class participation. In addition to active participation, each student will be required to draft an opinion in one of the cases we consider during the class. You may write a majority opinion, a concurrence or a dissent. Sixty percent of your grade will be based on this opinion. The remaining 15 percent of your grade will be based on a second writing requirement – a four-page response to the majority opinion in one of the cases other than the one in which you draft your primary writing project.

Tentative Schedule of Assignments
(All reading materials other than those on Westlaw are available from Professor Hart.)

May 10 The Importance of Personnel
Reading: Handout #1

In class: Discussion of reading

May 11 Setting an Agenda
Reading: Handout #2

In class: Discussion of reading, "conference" to vote on cases for "Term"

May 12 First Argument Day
Reading:

In class: Oral argument and conference

May 13 Second Argument Day

In class: Oral argument and conference

May 18 How Justices Decide Cases
Reading: Handout #3
Lee Epstein and Jack Knight, The Choices Justices Make

May 19 Third Argument Day

In class: Oral argument and conference

May 20 Judicial Election/Selection
Reading: Handout #4

May 21 Fourth Argument Day

In class: Oral argument and conference

May 24 **Individual meetings**

May 25 **Discussion of first group of circulated opinions**

May 26 **Collegial Decisionmaking**
Reading: Handout #5

May 27 **Discussion on second group of circulated opinions**

Final papers will be due in my box at school on Friday May 28 by noon.