Judicial Extern Class  
Syllabus Fall 2015  
Professor Bettman  

All course materials are posted on the TWEN site. Materials for each class are posted in a folder for that class.  
Syllabus subject to change with advance notice  

Course Rules  
You may miss one class for any reason. After that, your grade will go down one half point for each class missed. Exception: You may miss class for something you would like to see in court, if you let me know ahead of time. This will not affect your grade. I encourage you to do this.  

Course Grade  
The classroom component of this course is graded. The grade will be based on a paper assignment, which will be given out near the beginning of the semester. Classroom participation will be taken into account in the final grade. The placement part of the course is high pass/pass/low pass/fail. That will be given to you by your judge on a course evaluation form. Most judges allow students to have a copy of the form; many allow students to use comments on the form in applications for judicial clerkships. It will say right on the form if permission to do that is allowed.  

CLASS ONE. INTRODUCTION TO THE JUDICIAL SYSTEM  

Required Readings  
Code of Conduct for U.S. Judges  
Canons of the Model Code of Judicial Conduct for State Judges  
Chief Justice Rehnquist’s Speech April 9, 1996 at American University College of Law  
“On the Importance of an Independent Judiciary”  

CLASS TWO. CHOOSING JUDGES, PART I  

Required Reading  
Methods of Judicial Selection and Their Impact on Judicial Independence- Daedalus Fall 2008-Charles Geyh  
Why Judicial Elections are Different from Non-Judicial Elections --Professor Roy Schotland—Georgetown University Law Center  

CLASS THREE. CHOOSING JUDGES PART II. ELECTIONS
Required Reading

None

CLASS FOUR. CHOOSING JUDGES PART III. JUDICIAL ELECTIONS AND FREE SPEECH

Required Reading
Republican Party of Minnesota v. White —what does this decision mean?
Cleveland Plain Dealer Supreme Court candidate interviews
Chief Justice Maureen O'Connor’s proposals for reform of judicial elections

CLASS FIVE. CHOOSING JUDGES PART IV. JUDICIAL ELECTIONS AND MONEY

Required Reading
Acting Chief Justice Benjamin’s Opinion on Recusal Issue
Caperton v. Massey petition for certiorari
Caperton v. Massey decision, 129 S. Ct. 2252 (2009)
Coping with ‘Caperton’: A Q & A With Former Texas Chief Justice, Law.com 6-11-2009
Adam Liptak-Campaign Cash Mirrors a High Court’s Rulings
I Was Alabama’s Top Judge and I’m Ashamed by What I Had to Do to Get There by Sue Bell Cobb. Politico March/April 2015

CLASS SIX. A SNAPSHOT OF THREE STATES: WISCONSIN, ALABAMA AND TEXAS

Required Reading
None

CLASS SEVEN. CHOOSING JUDGES. THE FEDERAL ALTERNATIVE. THE CONFIRMATION PROCESS

Required Reading
Advice, Consent and Influence by Robert F. Nagel, 1990 Northwestern University Law review

CLASS EIGHT. CHOOSING JUDGES: THE FEDERAL ALTERNATIVE: LIFE TENURE
Required Reading

None

CLASS NINE. BIAS AND RECUSAL PART I

Required Readings
28 U.S.C. § 455 Disqualification of justice, judge, or magistrate judge
Ohio S.Ct. Prac.R. 4.04
ABA Model Recommendations from Judicial Disqualification Project
Brennan Center for Justice. Fair Courts: Setting Recusal Standards Executive Summary
Rule 3.6 Affiliation with Discriminatory Organizations

CLASS TEN. BIAS AND RECUSAL PART II

Required Readings

Justice Scalia’s duck hunting memorandum, 541 U.S._
Suggestion for Recusal of Justice Scalia filed by Michael Newdow
Ohio Supreme Court Justice Paul Pfeifer wants to scrap the death penalty (Cleveland Plain
Dealer article January 19, 2011)
Letter to the Editor of Justice Pfeifer, Jan 26. 2011 “Retire Ohio’s Death Penalty”
Motion for Recusal of Justice Pfeifer, State v. White
Memo of amicus curiae Ohio Prosecuting Attorney’s Association in Support of State’s Motion
for Recusal of Justice Pfeifer (TWEN)
Letter dated March 30 2011 from Justice Pfeifer in response to recusal motion
State v. Wogenstal order of execution. Dissent, by Justice O’Neill

Optional Reading

Justice Scalia’s Persuasive But Elitist Response to the Duck Hunting Controversy, by Michael
Dorf. Findlaw March 24 2004
Planned Parenthood Recusal
Attempt to Recuse Judge Walker from Gay Marriage Case

CLASS ELEVEN. JUDICIAL BEHAVIOR

Required Reading

Judicial Etiquette: Why the Justices Should Attend the State of the Union by Garrett Epps, the
Atlantic, January 2011
Justice Alito’s Reaction, by Linda Greenhouse, NY Times, Jan 27, 2010
For Justices, State of the Union can be a Trial, by Adam Liptak, NY Times, Jan. 23, 2012
That’s just Nino: Scalia’s Arizona Dissent, by Jeffrey Toobin, The New Yorker, June 26 2012
Justice Scalia-Why He’s a Bad Influence by Erwin Chemerinsky, OpEd Piece, LA Times, July 14, 2015

CLASS TWELVE. PRESSURE. THE HAROLD BAER AFFAIR

Required Reading

Cheap Shots at Judges, by Michael Kramer, Time Magazine, April 22, 1996
The Judge Baer Controversy by Jon O Newman, Judicature, Vol 80 #4 Jan/Feb 1997
Judges Defend A Colleague From Attacks, Don Van Natta, NY Times, March 29, 1996
N.Y. Federal Judge Reverses Decision in Controversial Drug Case; Clinton, Dole Had Threatened to Ask for Resignation, Impeachment, News briefs April 1996

CLASS THIRTEEN. RELIGIOUS BELIEFS AND JUDICIAL RESPONSIBILITIES

Required Reading

State v. Arnett, Court of Appeals (2-15-99)
State v. Arnett, Ohio Supreme Court 2000-Ohio-302
Biblical Quotes in the Courtroom by Justice Paul Pfeifer
Cleveland Bar Ass’n v. Cleary, 2001-Ohio-1326
Ohio Board of Professional Conduct Opinion 2015-1. Judicial Performance of Civil Marriages of Same Sex Couples