

SYLLABUS:

The U.S. Supreme Court: Conflict, Change and the Court

WINTER 2021: January 4 – March 12

Instructor: Jessica Gresko

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phone:

Class Time: Thursday 5 p.m. Pacific / 8 p.m. Eastern

Zoom Link: Use the link provided in Canvas

Office Hours aka “Huddle Time”: Let’s talk! Please e-mail me if you would like to schedule a time to talk via phone or Zoom. Please let me know a range of times that works for you. The best time to meet with me is after 5 p.m. (Pacific) Monday through Friday.

Course Description: Immigration. LGBT rights. Healthcare. Abortion. The death penalty. Cell phone privacy. The U.S. Supreme Court has decided cases on all of these topics in recent years, and its decisions ultimately touch the lives of all Americans. In this class we will study the Supreme Court's place in the U.S. legal system. Topics we will cover include: how a case gets to the court, the justices, the role of lawyers before the court, the purpose of oral argument, the court building and its symbolism, and media coverage of the court.

Students will listen to arguments in Supreme Court cases currently before the court. In papers, students will be asked to rigorously explain why the justices likely took current cases and how they will come out based on what they hear at oral argument. This class is geared not only toward anyone who is interested in the law or government service but also toward anyone interested in working on or being informed about the biggest issues of the day.

Goals for Student Learning: By the end of this course you will understand the process of how a case comes to be accepted and decided by the Supreme Court. You will have studied some of the court’s most important decisions as well as some of its most recent ones. And you will have a background that makes you more informed when reading news stories about the court as well as the tools to read Supreme Court orders and opinions.

In addition, consistent with The Washington Center’s mission for learning and goals for all classes, this class has the following goals:

Goal #1: Students will be able to relate their internship experience with the skills and substance learned in their course.

Achieving that goal: Students with internships in the legal world should be prepared to talk about those experiences during class as part of class discussion. All students will practice writing and analysis in two papers.

Goal #2: Students will be able to communicate persuasively in writing and orally.

Achieving that goal: Students will complete two papers and several 1-page reflections. All students will be expected to contribute to class discussions.

Goal #3: Students will be able to critically examine competing arguments, and use empirical evidence to research and apply theory to practice.

Achieving that goal: In their major written assignments students will: (A) dissect why they believe the Supreme Court agreed to take a case it is hearing this term (B) after listening to an oral argument and discussing oral arguments generally, analyze how they believe the court will rule on the case they heard.

About Your Professor:



Hi, I'm Jessica Gresko and for more than a decade I've been a reporter for The Associated Press, first in Miami and now in Washington, where I cover the Supreme Court. As a legal reporter, I have covered court cases at all levels, both local and federal. I earned my B.A. in history and political science from Columbia University in New York and a M.S.L. (Master's in the Study of Law) from Georgetown University Law School. I grew up in Southern California and took my first journalism class at UCLA. I have taught at UCDC since 2014. I look forward to getting to know you.

Course Materials and Accessibility:

The required textbook for this class is:
 The Supreme Court by Lawrence Baum, 13th edition (2018) ISBN: 9781544327389
 You do need the 13th edition and not another edition of this text.

In addition to reading assignments from the Baum text and handouts, students are expected to keep up with major news about the court including cases that have been accepted by the court or are being argued. There are a number of ways to do this.

Students may want to make a habit of reading SCOTUS Blog (www.scotusblog.com) which has a daily post aggregating much of the day's Supreme Court stories.

Students may also want to follow Supreme Court journalists using Google alerts or Twitter (where the hashtag #scotus is also helpful). Journalists covering the court include: Robert Barnes (Washington Post), Jess Bravin (WSJ), Lawrence Hurley (Reuters), Adam Liptak (NYT), Mark Sherman (AP), Ariane de Vogue (CNN) and Nina Totenberg (NPR).

Assignments: Students will complete a number of assignments over the course of the semester. They will count toward each student's grade as follows:

Quarter Students	Semester Students*
Short paper #1.....40 percent	Short paper #1.....35 percent
Short paper #2.....40 percent	Short paper #2.....40 percent
Class participation.....10 percent	Class participation.....5 percent
1-page responses.....10 percent	1-page responses.....5 percent
	Four week module.....15 percent

* **Semester Students:** Please note that 15 percent of your final course grade will be earned in a four-week module. Professor Jennifer Diascro will teach the module, but I will remain your instructor of record. I will get your module grade from Professor Diascro, factor it into your overall grade and submit the final course grades at the end of the term.

** **All students:** This class is taught as an **INTRO LEVEL** class with a significant writing component. You alone are responsible for ensuring that this class fulfills your campus' requirements. **ALL** students should check **EARLY IN THE QUARTER** what the requirements are and ensure this class can meet it. If, after learning the requirements, you are unsure, you should contact me. UC San Diego, for example, has required that students return to campus with 20 pages of written work. If you have a requirement you will need to meet that requires different page limits you **MUST** email me to discuss.

Assignment Preparation: Assignments are due electronically via Canvas **at the beginning of class** and will be considered late if they are not turned in at that time. Please use Times New Roman 12-point type, 1-inch margins and double space to allow for comments. All assignments are expected to be spellchecked and proofread carefully. Failing to adhere to all of these rules will negatively affect your participation grade.

Class Participation: Class participation will be an integral part of this course. You should expect to be called on and, if asked, to present your work to the class.

Grading Scale:

A	93%+	C+	77 - 79%
A-	90 - 92%	C	73 - 76%
B+	87 - 89%	C-	70 - 72%
B	83 - 86%	D	60 - 69%
B-	80 - 82%	F	0 - 59%

* In rare circumstances and at the instructor's discretion, the overall grade of A+ may be awarded for work that is truly extraordinary. This grade will not be awarded every term.

Extra credit: There will not be any opportunities for extra credit in this class. With this in mind, I urge you to put forward your best effort on papers and your presentation.

Late Work: Due dates in this class are firm deadlines. As noted above, assignments are due at the start of class. Late work will be penalized one letter grade (10 points) for every week the assignment is late. Work that is five weeks or more late will get a 50 if satisfactorily completed. If you are having difficulty with an assignment or with keeping up with class for any reason, I urge you to speak with me ahead of the deadline.

Attendance: Students are expected to attend all classes. That said, this is a quarter likely to be filled with challenges. If you won't be able to attend class, please email me so we can come up with a plan to keep you caught up. (I will worry if you don't show up and I haven't heard from you!) Please do make every effort to attend class. It's easier to stay caught up than to get caught up. Being chronically late or absent without cause or without alerting me will affect your grade.

Policy on Academic Misconduct: UCDC has a zero-tolerance policy for cheating, plagiarism, and any other form of dishonesty and sanctions for plagiarism include immediate failure of the course. Students should refer to their home campus Student Code of Conduct for the regulations that apply to them. The burden is on each student to know what behaviors constitute cheating and plagiarism. Ignorance of these behaviors is not an adequate defense.

Zoom (Classroom) Etiquette:

- **VIDEO:** To the extent possible you should keep your video on during class. That said, if you find things going on around you may distract others or if you need to be off camera for any other reason, you are the best judge of that. Please feel free to go off video.
- **MUTE:** I will put the class on mute when class begins. Please keep yourself on mute when not asking a question or participating in discussion.
- **HANDS:** Please raise your actual hand when you would like to contribute to the discussion rather than use the “virtual hand” function. I see real hands better!
- **BREAKS:** I will give frequent bathroom/snack/stretch breaks. If you feel it has been too long between these breaks, please alert me. That said, if you need to urgently take a break for any reason, please do so. Please try, however, not to make this a habit.
- **EATING:** I recognize that this class meets after a long day and during a dinner hour. You are welcome to eat or drink so long as this does not become a distraction. Consider turning off your video while eating.
- **DISTRACTIONS:** Please refrain from doing other things on the computer during class (ie. instant messaging, checking email, shopping, etc.) You will not retain information if you are distracted.
- **NOTES:** I encourage students to take notes with paper and pen. Studies show that students who take notes longhand have a better retention of material. In addition, taking notes longhand will keep your fingers from doing other things (like instant messaging) and keep your mind engaged in the material we are working on.
- **RESPECT:** This class will sometimes involve the discussion of cases that provoke great feeling. During these and all discussions students are expected to offer their opinions in a respectful and thoughtful manner.

E-mail policy: I encourage students to email and make it a priority to respond to student emails as quickly as possible. I do, however, expect that before emailing you will check this syllabus or Canvas for an answer to your question and/or consult a classmate to see whether your question was answered in class. Part of what we do in college is prepare students for the “real world.” I therefore expect that before emailing students will consider whether (1) the question they are asking is something they can figure out themselves and (2) their email is written in the manner one would write his or her internship supervisor. I expect students will also check their e-mail regularly for messages from me. Failing to do these things may negatively affect your grade.

Weekly Agenda: The syllabus below is a guide and subject to change. Additional weekly assignments may be given to supplement the current syllabus. All listed homework assignments are to be completed **AFTER** the class on which they are listed and **DUE** the following Thursday.

Accommodations: In compliance with the Federal Rehabilitation Act of 1973, as amended (Public Law 93- 112) and the Americans with Disabilities Act of 1990 (Public Law 101-336), University of California policy prohibits unlawful discrimination on the basis of disability in its programs, services, and activities.

If you require accommodation for class, please let me know at our first meeting (if not earlier) so the necessary arrangements can be made.

UC Policy on Nondiscrimination on the Basis of Disability:

<http://policy.ucop.edu/doc/2710534/PACAOS-140>

Statement on Sexual Harassment and Sexual Violence:

The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the community should be aware that the University prohibits sexual harassment and sexual violence, and that such behavior violates both law and University policy. The University will respond promptly and effectively to reports of sexual harassment and sexual violence, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy on Sexual Harassment and Sexual Violence.

Students who wish to speak confidentially about an incident of sexual misconduct should contact UCDC's Counseling Services at UCDCCounseling@gmail.com. Students who wish to report sexual misconduct or to ask questions about UCDC policies and procedures regarding sexual misconduct may do so with any UCDC faculty or staff, or contact Debbie Deas, Acting Director of Student Services (debbie.deas@ucdc.edu, 202-872- 8937). ***Please note that because the University California is legally obligated to investigate reports of sexual misconduct, the confidentiality of reported misconduct cannot be guaranteed.***

<p>Week 1: Getting Started – The American Legal System</p>	<p><i>Pregame...</i> Complete the survey Fill out your bio on Canvas & add a picture if you like Read the syllabus Come to class with questions!</p> <p style="text-align: right;">1/7</p> <p><u>Class Discussion:</u> What does the average American know about the court? How does the Supreme Court fit in the US legal system?</p> <p><u>Homework for week 2:</u> * <u>Reading:</u> Baum, Chapter 1 “The Court,” pp. 1-21. * <u>RESPONSE #1:</u> Watch the opening statement given by Amy Coney Barrett at her Senate confirmation. https://www.youtube.com/watch?v=Lzl0n5Tsg4I Write a 1-page, double-spaced response to turn in on your reaction to what you saw. This will be Response #1</p> <p style="text-align: center;">Supreme Court Sitting January 11, 12 & 13</p>
<p>Week 2: The Court</p>	<p><i>Pregame...</i> READ: the biographies of the current justices available at: https://www.supremecourt.gov/about/justices.aspx WRITE: A list of what you see as common characteristics many of the judges share and a single, short paragraph about why you think this is the case. Submit this to me via Canvas before the synchronous portion of class.</p> <p style="text-align: right;">1/14</p> <p style="text-align: center;">RESPONSE #1 DUE</p> <p><u>Class Discussion:</u> Characteristics of individuals selected as justices The confirmation process Oral argument</p> <p><u>Homework:</u> * <u>Reading:</u> Baum, Chapter 2, “The Justices,” p. 28-65.</p> <p style="text-align: center;">Supreme Court Sitting January 19</p>

<p>Week 3: Supreme Court Cases Part I</p>	<p><i>Pregame (Will definitely take at least 1.5 hours so please make time)...</i> WATCH: https://www.adflegal.org/case/uzuegbunam-v-preczewski LISTEN: To the Jan. 12 argument in <i>Uzuegbunam v. Preczewski</i>. You can listen on C-SPAN or on the court’s website. WRITE: A 1-page double-spaced response (RESPONSE #2) reflecting on what you thought of the argument. What interested you? What surprised you? Don’t worry if you’re confused! Submit via Canvas before the synchronous portion of class.</p>
	<p style="text-align: right;">1/21</p> <p style="text-align: center;">RESPONSE #2 DUE</p> <p><u>Class Discussion:</u> Discuss the argument you listened to Discuss Paper #1: Why is the Supreme Court hearing this case? Number and type of cases the Supreme Court hears The role of the Solicitor General’s office Novice v. Experienced advocates Pool memos Amicus briefs</p> <p><u>Homework:</u> * <u>Reading:</u> Baum, Chapter 3, “The Cases,” p. 69-100. <i>Begin...</i> <u>SHORT PAPER #1:</u> See instructions at the end of the syllabus. This will be due in two weeks so get started now!</p>
<p>Week 4: Supreme Court Cases Part II</p>	<p><i>Pregame...</i> READ/SKIM: The cert petition and reply in <i>Uzuegbunam v. Preczewski</i> Your goal is to try to figure out why SCOTUS agreed to hear this case SCOTUSblog page for the case: https://www.scotusblog.com/case-files/cases/uzuegbunam-v-preczewski/ You want to look at the Cert petition and Reply at that link WRITE: A 1-page double-spaced response (RESPONSE #3) briefly outlining why you think SCOTUS took this case given the factors we discussed in class.</p>
	<p style="text-align: right;">1/28</p> <p style="text-align: center;">RESPONSE #3 DUE</p> <p><u>Class Discussion:</u> Continuation of last week’s topics</p> <p><u>Homework:</u> * <u>Reading:</u> Baum, Chapter 4, “Decision Making” <i>Finish...</i> <u>SHORT PAPER #1</u></p>

<p>Week 5: Oral Argument & Decision Making</p>	<p><i>Pregame...</i> No pregame for this week! Finish your papers!</p> <p style="text-align: right;">2/4</p> <p style="text-align: center;">SHORT PAPER #1 DUE at 5 p.m. for everyone</p> <p><u>Class Discussion:</u> The role (or not?) of oral argument Aggressive questioners, silent partners & laughter from the bench The decision process (the post-argument conference, assignment of opinions and dissents, circulation of drafts) 9-0 decisions and 5-4 decisions</p> <p><u>Homework:</u> READ: “A Risky Proposal” in The New Yorker from Jan. 18, 2010: https://www.newyorker.com/magazine/2010/01/18/a-risky-proposal WATCH: The Case Against 8 (2 hours) Streamable if you have HBO: https://www.hbo.com/documentaries/the-case-against-8 Rentable for \$3.99 on Amazon: https://www.amazon.com/Case-Against-8-Ben-Cotner/dp/B00S4P27OA ANSWER: Answer the quiz questions in RESPONSE #4 (This can/should be done while watching the movie. No wrong answer penalty)</p>
<p>Week 6: Current Issues: LGBT Rights</p>	<p><i>Pregame...</i> The homework before our Week #6 class is particularly long so there is no additional Pregame assignment. Please give yourself plenty of time to do the homework.</p> <p style="text-align: right;">2/11</p> <p style="text-align: center;">RESPONSE #4 DUE</p> <p><u>Class Discussion:</u> <i>The Case Against 8</i> Bowers v. Hardwick Romer v. Evans Lawrence v. Texas The 2013 cases: Windsor and Perry The 2015 cases: Obergefell et al.</p> <p><u>Homework:</u> Read “The Perfect Wife” about the <i>Windsor</i> case decided the same day as <i>Perry</i> https://www.newyorker.com/magazine/2013/09/30/the-perfect-wife</p>

<p>Week 7: Current Issues: COVID</p>	<p><i>Pregame...</i> * Read the following TWO opinions issued on an emergency basis this year: https://www.supremecourt.gov/opinions/19pdf/19a1044_pok0.pdf https://www.supremecourt.gov/opinions/20pdf/20a87_4g15.pdf * RESPONSE #5: Write a 1-page, double-spaced response reflecting on any aspect of what you've read and what you think is going on in these two cases.</p> <p style="text-align: right;">2/18</p> <p style="text-align: center;">RESPONSE #5 DUE</p> <p><u>Class Discussion:</u> COVID and the Court Reading on <i>Windsor</i> Discuss Short Paper #2</p> <p><u>Homework:</u> * Work on Short Paper #2</p> <p style="text-align: center;">Supreme Court Sitting February 22, 23, 24</p>
<p>Week 8:</p>	<p><i>Pregame...</i> LISTEN: 1 hr of oral argument in <i>Trump v. Sierra Club</i> being argued 2/22. If it is ultimately not argued this will change. WRITE: A 1-page response (RESPONSE #6) in which you predict how the case will come out, using at least one of the principles we've discussed in class.</p> <p style="text-align: right;">2/25</p> <p style="text-align: center;">RESPONSE #6</p> <p><u>Class Discussion:</u> Short Paper 2</p> <p><u>Homework:</u> * Finish Short Paper #2</p> <p style="text-align: center;">Supreme Court Sitting March 1, 2, 3</p>

<p>Week 9: Current Issues: The Death Penalty</p>	<p><i>Pregame...</i> No pregame for this week! Finish your papers!</p>
	<p style="text-align: right;">3/4</p> <p style="text-align: center;">SHORT PAPER #2 DUE at 5 p.m. for everyone</p> <p><u>Class Discussion:</u> The Death Penalty</p> <p><u>Homework:</u> * Thank you for your hard work! No homework! * Note ... there will be Pregame before our final class!</p>
<p>Week 10: Current Issues: Abortion</p>	<p><i>Pregame...</i> TBD based on whether the court takes a case in this area or not</p>
	<p style="text-align: right;">3/11</p> <p><u>Class Discussion</u></p>

Short Paper #1

Cert Petition Reading Assignment

INSTRUCTIONS: Read both the cert petition and reply in *Trump v. Sierra Club*, currently set for argument on 2/22. Write a paper of **four to six pages** explaining why you believe the court agreed to hear the case.

To explain why the court agreed to hear the case, use the factors discussed in class and your reading. Be sure to begin your paper with an explanation of the case as you see it.

THE DUE DATE: Paper is due on or before 2/4 at 5 p.m. Pacific / 8 p.m. Eastern

CITATIONS: You do not need to use any material beyond the briefs and textbook to complete your paper. If you want to cite outside sources, however, it does not matter to me what format you use. If you are going to cite, please use footnotes rather than in text citations or end notes.

WRITING STYLE: While I will be reading and grading your assignment, don't assume I know anything about the Supreme Court. You should write your paper so that if a friend who knows nothing about the court picked it up, they could read it and understand your argument. This will allow me to see that you understand the material but it will also allow you to use the paper as a writing sample for internships and potential employers.

MUST READ INSTRUCTIONS:

- Please **DOUBLE SPACE** your paper, use **1-inch margins** and **Times New Roman size 12**.
- Please use footnotes, not in-text citations. It does not matter to me in which format you cite.
- Spellcheck and check your grammar
- Adhere to the four to six page limit
- Failing to do any of the above will negatively affect your grade

LINKS:

SCOTUSBlog page for the case: <https://www.scotusblog.com/case-files/cases/trump-v-sierra-club-2/>

Cert petition: https://www.supremecourt.gov/DocketPDF/20/20-138/149698/20200807161246572_Sierra%20Club%20-%20Section%208005%20-%20final.pdf

Reply of California and Texas: https://www.supremecourt.gov/DocketPDF/20/20-138/154161/20200916142609587_20-138BriefInOppositionForTheStateRespondents.pdf

NOTE: Students often ask me about a “rubric” for this assignment. Here is a general guide: You will lose points for many spelling and grammar errors. You will earn points for good arguments about the factors the court likely considered in this particular case. This paper is analysis. So if I told you what factors to analyze, this would not be a challenge and everyone would get 100%. I encourage students not to pursue a “kitchen sink” argument where they just throw everything in in the hopes they don't leave something out. Making an erroneous argument will not help you.

Short Paper #2

Oral Argument Assignment

OVERVIEW: For your second paper you will be writing about *Lange v. California*. You will read the merits briefs in the case and listen to the oral argument.

After you have read the briefs and listened to the argument... write a paper of 4 to 6 pages (max) explaining how you believe the court will rule in the case. You should use the factors we discussed in class and those discussed in the reading to help you with your analysis. Beyond that, you should be sure to be specific about which justices' votes you believe you could "read" as well as those you could not. You should do this, among other things, by discussing the specific questions the justices asked. Do not forget to begin your paper with a brief explanation of what the case is about.

MUST READ INSTRUCTIONS:

- In this paper, do not assume your reader knows anything about the Supreme Court. Explain any required terms or principles as if you were explaining to someone learning about the court.
- Please **DOUBLE SPACE** your paper, use **1-inch margins** and **Times New Roman size 12**.
- Please use footnotes, not in-text citations. It does not matter to me in which format you cite.
- Spellcheck and check your grammar
- Failing to do any of the above will negatively affect your grade

LINKS:

- SCOTUSBlog page for the case: <https://www.scotusblog.com/case-files/cases/lange-v-california/>
- Merits brief of Lange: https://www.supremecourt.gov/DocketPDF/20/20-18/162626/20201204120852558_20-18BriefForPetitioner.pdf
- Court-appointed amicus arguing in support of judgment below: To be filed 1/8

THE DUE DATE: Paper is due on or before 3/4 at 5 p.m. Pacific / 8 p.m. Eastern

HOW CAN I REVIEW WHAT WAS SAID AT ORAL ARGUMENT? Transcripts of oral argument are available on the same day the case was argued. They are available on the court's website at the following link:

https://www.supremecourt.gov/oral_arguments/argument_transcript/2020

Audio of arguments is also available on the court's website on the Friday after an argument is heard. Or, you can hear it sooner using C-SPAN. The link to audio on the court's website is:

https://www.supremecourt.gov/oral_arguments/argument_audio/2020

ORAL ARGUMENTS FOR JANUARY & FEBRUARY:

Monday, Jan. 11

10 a.m. (Eastern) *Pham v. Chavez*: An immigration case

Tuesday, Jan. 12

10 a.m. *Uzuegbunam v. Preczewski*: A case involving religion and free speech

Wednesday, Jan. 13

10 a.m. *AMG Capital Management v FTC*: A case involving restitution to the FTC

Tuesday, Jan. 19

10 a.m. *FCC v. Prometheus Radio*: Media ownership rules

11 a.m. *BP v. Mayor and City of Baltimore*: A case about where a global warming case should be fought

Monday, Feb. 22

10 a.m. *Trump v. Sierra Club*: A case about funding for Trump's border wall

11 a.m. *Florida v. Georgia*: A water case involving Florida and Georgia

Tuesday, Feb. 23

10 a.m. *Rosen v. Dai*: A case about asylum

Wednesday, Feb. 24

10 a.m. *Lange v. California*: A case about entering a home without a warrant

Monday, March 1

10 a.m. *Wolf v. Innovation Lab*: A case about Trump's Migrant Protection Protocols

11 a.m. *US v. Arthrex*: A case about administrative patent judges

Tuesday, March 2

10 a.m. *Brnovich v. DNC*: About Arizona ballot counting

Wednesday, March 3

10 a.m. *Carr v. Saul*: A case about Social Security disability benefits