

# UCDC Law Externship Seminar Fall 2015

## Law and Lawyering in the Nation's Capital

Tuesdays, 6:00 – 9:00 pm (Note: occasionally class may meet on another day and time during the week)  
University of California Washington Center  
1608 Rhode Island Avenue, NW  
Washington, DC 20036

### Instructors:

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### Program Description:

The UCDC Law Program has two main components: the 10-credit field placement and the companion 3-credit seminar.

The seminar is designed to explore the role of the Washington DC lawyer. Through a series of guest lecturers the seminar will help you learn about the process of federal law and policy-making. We will also investigate the unique role lawyers in Washington DC play in affecting, making and changing federal law and policy.

**Occasionally we will have events outside of class. Outside events will be announced in advance and are optional.**

### Seminar requirements:

Your seminar grade will be based on:

- **Class participation (25%).** Effective class discussions depend on the contribution and preparedness of each student. Accordingly, 25% of your grade will reflect your attendance, class participation, active engagement with our guest speakers, and submission of questions for the guest speaker. Each week you must submit a question for that week's speaker. Questions should be drawn from your reading and experiences at your placement. The questions will be shared with the speaker

and with the other students in class. **Questions are due on bCourses** <https://bcourses.berkeley.edu/> every week on Sunday by midnight.

Attendance is mandatory. If you have to miss a class, please advise us prior to the class. Absences will be reflected in the class participation component of your overall grade, and may result in your seminar course grade being lowered.

**Writing Assignments (50%).** During the semester you will complete four writing assignments. Each writing assignment should be approximately 5 pages in length with your final writing assignment a minimum of 10 pages. In total you should submit between 25-30 pages of written work-product for the class.

- 1) The first writing assignment is your goals memorandum.
- 2) The second writing assignment is a mid-term assessment and reflection in the form of a narrative questionnaire that you can find on bCourses.
- 3) The third writing assignment requires you to discuss a topic we have covered in class and how you have witnessed that topic “in action” at your placement.
- 4) The fourth writing assignment is a substantive paper on a legal issue you worked on during the field placement or a legal issue related to your placement. Students who are working in placements with special confidentiality issues may be permitted to write the fourth writing assignment on another topic raised in the seminar. Please note that to avail yourself of this alternative, you must obtain your professor’s approval first.

*You should observe the confidentiality and privilege rules of your placement host organization and of the D.C. Bar, which generally means you should omit information that could identify an individual client or breach an agency’s deliberative process privilege. We are here to help you resolve any questions you may have on this and other subjects.*

- **Class Presentation (25%).** Every student will make a formal presentation in class during one of the final two class sessions. The presentation will be related to the topic of your final paper. The presentation should be approximately 15 minutes in length and must be well-organized and prepared.

#### **Externship requirements:**

The field placement will be pass/fail. You are eligible to receive 10 credits for your field placement work. In order to be awarded 10 credits for your field placement you must comply with the following requirements:

- **Hours:** You must complete 560 hours or more over a minimum of 14 weeks, except for federal holidays when the office is closed. You do not have to make up the hours for federal holidays. If you have to miss a day or more at the placement, please inform Professor Lehtman and your supervisor.

- **Timesheets.** Timesheets must be submitted every two weeks. Timesheets are a close equivalent of billable hour logs. Timesheets must be turned in on time. **Professor Lehtman will not accept late timesheets at the conclusion of the semester.** Failure to submit timesheets in a timely manner will result in the hours from the late timesheets not being counted toward your end of semester total. Please submit your timesheets via bCourses <https://bcourses.berkeley.edu/> according to the schedule below. Timesheets must be submitted on the template provided by the UCDC law program and found on bCourses <https://bcourses.berkeley.edu/>. **All timesheets must be typed, not handwritten.**

**Timesheet due dates for spring 2015:**

September 13 (weeks 1 and 2)

September 27 (weeks 3 and 4)

October 11 (weeks 5 and 6)

October 25 (weeks 7 and 8)

November 8 (weeks 9 and 10)

November 22 (weeks 11 and 12)

December 13 (weeks 13 and 14). Note this timesheet will cover 3 weeks if you work the week of Thanksgiving.

**Other important dates and requirements for externship:**

- Submit externship agreement form signed by you and your attorney supervisor. **Due September 8.**
- Complete Google Doc Supervisor and Placement Information form. **Due September 4.**
- Receive a satisfactory evaluation from your supervisor at the end of the semester meeting your supervising attorney's expectations for attendance, performance and professionalism (completed by supervisor). **Due December 11 (or on your last day of work).**
- Complete the final evaluation form about your placement (completed by student). **Due December 11.**

**Office hours:** Professor Lehtman is available to meet with you during the week. Please feel free to email or call to set up an appointment. Each student will have at least one individual one-on-one meeting during the semester with Professor Lehtman. These meetings will take place the week of October 5. A sign-up sheet will be provided for the one-on-one meetings.

Professor Thiemann is available to talk by phone any time, and to meet in person during the week by appointment. Please email or call at the contacts listed above.

**Course materials:** There is no casebook, but there will be handouts and assigned readings that can be obtained on bCourses: <https://bcourses.berkeley.edu/>.

**Class One: Tuesday, September 1**

## Introduction to the UC DC Law Seminar and Program Orientation

We will introduce ourselves and our externship placements, discuss foundational questions for the seminar, review course requirements and expectations.

**Class Discussion:** Setting goals and designing and managing your externship experience. With the MacCrate Report as a resource and your own goals as a guide, come prepared to talk about your personal goals for the externship, and any obstacles you anticipate to achieving them. We will brainstorm strategies for overcoming those obstacles, including developing your lawyering skills, managing your own work, time, and interactions with the office, managing your superior(s), matching your interests to your work, obtaining important assignments and more. Discuss first writing assignment – The Goals Memo. Due September 13.

### Reading:

- 1) Learning From Practice, Setting Goals for the Externship, Chapter 2, J.P. Ogilvy, Leah Wortham, Lisa Lerman, etc.
- 2) Chapter 5, “Statement of Fundamental Lawyering Skills and Professional Values,” of the ABA Section of Legal Education and Admission to the Bar, *Legal Education and Professional Development: An Educational Continuum* (1992), popularly known as “The MacCrate Report” after Robert MacCrate, chair of the Report task force.

### Overview of Part I of Seminar – Executive Branch

#### Reading:

- 1) Lyle Denniston, *Opinion analysis: Walking on a tightrope on Mideast policy*, SCOTUSblog, June 8, 2015, <http://www.scotusblog.com/2015/06/opinion-analysis-walking-on-a-tightrope-on-mideast-policy/>
- 2) Garrett Epps, Constitutional Myth #3: The ‘Unitary Executive’ is a Dictator in War and Peace, *The Atlantic* June 9, 2011.
- 3) Jonathan Turley, *Authorization to Initiate Litigation for Actions by the President Inconsistent with His Duties Under the Constitution of the United States*, July 16, 2014, <http://docs.house.gov/meetings/RU/RU00/20140716/102507/HMTG-113-RU00-Wstate-TurleyJ-20140716.pdf>
- 4) John Yoo, Judicial Supremacy Has Its Limits, *National Review*, July 6, 2015, <http://www.nationalreview.com/article/420810/obergefell-judicial-supremacy>

**Class Two: Tuesday, September 8**  
**White House Counsel and Department of Justice, Office of Legal Counsel**

**Speakers: Rosemary Hart, Department of Justice, Office of Legal Counsel; Ed Siskel, Partner, WilmerHale, previously Deputy White House Counsel**

#### Reading:

- 1) Maryanne Borrelli et al., *The White House Counsel’s Office* (White House Transition Project Report No. 2009-29).

- 2) Bruce Ackerman, *Abolish the White House Counsel*, SLATE, Apr. 22, 2009.
- 3) Trevor W. Morrison, *Constitutional Alarmism*, 124 Harv. L. Rev. 1688, 1731-49 (2011).
- 4) Bruce Ackerman, *Lost Inside the Beltway: A Reply to Professor Morrison*, 124 Harv. L. Rev. F. 13, 26-41 (2011).

**Writing Assignment 1: Goals Memo– Due Sept. 13**

This writing assignment should be in the form of a **Memo** that you will ultimately submit to your supervisor with a cc to your Professor. You should include in this Memo your goals for the externship. Your goals should be specific, i.e., not “I hope to get real work experience” but rather, “I hope to experience first-hand the process an agency undertakes when drafting and promulgating a regulation.” Your goals should be measurable. For example, “I hope to draft significant portions of xx briefs and attend xx trials” or “I want to reach out to x, y and z components of my agency to better understand what they do” or “I expect to attend xx trainings.” Please explain how you plan to achieve these goals, and exactly what steps you plan to take to help you achieve these goals. You may include both professional and personal goals relevant to your time in Washington DC. For example, What do you hope to learn and discover? How do you hope to improve or enrich yourself this term, as personally and professionally? You should submit to your professor first who will provide feedback. After receiving and incorporating feedback please share with your supervisor.

**Class Three: Tuesday, Sept. 15**  
**Agency General Counsel**

**Speaker: Jonathan Neuchterlein, General Counsel, Federal Trade Commission**

**Reading:** Michael Herz, *The Attorney Particular: Governmental Role of the Agency General Counsel*, in GOVERNMENT LAWYERS: THE FEDERAL LEGAL BUREAUCRACY AND PRESIDENTIAL POLITICS 143-179 (Cornell W. Clayton ed., 1995).

**Class Four: \*Monday, Sept. 21**  
**Student mini-presentations**

Each student will make a short presentation about his or her individual organization. Each student should be prepared to discuss the organization’s mission, the role of the agency within the larger organization, the role of the agency within the federal government, and the hierarchical structure of the organization. You will also share informally the work you are doing at your placement.

**To prepare:** Interview at least one attorney at your agency to help you prepare to discuss the topics above; read the mission statement of your organization; and review your agencies organizational and hierarchal structure. You may use a power point or other aides if you like.

**Class Five: Monday, Sept. 28**  
**Main Justice and Legal Policy Making**

**Speaker:** Armando Bonilla, Associate Deputy Attorney General, U.S. Department of Justice, and nominee to the U.S. Court of Federal Claims

**Reading:**

- 1) DANIEL J. MEADOR, THE PRESIDENT, THE ATTORNEY GENERAL, AND THE DEPARTMENT OF JUSTICE 1-49 (1980).
- 2) Department of Justice Organizational Chart, available at <http://www.justice.gov/agencies/index-org.html>.
- 3) Robert H. Jackson, *Federal Prosecutor*, 24 J. AM. JUD. SOC'Y 18 (1940).
- 4) Janet Reno & Geoffrey M. Klineberg, *What Would Jackson Do? Some Old Advice for the New Attorney General*, 2 HARV. L. & POL'Y REV. 197 (2008).
- 5) Judith Resnick, *Revival of Justice: What Obama's DOJ Appointees Should Do First*, SLATE, Jan. 6, 2009.

**Writing Assignment 2: Mid-Term Reflection – Due October 4**

The narrative form can be found on bCourses. Use this writing assignment to reflect on what you are accomplishing at your placement. You should write about what you have learned in your placement and the seminar with regard to law, policy, the functions of institutions, supervision, professionalism, etc. Please refer back to any topics we have discussed in class that have helped you better understand the role of your agency. This is also the opportunity to re-read your goals memorandum to evaluate whether you are reaching the goals you set out for yourself. Establish concrete steps on how you will accomplish your remaining goals. Although this writing assignment is in the form of a questionnaire, for grading purposes it will be weighted equally with your other 5 page writing assignments.

**Week of October 5:** Individual meeting with Professor Lehtman. This is your chance to discuss specific issues or problems in confidence before the visit to your externship site.

**Class Six: Tuesday, October 6**  
**Congressional Influence**

**Speaker:** Jennifer Campaign, Chief of Staff, Senator Feinstein

**Reading:**

George Packer, *The Empty Chamber: Just How Broken is the Senate?*, THE NEW YORKER, Aug. 9, 2010. [http://www.newyorker.com/reporting/2010/08/09/100809fa\\_fact\\_packer](http://www.newyorker.com/reporting/2010/08/09/100809fa_fact_packer)

Barbara Sinclair, *The New World of U.S. Senators*, in CONGRESS RECONSIDERED 1-22 (Lawrence C. Dodd & Bruce I. Oppenheimer eds., 9<sup>th</sup> ed. 2008).

Familiarize yourself with role of Senate committees:

<http://www.senate.gov/general/Features/Committees.htm>

**Class Seven: Tuesday, October 13**  
**Lobbying**

**Speaker:**  
**Reading:**

**October 20 – No Class. Optional Capitol tour this week.**

**Writing Assignment 3: Due October 25**

This writing assignment should be related to a topic we have discussed in class or to one of the reading assignments. Discuss how you have witnessed that topic “in action” at your placement or in Washington, DC, generally. How have the class topics or readings helped you to have a deeper understanding of the role of your agency and the dynamics at your placement? For example, have you seen real world examples of the importance of defining who is the “client”? Have you identified or witnessed the tension that can sometimes occur between political or practical necessity and “pure” legal reasoning? Have you participated in or witnessed strategic approaches to interacting with Congress, other agencies, the courts? Have you seen conflicts between the branches of government, e.g., between Congress and the Executive, or Executive and the Judiciary? Have your observations helped you identify issues that affect “lawyering in DC.”

**Class Eight: Tuesday, October 27**  
**Solicitor General**

**Speaker: Beth Brinkmann (?)**

**Reading:**

- 1) Seth Waxman, *Defending Congress*, 79 N.C. L. Rev. 1073-1088 (2001).
- 2) <http://www.scotusblog.com/2010/06/everything-you-read-about-the-supreme-court-is-wrong/>
- 3) Interview with Walter Dellinger (parts 1-5)  
<http://www.scotusblog.com/media/scotusblog-on-camera-walter-dellinger-part-one/>; <http://www.scotusblog.com/media/scotusblog-on-camera-walter-dellinger-part-two/>; <http://www.scotusblog.com/media/scotusblog-on-camera-walter-dellinger-part-three/>; <http://www.scotusblog.com/media/scotusblog-on-camera-walter-dellinger-part-four/>; <http://www.scotusblog.com/media/scotusblog-on-camera-walter-dellinger-part-five/>

**Class Nine: Tuesday, November 3**  
**Supreme Court Class –**

**Speaker:**

**Reading:** Interview with Justice Breyer -  
<http://www.law.harvard.edu/news/spotlight/student-pursuits/related/active.html>

**Class Ten: Tuesday, November 10**

### **Class discussion**

Each student should be prepared to discuss with the class two ideas for their final presentation and paper topic. Students will be expected to provide feedback to their fellow students on the topics presented.

**Class Eleven: Tuesday, November 17**  
**Campaign Finance**

**Speaker:**

**Reading:** TBD

### **Presentation topic and outline: Due November 17**

Compose a detailed outline of your presentation and paper so that the topic and goals are clear. You must include enough information for your professor to provide you feedback on your topic. A bibliography for your paper should be included. For examples of past presentation topics, please see bCourses.

**November 24** – No Class (Thanksgiving Week)

**Class Twelve: Tuesday, December 1**  
**Student's Choice**

**Classes Thirteen and Fourteen:**  
**Monday, December 7**  
**Tuesday, December 8**

**Presentations.** In our final two classes, each student will make a 15-minute oral presentation on their paper topic. Treat this assignment as if it were a presentation of a case or project for a meeting with colleagues interested in your work. It is strongly suggested that you use a power point or hand out materials. You will be graded according to the rubric found on bCourses. Students are expected to engage with the presenters throughout the presentations and during the Q & A period.

**Supervisor Evaluation of Student: Due Dec. 11.** Student is responsible for providing evaluation to supervisor and ensuring the evaluation is turned in by Dec. 11. Posted on bCourses.

**Student's Evaluation of the Placement: Due Dec. 11.** Posted on bCourses.

### **Final Writing Assignment: Due Dec. 13.**

This final writing assignment should analyze a substantive issue you worked on during your field placement or is related to your field placement. This paper should reflect substantive analysis of an issue of your choosing. The paper should not be memorandum of law which would only explain the current state of the law. Your final writing assignment must be original thought and cannot be an assignment you have submitted as part of your externship.



