Clark University                      Spring 2013
Professor Mark C. Miller             email: mmiller@clarku.edu
Office Hours: M W 10:30-11:30am, Thurs 10:30-11:15 Other hours by appointment

Required Books:

Breyer, Stephen Making our Democracy Work: a Judge's View. Alfred A. Knopf
Cross, Decision Making in the U.S. Courts of Appeals, Stanford University Press.
Walker. Eligible for Execution. CQ Press.
Pacelle, Curry, & Marshall, Decision Making by the Modern Supreme Court. Cambridge.

All books are available at the university bookstore and are on closed reserve at Goddard Library.

Exams and Grading: Response Paper to Special Talks 10%
All-essay Midterm 25%
Research paper 30%
Two Hour Final Examination 35%

EXPECTATIONS of STUDENTS: In order to get their money's worth and have fun with this
class, students should want to work hard and think hard. Thus I assume all students will always
attend class and complete all reading and other assignments on time. Students must contact the
professor before the due date concerning problems with exams or research papers. Leave a
voicemail message if you can't reach me personally or try me via email. Class participation and
attendance will weigh heavily in deciding borderline grades. Make-up exams will be given only
under extraordinary circumstances. Research papers and response papers must be handed in in
hard copy; emailed papers are not accepted. No electronics in class without permission, please.

Level of Course:

This is an upper level American government course which will examine various aspects of the process
and politics of the judicial system in the United States. The course is also part of the Law and Society
concentration. This is not a Constitutional Law course, and we will read very few actual court
decisions. Instead, this is a course which examines how political scientists study judicial politics and
judicial behavior. It assumes information learned in the Intro to American Government course (Pol Sci
050). While Pol Sci 050 is not a formal prerequisite, that course or other law related courses are
certainly helpful background for this course. If you have any questions, please see the professor.
Reading and Other Assignments:
Introduction and the Purpose of the Courts — January 14
Baum: Chpt 1

Organization of the Courts — Jan 17
Baum: Chpt 2 Miller: Chpt 1

Legal Reasoning, the Common Law, and Judicial Activism & Judicial Restraint – Jan 24, 28
Carter and Burke: ALL
Miller: Chpt 14

Selection of Judges — Jan 31, Feb 4
Baum: Chpt 4
Miller: Chpts 2 and 3
Reserve Reading: Republicans Turn Judicial Power into a Campaign Issue
Reserve Reading: The Court and the Next President
Reserve Reading: Ouster of Iowa Judges Sends Signal to Bench
Reserve Reading: GOP Aims to Remake Florida Supreme Court
Reserve Reading: Election 2012: Iowans Reverse Trend, Retain Supreme Court Justice

Background of Judges — Feb 7, 11
Baum: Chpt 5
Miller: Chpts 16, 17
Reserve Reading: Supreme Court Nominations
Reserve Reading: Obama’s Judiciary at Midterm
Reserve Reading: Justice in Chief

Special Talk: Thursday, Feb 7, 7:00pm Greg Stohr, journalist who has covered the U.S. Supreme Court,
Higgins Lounge at Dana Commons (Response paper due on this talk, details discussed in class).

The Role of Lawyers — Feb 14, 18
Baum: Chpt 3
Miller: Chpt 4
Reserve Reading: Provide Legal Support to Those Most Vulnerable
Reserve Reading: Why do so Few Women Reach the Top of Big Law Firms?

Special Talk: Clark Alums Currently in Law School (Probably February 18 or 19) (Response paper on this talk).

Trial Courts: Civil Cases — Feb 21, 25
Baum: Chpt 7
Miller: Chpts 6, 7
Reserve Reading: The Feeblest Branch

Midterm — Thursday Feb 28 (tentative date)

Trial Courts: Criminal Cases — March 11, 14
Miller: Chpt 5 Baum: Chpt 6
Reserve Reading: A Voice from the Past
Reserve Reading: Sentencing Shift Gives New Leverage to Prosecutors

Trip to Visit the U.S. Supreme Court and other federal judicial agencies — March 18 (by application only)
Capital Punishment: Trials and Sentencing – March 21
   Walker: ALL
   Reserve Reading: After a 32 Year Journey, Justice Stevens Renounces Capital Punishment

Appellate Courts: Process — March 25, 28
   Baum: Chpt 8
   Miller: Chpts 8, 9
   Cross: ALL
   Reserve Reading: A Conservative’s Road to Same-Sex Marriage Advocacy
   Reserve Reading: When Fairness and the Law Collide, One Jurist is Troubled
   Reserve Reading: Down the Memory Hole

Appellate Courts as Policy Makers — April 1, 4, 8
   Baum: Chpt 9
   Miller: Chpts 12, 18
   Breyer: ALL
   Reserve Reading: Justice Stevens is Off the Bench, but Not Out of Opinions
   Reserve Reading: Should Justices Keep their Opinions to Themselves?
   Reserve Reading: Court of the Olympics
   Reserve Reading: Dissent by Scalia Is Criticized as Political

3rd Draft of Research Paper Due — Monday April 8

The Supreme Court: Process and Procedures – April 11, 15, 18
   Pacelle et al: ALL
   Miller: Chpts 10, 11
   Video on Supreme Court justices, to be shown in class
   Reserve Reading: Most Conservative High Court in Decades
   Reserve Reading: Keep the Briefs Brief, Literary Justices Advise
   Reserve Reading: In Supreme Court Term, Striking Unity on Major Cases

The Supreme Court and Public Opinion – April 22, 25
   Gibson and Caldeira: ALL
   Miller: Chpt 15
   Reserve Reading: Public’s Opinion of Supreme Court Drops after Health Care Law Decision

Final Draft of research paper due — Thursday April 25

The Courts and the Other Branches – April 29
   Miller: Chpts 19, 20
   Reserve Reading: Breyer and Scalia Testify at Senate Judiciary Hearing
   Reserve Reading: Recusal of Fortune: Gaming the Bench
   Reserve Reading: Congressional Attitudes toward the Courts: Governance as Dialogue

Final Examination — Monday May 6, 4:00-6:00pm