THE JUDICIAL PROCESS
University of Utah, College of Law
Fall Semester 2012

Instructor: Michele M. Christiansen
Associate Judge
Utah Court of Appeals

Time: Friday Mornings
8:35 to 10:35 a.m.

Place: Room 106

Office: Matheson Courthouse, 5th Floor
450 South State Street
Salt Lake City, Utah  84111

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Course Description and Objectives:

This is a two credit class that is intended to compliment your judicial placement. The course will focus upon courts and the judicial process in the United States and the State of Utah. The overall goal is to impart knowledge of, interest in, and an appreciation for the judicial process in our state and federal courts. Students will be expected to perform in the following areas: (1) in-class discussions -- students must attend class and participate frequently and positively in class; (2) courtroom observations/paper -- students must attend at least five different judicial sessions (state district court, federal district court, juvenile court, state or federal appellate court, and immigration, bankruptcy, administrative or specialty court) and prepare a written review of each session; and (3) in-class presentation -- students will be expected to orally present to the class a fifteen to twenty minute summary of their courtroom observations and judicial placement experience (if applicable).
Course Format and Assigned Readings:

Required Text:


Because the size of this class is relatively small, student participation on a daily basis is essential. Class discussion will be based on reading assignments from the required text or assignments available on-line or to be handed out in class. Students will be expected to have read what is assigned and to ask and answer questions and to participate in the classroom discussions on the week's topic. During some class sessions, persons involved in various aspects of the judicial process will share their experiences with the class. Students will be expected to be attentive and respectful of these guest speakers and to ask them relevant questions.

Grading:

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<tr>
<td>Class Attendance</td>
<td>10%</td>
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<tr>
<td>Classroom Participation</td>
<td>30%</td>
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<td>Written Papers on Courtroom Observations</td>
<td>40%</td>
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<td>Oral Presentation to Class</td>
<td>20%</td>
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<td><strong>TOTAL</strong></td>
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Each student will be expected to prepare a written paper summarizing and analyzing each courtroom observation and should contain a thoughtful description of the student's impression of what they heard/observed; making sure to comment on what aspects of the experience the student believed to be effective or ineffective, the judge's performance and demeanor, the courtroom procedures/process, what was learned, if anything, etc.... The last two class periods (November 9th and November 30th) will be the time students will present to the class for fifteen to twenty minutes on their judicial placement experiences (if applicable) and on their courtroom observations. The quality of work will be judged in accordance with the degree to which the following criteria are present in the student's work: critical thought, clarity of message, organizational coherency, sharpness of focus, presence of indicators of thoughtful consideration of issues examined, depth of analysis, and creativity.
COURSE OUTLINE
(Additional Readings and Guest Speakers to be added as they become known)

August 24th:

Course Overview; Observations and Writing Assignments; The Structure of the State and Federal Courts in Utah; Federalism; and How Courts Operate

Assigned Reading:

ES- pp. 24-25, 585-98

Utah State Courts at www.utcourts.gov/knowcts/docs/Utah_State_Court_Brochure.pdf


www.fjc.gov/federal/courts.nsf

Federalist Paper # 45 at www.constitution.org/fed/federa45.htm

Federalist Paper # 46 at www.constitution.org/fed/federa46.htm

August 31st:

How Courts Operate II (Nuts and Bolts of Courtrooms); Judicial Assistants; Judicial Law Clerks; and How to Make the Most of Your Judicial Placement

Guest Speakers:

Dan Becker, State Court Administrator, Administrative Office of the Utah Courts
Lee Killian and Aimee Nagels, Judicial Law Clerks, Utah Court of Appeals

Assigned Reading:

ES- pp. 131-37


September 7th:

Constitutional Interpretation; and How do Judges Decide Cases?

Assigned Reading:

ES- pp. 2-17, 41-46


Constitutional Interpretation the Old Fashioned Way, Justice Antonin Scalia at http://www.coff.org/htdocs/freedomline/current/guest_commentary/scalia-constitutional-speech.htm

Troy L. Booher, Utah Originalism, 25-MAY Utah B. J. 22 at www.utahbar.org/barjournal/pdf/May_June_2012_FINAL.pdf


**September 14th:**

Justice Courts in Utah; Federal Immigration Court; and Federal Magistrates

Guest Speakers:
Judge Brendan McCullough, West Valley City Justice Court
Judge Dustin Pead, Immigration Judge, Department of Justice, Executive Office for Immigration Review

Assigned Readings:

ES- pp. 122-30

Utah Code Ann. § 78A-7-106


The Executive Office for Immigration Review (EOIR) at [www.justice.gov/eoir/orginfo.htm](http://www.justice.gov/eoir/orginfo.htm)

Federal Magistrate Judges at [www.fedjudge.org](http://www.fedjudge.org)

September 21st:

Separation of Powers; The Role of the Judicial Branch vs. the Legislative and Executive Branches; Judicial Activism and Should Judges be Policy Makers?

Guest Speakers:
Greg Bell, Lieutenant Governor, State of Utah
John Pearce, General Counsel to Utah Governor Gary R. Herbert
Richard Schwermer, Administrative Office of the Courts

Assigned Readings:
ES- pp. 30-32, 38-40, 516-19, 636-41

The Courts, the Legislature and the Executive: Separate and Equal?, 87 Judicature 220 (2004)

Bruce Fein and Burt Neuborne, Why Should We Care About Independent and Accountable Judges?, 84 Judicature 58 (2000)

September 28th:

Utah's Juvenile Court System; Utah's Trial Court System; Juries and Grand Juries

Guest Speakers:
Judge Jim Michie, Presiding Judge, Third District Juvenile Court, State of Utah
Judge William Thorne, Utah Court of Appeals
Judge Sandra Peuler, Third District Court, State of Utah (Retired)

Assigned Readings:
ES- pp. 211-26, 244-51, 257-63, 333-35

Juvenile Court: An Introduction for Kids and Families at http://www.utcourts/juv/intro


Utah State of the Judiciary, Chief Justice Christine Durham, January 27, 2011 at


The Jury System at courts.uslegal.com/jury-system

October 5th:
Utah's Appellate Courts; Judicial Review

Assigned Readings:

ES- pp. 350-55, 405-15, 442-52

United States Constitution, article III at http://www.constitution.org/constit_.htm

Federalist Paper # 78 at www.constitution.org/fed/federa78.htm

Anti-Federalist # 15 at http://www.constitution.org/afp/brutus15.htm

Judge J. Frederic Voros, Jr., To Persuade a Judge, Think Like a Judge, 24-OCT Utah B.J. 12 (2011)


October 12th: No Class
October 19th:

Judicial Selection; and Judicial Retention in Utah

Guest Speakers:
Ron B. Gordon, Executive Director, Utah Commission on Criminal and Juvenile Justice
Angie Welling, (Former) Member, Third District Judicial Nominating Commission
Joanne C. Slotnick, Executive Director, Judicial Performance Evaluation Commission

Assigned Readings:

ES- pp. 50-52, 65-85, 661-67


Retention of Judges at judges.utah.gov/faq.html

October 26th:

Ethical Constraints on Judicial Officers; and Judicial Conduct and Discipline in the Utah's Courts

Guest Speakers:

Judge Carolyn B. McHugh, Presiding Judge, Utah Court of Appeals; and Member, Utah Judicial Conduct Commission
Colin Winchester, Executive Director, Utah Judicial Conduct Commission

Assigned Readings:


Cannons 1-5 of the Utah Code of Judicial Conduct at http://www.utcourts.gov/resources/ethadv/anncanon.htm/

Utah Constitution, art. VIII, § 13 (Judicial Conduct Commission) http://le.utah.gov/~code/const/const.htm
November 2nd:

Innovations in Jurisprudence: Drug Court, Mental Health Court, Homeless Court

Guest Speakers:
Judge John Baxter, Salt Lake City Justice Court
Judge Brooke Wells, United States Magistrate Judge, District of Utah
Judge Mark Kouris, Third District Court, State of Utah (West Jordan)

Assigned Readings:

ES- pp. 583-84

Utah Drug Court Frequently Asked Questions at
http://www.utcourts.gov/drugcourts/faq.html

Mental Health Initiatives in the Criminal Justice System at

An Alternative to Incarceration at

Judge Baxter's Homeless Court at

November 9th:

Student Presentations
November 16th:

Criminal Law in State and Federal Court; Utah State Board of Pardons; and State and Federal Sentencing Guidelines

Guest Speakers:
Trina A. Higgins, Assistant United States Attorney, Department Of Justice
Clark A. Harms, Chair, Board of Pardons and Parole, State of Utah
Clayton Simms, Attorney, Salt Lake City, Utah
Jacey Skinner, Director, Utah Sentencing Commission

Assigned Readings:

ES- pp. 305-18

Utah Sentencing Commission at www.sentencing.state.ut.us

Utah Board of Pardons and Parole at bop.utah.gov

United States Sentencing Commission at
www.ussc.gov/About_the_Commission/Overview_of_the_USSC/USSC_Overview.pdf

Federal Sentencing Table at

November 23rd: No Class

November 30th: Student Presentations