

# Supreme Court Simulation (Fall 2023) - Syllabus

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Fall 2023

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Classroom: 3023

Office: 623

Syllabus: <http://bit.ly/SCOTUSSeminar2023>

## Overview:

Welcome to the Supreme Court Simulation. This course will allow students to argue pending Supreme Court cases, and ask questions as if they were the Supreme Court justices. Students will also be able to receive feedback from Supreme Court advocates. This course will be capped at eleven students: nine justices and two advocates for each case. This course will give students a unique perspective of cutting-edge issues at the Supreme Court.

## Structure:

This semester, we will focus on four pending Supreme Court cases. And for each case, we will devote three classes: (1) a case preview, (2) the moot oral argument, (3) and the review after the case is argued at the Supreme Court with an advocate from the case.

## Attendance:

Attendance is mandatory for the oral arguments and the day on which you are “on call.” If you *must*, due to a true emergency, miss a class for which you have an assigned role, you *must* notify the professor and you must arrange for a colleague to play that role in your stead.

## Evaluation:

During the semester, each student will argue one case, and serve as a Justice in three cases. Moreover, there will be short written assignments before and after each case is argued. All assignments should be prepared with Times New Roman, 12-point font, single-spaced, with one-inch margins.

Students will be graded with the following rubric based on their participation in the case previews, moot courts, and case reviews.  
(The case numbers will vary by student.)

**Case Preview: 30%**

- “On Call” for Case: 15%
- 5 Questions and proposed answers, with explanation of *why* you asked that question
  - Case A: 5%
  - Case B: 5%
  - Case C: 5%

**Moot Oral Argument: 50%**

- Advocate for Case: 35%
- Serve as Justice
  - Case A: 5%
  - Case B: 5%
  - Case C: 5%

**Case Review: 20%**

- One-page reaction paper after the actual oral argument
  - Case #1: 5%
  - Case #2: 5%
  - Case #3: 5%
  - Case #4: 5%

**Samples of Submissions from Fall 2022:**

Questions and Proposed Answers:

<https://drive.google.com/drive/folders/1JlcGJOY16dxOgEHWOEZ0nL14k7E922Tg?usp=sharing>

Videos of Moots:

[https://drive.google.com/drive/folders/1s-WEm1OLO3ufbCM Cp3-E01GGjv51sZ7x?usp=drive\\_link](https://drive.google.com/drive/folders/1s-WEm1OLO3ufbCM Cp3-E01GGjv51sZ7x?usp=drive_link)

Photos of Moot: <https://photos.app.goo.gl/a9fQJTfwmxfvNhvZ8>

Case Reviews:

<https://drive.google.com/drive/folders/19MEYQcRh3gS3PDHZAfrnG6mpFg0nncl?usp=sharing>

Guide for Oral Argument:

<https://docs.google.com/document/d/1NPr6RxXot-V-RPfMp8mPNf5vES2UFJmT3q8RdaL03MQ/edit>

# Office Hours

I will hold office hours on Mondays before and after class, and at other times by appointment.

## Cases

### Case #1

[Consumer Financial Protection Bureau v. Community Financial Services Association of America, Limited](#)

Whether the court of appeals erred in holding that the statute providing funding to the Consumer Financial Protection Bureau, 12 U.S.C. § 5497, violates the appropriations clause in Article I, Section 9 of the Constitution, and in vacating a regulation promulgated at a time when the Bureau was receiving such funding.

- Preview: 8/28/23, 9/11/23
- Moot Oral Argument: 10/2/23
- Actual Oral Argument: 10/3/23
- Review: 10/16/23

Petitioner Questions:

[https://drive.google.com/drive/folders/1-W9IcCMQIFQ8T1e7MplgiL4VwOwxoMI-?usp=drive\\_link](https://drive.google.com/drive/folders/1-W9IcCMQIFQ8T1e7MplgiL4VwOwxoMI-?usp=drive_link)

Respondent Questions:

[https://drive.google.com/drive/folders/1T-9qcri9TynFKKfujLp1wcTNRUIGk3GQ?usp=drive\\_link](https://drive.google.com/drive/folders/1T-9qcri9TynFKKfujLp1wcTNRUIGk3GQ?usp=drive_link)

### Case #2

[O'Connor-Ratcliff v. Garnier](#)

Whether a public official engages in state action subject to the First Amendment by blocking an individual from the official's personal social-media account, when the official uses the account to feature their job and communicate about job-related matters with the public, but does not do so pursuant to any governmental authority or duty.

- Preview: 9/18/23
- Moot Oral Argument: 10/30/23
- Actual Oral Argument: 10/31/23
- Review: 11/20/23

Submitted Questions:

[https://drive.google.com/drive/folders/1PBkWgBekynC29p3Cf6A\\_5pHl5gPtSXB?usp=sharing](https://drive.google.com/drive/folders/1PBkWgBekynC29p3Cf6A_5pHl5gPtSXB?usp=sharing)

### Case #3

[\*Vidal v. Elster\*](#)

Whether the refusal to register a trademark under 15 U.S.C. § 1052(c) violates the free speech clause of the First Amendment when the mark contains criticism of a government official or public figure.

- Preview: 10/9/23
- Moot Oral Argument: 10/30/23
- Actual Oral Argument: 11/1/23
- Review: 11/13/23

Submitted Questions:

<https://drive.google.com/drive/folders/1gq5CPRhiU0pEChyUk-2Y81COkGntRbO2?usp=sharing>

### Case #4

[\*Loper Bright Enterprises v. Raimondo\*](#)

1. Whether, under a proper application of *Chevron*, the MSA implicitly grants NMFS the power to force domestic vessels to pay the salaries of the monitors they must carry.
2. Whether the Court should overrule *Chevron* or at least clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency.

- Preview: 10/23/23
- Moot Oral Argument: 11/6/23
- Actual Oral Argument: TBD (Approximately mid-November)
- Review: 11/13/23

Submitted Questions:

[https://drive.google.com/drive/folders/1jGo53Vsr8wTaNK0bfMKRiMgLtIpnxfU?usp=drive\\_link](https://drive.google.com/drive/folders/1jGo53Vsr8wTaNK0bfMKRiMgLtIpnxfU?usp=drive_link)

## Schedule

The course calendar is available [here](#).

## Week 1 – 8/14/23

### Introduction to Supreme Court Advocacy

- [Guide for Supreme Court Advocates](#) (Updated October Term 2022):
  - Read Parts I and II, skim the rest
- Listen to the audio of the case argued during the October 2022 Term that was closest to your birthday
  - I want you, collectively, to listen to many different cases at random to sample the range of advocacy and questions
  - You can listen to all of the argument audio here:  
<https://www.oyez.org/cases/2022> (in left column, click “Sort by>Argued”)
  - You can find all of the case files here:  
<https://www.scotusblog.com/case-files/terms/ot2022/>
  - Please come to class prepared to discuss for a few minutes your reflections on the argument.

## Week 2 – 8/21/23

### In-Person Guest Lecture with Supreme Court Advocate

[Aaron Streett](#)

Baker Botts

Practice Group Chair - Supreme Court and Constitutional Law

Mr. Streett argued and won a unanimous victory in *Groff v. DeJoy* (2023)

Listen to Oral Argument: <https://www.oyez.org/cases/2022/22-174>

Read *Groff v. DeJoy*: [https://www.supremecourt.gov/opinions/22pdf/22-174\\_k536.pdf](https://www.supremecourt.gov/opinions/22pdf/22-174_k536.pdf)

## Week 3 – 8/28/23

### Preview Case #1 (CFPB v. CFSA) - Petitioner

Materials:

- [Oral argument in lower court](#)
- [Lower court opinion](#)

- [Petitioner Brief](#)
- [Amicus in support of Petitioner - Professors of History and Constitutional Law](#)

On Call:

- Petitioner: Student 1

Justices:

- Roberts: Student 3
- Thomas: Student 4
- Alito: Student 5
- Sotomayor: Student 6
- Kagan: Student 7
- Gorsuch: Student 8
- Kavanaugh: Student 9
- Barrett: Student 10
- Jackson: Student 11

Submission:

- 8/27/23 at 5:00 p.m.
  - Students 3-11
  - Submit two prepared questions and sample answers for **Petitioner** in Case #1 based on Justice Assignments

## **Week 4**

**NO CLASS ON 9/4/23 - LABOR DAY**

## **Week 5 – 9/11/23**

**Preview Case #1 (CFPB v. CFSAA) - Respondent**

Materials:

- [Respondent Brief](#)
- [Reply Brief](#)
- [Amicus in support of Respondent - Chamber of Commerce](#)

On Call:

- Respondent: Student 2

Justices:

- Roberts: Student 3
- Thomas: Student 4
- Alito: Student 5
- Sotomayor: Student 6
- Kagan: Student 7
- Gorsuch: Student 8
- Kavanaugh: Student 9
- Barrett: Student 10
- Jackson: Student 11

Submission:

- 9/10/23 at 5:00 p.m.
  - Students 3-11
  - Submit three prepared questions and sample answers for **Respondent** in Case #1 based on Justice Assignments

## **Week 6 – 9/18/23**

### **Preview Case #2 (O'Connor-Ratcliff v. Garnier)**

Materials:

- [Oral argument in lower court \(Video\)](#)
- [Lower court opinion](#)
- [Petitioner Brief](#)
- [Brief of the United States](#)
- [Respondent Brief](#)
- [Reply Brief](#)
- [Amicus in support of Petitioner - Texas](#)
- [Amicus in support of Respondent - Electronic Frontier Foundation](#)

On Call:

- Petitioner: Student 3
- Respondent: Student 4
- Amicus as United States: Student 11

Justices:

- Roberts: Student 1

- Thomas: Student 2
- Alito: Guest Judge
- Sotomayor: Student 5
- Kagan: Student 6
- Gorsuch: Student 7
- Kavanaugh: Student 8
- Barrett: Student 9
- Jackson: Student 10

Submission:

- 9/17/23 at 5:00 p.m.
  - Students 1, 2, 5, 6, 7, 8, 9, 10
  - Submit five prepared questions and sample answers in Case #2 based on Justice Assignments

## **Week 7 – 9/25/23**

### **NO CLASS ON 9/25/23 - Yom Kippur**

- Individual meetings will be scheduled on 9/26/23 to prepare for moot court session.

## **Week 8 – 10/2/23**

### **Moot Case #1 (CFPB v. CFSA)**

Advocates:

- Petitioner: Student 1
- Respondent: Student 2

Justices:

- Roberts: Student 3
- Thomas: Student 4
- Alito: Student 5
- Sotomayor: Student 6
- Kagan: Student 7



- Gorsuch: Student 8
- Kavanaugh: Student 9
- Barrett: Student 10
- Jackson: Student 11

## **Week 9 – 10/9/23**

### **Preview Case #3 (Vidal v. Elster)**

#### Materials:

- [Oral argument in lower court](#)
- [Lower court opinion](#)
- [Petitioner Brief](#)
- [Respondent Brief](#)
- [Reply Brief](#)
- [Amicus in support of neither party - American International Property Law Association](#)
- [Amicus in support of Respondent - FIRE](#)

#### On Call:

- Petitioner: Student 5
- Respondent: Student 6

#### Justices:

- Roberts: Student 2
- Thomas: Student 8
- Alito: Student 9
- Sotomayor: Student 7
- Kagan: Student 1
- Gorsuch: Student 10
- Kavanaugh: Student 11
- Barrett: Student 3
- Jackson: Student 4

#### Submission:

- 10/8/23 at 5:00 p.m.
  - Students 1, 2, 3, 4, 7, 8, 9, 10, 11
  - Submit five prepared questions and sample answers in Case #3 based on Justice Assignments
- 10/11/23 at 5:00 p.m.
  - Reaction paper to Case #1

## **Week 10 – 10/16/23**

### **Review Case #1 - (CFPB v. CFSA)**

Special Guest (Zoom): Noel Francisco, counsel for Petitioners, and former Solicitor General

## **Week 11 – 10/23/23**

### **Preview Case #4 (Loper Bright Enterprises v. Raimondo)**

- Guest Lecture from Professor Chris Walker (University of Michigan Law School)

Materials:

- [Oral argument in lower court](#)
- [Lower court opinion](#)
- [Petitioner Brief](#)
- [Respondent Brief](#)
- [Reply Brief](#)
- [Amicus in support of Petitioner - Goldwater Institute](#)
- [Amicus brief in support of neither party - Professors Chris Walker and Kent Barnett](#)
- [Amicus in support of Respondent - District of Columbia](#)

On Call: Question Presented #1

- Petitioner: Student 7
- Respondent: Student 8

On Call: Question Presented #2

- Petitioner: Student 9
- Respondent: Student 10

Justices:

- Roberts: Guest Judge 1
- Thomas: Student 4
- Alito: Student 6
- Sotomayor: Student 5

- Kagan: Guest Judge 2
- Gorsuch: Student 3
- Kavanaugh: Student 2
- Barrett: Student 1
- Jackson: RECUSED

Submission:

- 10/22/23 at 5:00 p.m.
  - Students 1, 2, 3, 4, 5, 6
  - Submit five prepared questions and sample answers in Case #3 based on Justice Assignments

## **Week 12 – 10/30/23**

### **Moot Case #2 (O'Connor-Ratcliff v. Garnier)**

Advocates:

- Petitioner: Student 3
- Respondent: Student 4
- Amicus as United States: Student 11

Justices:

- Roberts: Student 1
- Thomas: Student 2
- Alito: Guest Judge
- Sotomayor: Student 5
- Kagan: Student 6
- Gorsuch: Student 7
- Kavanaugh: Student 8
- Barrett: Student 9
- Jackson: Student 10

### **Moot Case #3 (Vidal v. Elster)**

Advocates:

- Petitioner: Student 5
- Respondent: Student 6

Justices:

- Roberts: Student 2
- Thomas: Student 8
- Alito: Student 9
- Sotomayor: Student 7
- Kagan: Student 1
- Gorsuch: Student 10
- Kavanaugh: Student 11
- Barrett: Student 3
- Jackson: Student 4

## **Week 13 – 11/6/23**

### **Moot Case #4 (Loper Bright Enterprises v. Raimondo)**

Question Presented #1 Advocates:

- Petitioner: Student 7
- Respondent: Student 8

Question Presented #2 Advocates:

- Petitioner: Student 9
- Respondent: Student 10

Justices:

- Roberts: Student 11
- Thomas: Student 4
- Alito: Student 6
- Sotomayor: Student 5
- Kagan: Guest Judge
- Gorsuch: Student 3
- Kavanaugh: Student 2
- Barrett: Student 1
- Jackson: RECUSED

Submission:

- 11/8/23 at 5:00 p.m.

- Reaction Paper to Case #3
- Reaction Paper to Case #4

## **Week 14 – 11/13/23**

### **Review Case #2 (O'Connor-Ratcliff v. Garnier)**

### **Review Case #3 (Vidal v. Elster)**

2:00 - 3:00 - Special Guest (Zoom): Jon Taylor of Gupta Wessler, counsel for Respondent

3:00 - 4:00 - Special Guest (Zoom): Paul Clement, former Solicitor General, counsel for Petitioner in *Loper Bright*

4:00 - 4:30 - Special Guest (Zoom): Hashim Moopan, counsel for Petitioners, and former Counselor to the Solicitor General

Submission:

- 11/15/23 at 5:00 p.m.
  - Reaction Paper to Case #2

## **Class 15 – 11/20/23**

### **Review Case #2 (O'Connor-Ratcliff v. Garnier)**

2:00-3:00 - Special Guest (Zoom): Pamela Karlan, counselor for Respondents in *O'Connor Ratcliff v. Garnier*

3:00 - 4:00 - Special Guest (Zoom): John Vechione, New Civil Liberties Alliance, Counsel for Petitioner in *Relentless, Inc. v. Department of Commerce* (companion case to *Loper Bright*)

### **Learning Outcomes.**

By the end of the course, students will be able to:

1. Present appellate arguments in similar fashion as Supreme Court advocates.
2. Ask questions in the personas of Supreme Court justices
3. Predict outcomes of Supreme Court cases based on briefing and questions asked during oral argument.
4. Interact with Supreme Court advocates.

**Students with Disabilities.** The Americans with Disabilities Act is federal antidiscrimination legislation providing comprehensive civil rights protection for persons with disabilities. South Texas College of Law is committed to providing a learning environment meeting the needs of all students; and to that end it provides reasonable accommodations to students who have physical, learning, mental, or other disabilities. If you believe you have a disability requiring an accommodation, please contact Assistant Dean Gena Singleton in the Office of Student Academic Affairs to discuss how your need for support services may be met. Her office is in Room 809, and you may contact her by telephone 713-646-1778 or email [gsingleton@stcl.edu](mailto:gsingleton@stcl.edu). All discussions will remain confidential. Please note that accommodations cannot be provided retroactively. More information regarding the law school's Policy for Accommodating Law Students with Disabilities, including application deadlines, can be found in the Student Handbook.