

**UNIVERSITY OF PENNSYLVANIA
THE WHARTON SCHOOL
LEGAL STUDIES 221**

CONSTITUTIONAL LAW AND FREE ENTERPRISE

FALL 2020 – PROFESSOR AMY SEPINWALL, J.D., Ph.D.

OVERVIEW: This course provides a survey of issues in constitutional law. Virtually all of the issues we will study touch business or commerce in some way. But virtually no constitutional law class could be otherwise, whether or not the course makes the Supreme Court’s focus on business or money explicit. Consider the following questions:

- Can the government compel people to buy certain things and refrain from buying others? Which things? Wheat? Marijuana? Broccoli? Healthcare? Goods produced in a country alleged to violate human rights?
- Should there be limits on the role of money in politics?
- What is the scope of the right to free speech, including the right to stay silent? Can individuals or businesses be compelled to host speech with which they disagree? Can officiants or singers opposed to gay marriage be made to perform at same-sex couples’ weddings? Can shopping mall owners be compelled to host protests against clothing manufactured in sweatshops?
- What about other forms of compelled association – e.g., paying for your employees’ birth control when you oppose contraception? Including all-comers in your private club?
- What are legitimate forms of protest? Is looting ever constitutionally permissible? Is boycotting ever constitutionally impermissible?
- What does the Constitution have to say about police violence or the justice of our systems of criminal enforcement?

This course takes on these questions. More specifically, the course introduces the student to fundamental concepts in constitutional law in the context of current, pressing issues at the intersection of constitutional rights and business. The course seeks to address three key issues: First, to what extent does the Constitution allow Congress to regulate the economy? May Congress compel people to buy health insurance in order to protect commerce? May government forbid or sanction consumer boycotts?

Second, what are the rights of businesses under the Constitution? What role should corporations play in politics? May a corporation deny health insurance coverage for drugs or treatments, like contraception or gender-affirming medical procedures, to which it objects on religious grounds? May it refuse to serve or employ LGBTQ people on these grounds?

Finally, what role does the Constitution play in this moment in time – in pandemic control? Police brutality and systemic racism?

By engaging these questions, we will develop an appreciation of the interplay of the Constitution and our interests in commerce, property, liberty, and fundamental political rights.

CLASS MEETS: Thursdays, 6:00-9:00 PM
Over Bluejeans – links on Canvas

CONTACT INFO: E-mail: sepin@upenn.edu

OFFICE HOURS: By appointment, in addition to drop-in sessions, TBA

MATERIALS: Available on Canvas

GRADING:

1. Introductory video = 1%
2. Participation = 10%
3. Student-submitted questions on the readings for three class sessions = 12%
4. Student responses to my questions on the readings for three class sessions = 12%
5. Questions on Free Speech Battles Events – 3 x 3.33% = 10%
6. Questions on Supreme Court oral argument in *Tanzin v. Tanvir* – 5%
7. News item presentation = 5%
8. Video presentation (with your small group) = 5%
9. Supreme Court brief = 25%
10. In-class oral argument = 10%
11. Serving as a Justice at oral argument = 5%

- **General policy:** *You must complete each of 1-11 to get a PASS in the course.*

1. **Introductory video** (1%): Please create a video of not more than 1 minute that tells me:
 - i.* Your full name, as written on roster and pronounced slowly
 - ii.* The name you would like to be called, pronounced slowly
 - iii.* Your preferred pronouns
 - iv.* Where you are in the world as you take this course (indicate any expected changes in your location over the semester). What is the time difference there?
 - v.* Your class year, major/concentration, minor, etc.
 - vi.* Where you are from
 - vii.* What you hope to get out of this course
 - viii.* One fun fact/a fun thing you managed to do this summer

2. ***In-class participation*** (10%): There are no tests in this class. It is nonetheless imperative that you complete the reading assignments carefully, and come to class prepared to discuss them. To provide additional incentives for you to do so, I will be cold-calling during the course of the semester. Your participation grade will be based on evidence of your preparation for class; the quality of the insights you bring to bear; and your ability to listen to and respond to the comments of your classmates.
3. ***Submitting questions for three class sessions***: For each of three class sessions, you will submit three questions that the readings prompt. You should submit no more than three questions total and at least one of these should address one or more readings under “Cases” and at least one should address one or more readings under “Commentary.”

You should not answer these questions. Instead, the questions should raise issues that you think would make for good fodder for class discussion.

The classes for which you should submit questions are indicated on the Calendar of assignments. You must submit your questions **by 10 PM on the Wednesday night before class but there is an incentive to get them in early**: Questions are to be posted to our Discussion thread in Canvas. Please do not duplicate your classmates’ questions. If a classmate has already posted a question you wanted to ask, please come up with a different question. ***Late assignments will receive a 0.***

4. ***Small-group responses to my questions on the readings for three class sessions*** = 12%: With your small group, please answer the questions on the “Calendar of Readings and Assignments” (below) and send me one set of responses per group over email – sepin@upenn.edu. Responses should be submitted by **10 PM on the Wednesday night before class. *Late assignments will receive a 0.***
5. ***Questions on Free Speech Battles Events*** – 3 x 3.33% = 10%: Over the course of this year, the Andrea Mitchell Center for the Study of Democracy will be hosting a series of events connected to Free Speech. We are going to participate in three of these:
 - a. You must **register and attend** one session of the [mini-conference](#) on Campus Speech or the [Pussy Riot](#) session – Sept. 24-25
 - b. You must **register and attend one** of the following sessions:
 - i. [Mark Thompson](#) of the NY Times – Tues., Oct. 13, 5-6:30 PM
 - ii. [Derek Black](#), reformed White nationalist – Thurs., Oct. 29, 5-6:30¹
 - iii. [Internet Speech and Democratic Politics](#) – Thurs., Dec. 10, 5-6:30
 - c. You must **register and attend** [Boycotts and Free Speech](#) – Thurs., Nov. 19, 6-8 PM

(These events will be recorded, so you will be able to watch them on your own time if you

¹ Class starts at 6:40 PM

can't attend live.)

For each of a and b, you must submit three questions/comments **after** the event that capture your reflections. For example: what was interesting to you? What did the session leave you puzzled about? What critical take or policy idea did the session prompt? Etc. These are due by **10 PM on Sept. 27 for (a) and 10 PM on the Sunday after the session you attend for (b).**

For c: Please submit three questions by **10 PM on Wednesday, Nov. 18.** These questions should be ones that *you would want the panelists to answer*. Indeed, there may well be an opportunity for you to pose your questions to the panelists. (You will be well equipped to come up with questions on boycotts – the subject of the panel -- because you will have completed your Supreme Court Brief assignments by then, for a case involving boycotts.)

For each of a-c: Please submit your questions to our Canvas Discussion thread. Do not duplicate your classmates' questions. If a classmate has already posted a question/comment you wanted to ask, please come up with a different question.

6. **Supreme Court Assignment:** You will be listening to oral argument in the Supreme Court case, *Tanzin v. Tanvir*, which will be argued live on the morning of Oct. 6, 2020 (likely at 11 AM. I will confirm.) The audio recording will also be available [here](#), as of the afternoon of October 9. The case was initially brought by a group of Muslim men who sued individual FBI agents for placing them on a no-fly list, allegedly in retaliation for their having refused to answer FBI questions about other people they know. ([Here's](#) some background.) **By 10 PM on October 5**, please upload to Canvas two questions based on the [Petitioner's](#) and [Respondent's](#) briefs. In particular, you should pretend that you are a Justice of the Supreme Court, set to hear the case the next day. You should prepare and submit the one question you would be most keen to ask the petitioners, and the one question you would be most keen to ask the respondents. You may work on this part of the assignment in pairs, submitting one set of questions (i.e., two questions total) for the pair of you. Then, by **10 PM on October 11**, please send me an email with your *individual* (i.e., do this on your own, not you're your partner) reflections on the oral argument. These need be only a few sentences long (not longer than a paragraph; 2-3 sentences is fine). You might consider: what was most surprising? Which Justice asked the most pointed questions? Which Justice was most ineffectual? What puzzled you? What did you think about the lawyering on each side, etc.?
7. **News item:** For one class session, your small group will be asked to **a news item** to present in class. The news item you prepare should relate (i) to the materials for that week's class *or* (ii) to a Supreme Court case that was heard that week, or will be heard the next week. (The Court's calendar is [here](#).) You should come to class with a *slide presentation* describing the news item and the questions it raises **OR** a *slide presentation* describing the case – facts, decision below, question presented, etc. Please send me a copy of your slides **by 10 PM on the night before your assigned class session -- sepin@upenn.edu. Late assignments will receive a 0.**

8. ***Video presentation with your small group:*** Please create a Hamilton (the musical)-style video on any aspect of the Constitution or the issues we will be studying in class. The more creative the better. For a pretty sad example of such a thing, see [here](#). For the platonic form of such a thing, get yourself a Disney+ subscription for a month and watch *Hamilton* (as many times as you can fit into a month!). You should aim for somewhere in between these two examples.
9. ***Supreme Court Brief:*** You and a classmate will be tasked with writing a legal brief (5-8 single-spaced pages) on one side or the other of a fact pattern that I will distribute during the first weeks of class. The details for this assignment are contained in Appendix 2, below. Your brief **must be submitted via email to me and the pair of students who are your opposing counsel by 11:59 PM on November 4. Late assignments will receive a 0.**
10. ***In-class oral arguments:*** We will hold oral arguments on November 12, November 25, December 3, and (if necessary) on the date assigned for our final exam (TBD). Details about the format of the oral arguments can be found in Appendix 2.
11. ***Serving as a Justice for an Oral Argument:*** You will be assigned to serve as a Supreme Court Justice for one set of oral arguments to be held on a date different from the one when you have your own oral argument. You should read the parties' briefs and come prepared to ask questions of the petitioners and respondents. At the end of oral argument, you will cast a vote in favor of the petitioner or respondent.

COURSE POLICIES:

1. **Canvas:** There will be a course website on Canvas, which will be our primary resource. For example, the Canvas site will be the repository for all of your readings, under "Files." We will also use the Discussion board for your reading questions.
2. **Email:** Students should check email at least daily in the event that I send a message to the class.
3. **Late assignments:** All assignments must be submitted by the deadlines stipulated above. Late assignments will receive a 0. I will make exceptions only for extraordinary circumstances. You should not request lenience unless you feel reasonably certain that your circumstances are in fact extraordinary.
4. **In-class conduct:** In order to ensure your full engagement, I expect you to be using your computers only for purposes of viewing the class. (If we were in person, I would forbid all electronic devices. This is for your benefit. Studies show that students are more engaged when they have no electronics in front of them.)

5. **Sensitive topics:** We will be venturing into some of the most fraught topics of the day – issues of racial injustice, electoral politics, rights of historically oppressed groups, etc. In order to discuss these fully and trenchantly, we will have to allow that each of us has the freedom to speak their mind, no matter how distasteful their views may be to others in the class. This class will welcome all viewpoints but I nonetheless expect that you will proceed with a tone of civility and respect for one another.
6. **Small-group engagement:** You will be assigned to small groups. Your small group assignments will be posted under the “Files” tab in Canvas. You will work with your small group on designated “small group assignments.” Throughout the semester, I will aim to provide you with other opportunities to engage with your classmates: we will be meeting occasionally in small groups (different from your group for assignments) and you will be assigned a brief-writing partner who may not be in your small group.
7. **LGST 221 in the time of coronavirus:** As this syllabus likely makes clear, I aspire to run this course in a manner that closely reflects the experience you would have if we were meeting in person. But that is an aspiration, not an expectation. I very much appreciate that we are all facing challenges, and some of us have difficulties over and above those affecting us all. I cannot stress enough how important it is to me that you reach out to me if your particular situation poses unique challenges. I am very willing to be flexible, and very much committed to working with you to ensure that each of you can get the most out of this course notwithstanding the difficulties.

POLICIES FOR ONLINE LEARNING:

1. **Audio & Video:** Your audio will be muted by default when you enter class. You will need to unmute yourself to speak; please be prepared to do so. Your video should mainly be on. I regard class as a collective activity, and I expect to see you if you are in class or in office hours. I understand if you occasionally need to mute your video momentarily for personal reasons. If, for some reason, you cannot have your video on generally, please talk to me.
2. **Questions & Chat:** If you want to speak or ask a question, you should use the “raise hand” function to get my attention. (And if I seem not to see your raised hand, just call out. Seriously!) I will not be monitoring the chat function on Bluejeans.
3. **Synchronous attendance and recordings:** The default expectation is that you will be in class when class is held. You cannot simply opt out of classtime. With that said, I recognize that time differences or other challenges may not allow for your synchronous participation. If you are unable to attend class for any reason, please let me know. All class sessions will be recorded, and recordings will be available to students who cannot

participate synchronously. Please notify me in advance about one-off absences too. Properly justified absences will be excused but, depending on the circumstance, a short writing assignment may be required.

LGST 221 – Calendar of Readings and Assignments

(Readings that are not hyperlinked are available on Canvas, under “Files,” in the folder for the week)

Week 1 – Sept. 3 Intro	No readings
Week 2 – Sept. 10 Commerce Clause	<ul style="list-style-type: none"> • The individual mandate Affordable Care Act case • The ACA in the time of coronavirus
ASSIGNMENTS: Due Sept. 9 by 10 PM	<ol style="list-style-type: none"> 1. Introductory video -- upload to Canvas 2. Reading questions – upload to Canvas 3. News item presentations – Group 5, working in pairs 4. Video presentation – Group 6
READINGS:	
<ul style="list-style-type: none"> • Cases/law 	NFIB v. Sebelius Is there still a penalty for being uninsured?
<ul style="list-style-type: none"> • Commentary 	Politico Staff, A Healthcare Mandate Associated Press, Covid-19: Obamacare still part of the action Karen Schwartz, Coronavirus response and the ACA Jeff Lagasse, Trump administration asks Supreme Court to end ACA as coronavirus cases rise
Week 3 – Sept. 17 Unprotected speech	<ul style="list-style-type: none"> • Hate speech • Campus speech
ASSIGNMENTS: Due Sept. 16 by 10 PM	<ol style="list-style-type: none"> 1. Reading questions -- upload to Canvas 2. News presentations – Group 1 3. Video presentation – Group 2
READINGS:	
<ul style="list-style-type: none"> • Cases 	Brandenburg v. Ohio RAV v. St. Paul Wisconsin v. Mitchell UPenn’s “water buffalo” incident
<ul style="list-style-type: none"> • Commentary 	Sigal Ben Porath, Free Speech on Campus
Week 4 – Sept. 24	No class: Instead: Free Speech Battles events AND small-group debriefs

<p>ASSIGNMENT: Due by Sept. 27 at 10 PM</p>	<p>Please share reflections based on the Free Speech Battles session you attended: What was interesting to you? What did the session leave you puzzled about? What critical take or policy idea did the session prompt? Etc.</p> <p>Send your reflections to me via email – sepin@upenn.edu</p>
<p>Week 5 – Oct 1</p>	<ul style="list-style-type: none"> • Criminal “Justice”
<p>READINGS:</p> <ul style="list-style-type: none"> • Cases • Commentary 	<p>Baxter v. Bracey, petition for certiorari² McCleskey v. Kemp</p> <p>Luvell Anderson, Epistemic Injustice and the Philosophy of Race</p>
<p>ASSIGNMENT: Due Sept. 30 by 10 PM</p>	<ol style="list-style-type: none"> 1. Small-group work – all groups: Answer the following questions and send the answers to me, in a single document for your small group, by email – sepin@upenn.edu: <ul style="list-style-type: none"> a. What is the separation of powers doctrine? (You should google around for an answer.) b. How does it emerge in the Baxter v. Bracey brief? c. What is federalism? (You should google around for an answer.) d. How does federalism emerge in McCleskey v. Kemp? e. According to Anderson, what is the epistemic injustice in <i>McCleskey</i>? 2. News presentation – Group 3 3. Video presentation – Group 4
<p>Week 6 – week of Oct. 5</p>	<ul style="list-style-type: none"> • Listening in on the Supreme Court • Mural Arts tour (NO CLASS)
<p>ASSIGNMENT – Supreme Court Oral Argument:</p> <ol style="list-style-type: none"> 1. Due Oct. 5 by 10 PM 	<p>Two questions on Supreme Court oral argument – <i>Tanzin v. Tanvir</i> (see #6 above; can be done in pairs) Listen: Oct. 6, 2020 (more info to follow)</p>

² This is an application to the Supreme Court, asking the Court to review the decision from the Court below. The Court eventually denied the application – see [here](#).

2. Due Oct. 9 by 10 PM	Reflections on oral argument (must be completed individually)
Week 7 – Oct 13 Oct 15	<ul style="list-style-type: none"> • FSB Event:³ Mark Thompson of the NY Times – Tues., Oct. 13, 5-6:30 PM • Conscience in Commerce
READINGS: <ul style="list-style-type: none"> • Cases 	Burwell v. Hobby Lobby Masterpiece Cakeshop v. Colorado
ASSIGNMENT: Due Oct. 14 by 10 PM	1. Small-group work: Answer the following questions (one paragraph for each question is fine) and send the answers to me, in a single document for your small group, by email – sepin@upenn.edu : <ul style="list-style-type: none"> a. Should the Court have granted an exemption to the Green family? Why or why not? b. Should the Court have granted an exemption to Jack Phillips? Why or why not? <p><i>(In answering these questions, you can focus on constitutional structure: is it the Court’s place to offer these exemptions (overriding Congress in Hobby Lobby and Colorado in Masterpiece)? But I am most interested in – and I hope that you will focus on – the issues of political morality: what should the state’s response be when a person has a conscientious conviction that conflicts with what the law requires? Is the answer the same for the conscientious commitments at issue in both Hobby Lobby and Masterpiece?</i></p> <p><i>And for purposes of completing the assignment: I really want you to talk through these issues with your small group, and then write up your group’s response. So you should do the readings individually and then meet at least once as a group to deliberate. You don’t have to reach a consensus – it is fine to have a “dissenting opinion” in the response you submit.)</i></p> <ul style="list-style-type: none"> 2. News Presentation – Group 6 3. Video presentation – Group 5

³ This one of the three Free Speech Battles (FSB) events of which you need attend/watch only one. See #5 in the Assignments above.

Week 8 – Oct 22	Employment Discrimination
READINGS:	
<ul style="list-style-type: none"> • Cases • Commentary 	<ul style="list-style-type: none"> • Bostock v. Clayton County • Sophia Moreau, What Is Discrimination? • Deborah Hellman, Discrimination and Social Meaning
ASSIGNMENT: Due Oct. 21 by 10 PM	<ol style="list-style-type: none"> 1. Small-group work: Answer the following questions and send the answers to me, in a single document for your small group, by email – sepin@upenn.edu: <ol style="list-style-type: none"> a. Think about the different forms of discrimination Moreau and Hellman identify. Which form of discrimination does each of the <i>Bostock</i> opinions contemplate? <ul style="list-style-type: none"> • For each opinion, identify and describe the form of discrimination it seems to rely on and offer one piece of evidence from the text of the opinion illustrating that form. b. Is <i>Bostock</i> rightly decided? Answer this question in only one of the following two ways: <ol style="list-style-type: none"> i. As a matter of constitutional structure: Was it within the Court’s prerogative to have issued the decision it did? OR ii. Imagine that you are a strong supporter of LGBTQ rights. What reason might you have to be disappointed by the majority opinion? 2. News presentations – Group 2 3. Video presentation – Group 1
Week 9 – Oct 29 <i>Class starts at 6:40</i>	FSB Event: ⁴ Derek Black , reformed White nationalist – Thurs., Oct. 29, 5-6:30
ASSIGNMENT: Due Oct. 28 by 10 PM	<ol style="list-style-type: none"> 1. Reading questions 2. News presentation – Group 4 3. Video presentation – Group 3

⁴ This one of the three Free Speech Battles (FSB) events of which you need attend/watch only one. See #5 in the Assignments above.

READINGS	
<ul style="list-style-type: none"> • Cases 	<ul style="list-style-type: none"> • Buckley v. Valeo • Citizens United v. FEC
<ul style="list-style-type: none"> • Commentary 	<ul style="list-style-type: none"> • Russ Feingold, The Money Crisis
Week 10	
ASSIGNMENT:	Supreme Court brief due by 11:59 PM on Nov. 4
READINGS:	None
CLASS – Nov. 5	Election redux and movie (TBD)
Week 11 – Nov. 12	Oral Argument
Week 12 – Nov. 19	Free Speech Battles: Boycotts
Week 13 – Nov. 25 (WEDNESDAY)	Oral argument
Week 14 – Dec. 3	Oral Argument
Week 15 – Dec. 10 5-6:30	FSB Event: ⁵ Internet Speech and Democratic Politics – Thurs., Dec. 10, 5-6:30
Sometime this week	Oral Argument (if necessary)

APPENDIX 1

Supreme Court Brief Assignment and Oral Argument Instructions

Here is your major (not the only) homework assignment of the semester.

To sharpen your research skills, I'm going to have you teach yourself a bit about legal research. To sharpen your analytical skills, I'm going to have you analyze the law and its implications in an important policy area. To sharpen your writing skills, I'm going to have you write a 5-8 page, single-spaced legal brief. To sharpen your presentation skills, I'm going to have you present an oral argument based on your brief. To sharpen your teamwork skills, I am

⁵ This one of the three Free Speech Battles (FSB) events of which you need attend/watch only one. See #5 in the Assignments above.

going to randomly assign you into teams.

There are two members on each team. Each petitioner team will be paired with a respondent team. That group of four will work together, at least vaguely. (I will refine these details in the event that the total number of students in the class is not a multiple of ‘4’.)

You will be given the details of the case that you will be addressing in the first weeks of the semester. I will assign (randomly) one team to represent the petitioners and one to represent the respondents. However, if the two teams mutually agree to flip who represents whom, you may do so. Just let me know.

Each side will write a 5-8 page (single-spaced) brief to the Supreme Court. Then the 2-person teams in each group of four will present an oral argument against the other with yours truly as well as four of your peers sitting as the Supreme Court.

You should consult the Supreme Court’s website – supremecourt.gov – to see how briefs are formatted and structured. After you read a couple of the briefs (you should read a couple of the primary petitioner and respondent briefs, the petitioners’ reply briefs, and probably a couple of amicus curiae briefs), you’ll get a really good feel for how they are put together. That said, I don’t want your briefs to contain all the filler that the accepted form requires—tables of contents, lists of authorities and cases, etc. Skip the extraneous stuff. I want your 5-10 pages devoted to legal and policy arguments. Your major task here is to identify and articulate the key arguments, and provide legal support (i.e., precedents, statutes) for them.

You will inevitably learn something about the conventions of legal citations (e.g., citations are usually volume/reporter/page #). So, *Lemon v. Kurtzman*, 403 U.S. 602 means that *Lemon v. Kurtzman* starts on page 602 of volume 403 of the U.S. Reports (which contain only Supreme Court decisions). However, the goal of this assignment is not to make you conversant with these citation conventions and I will not be checking to see if you’ve dotted the i’s and crossed the t’s in terms of citation form. Substance is much more important than form.

Obvious sources of research, besides Google, include Lexis Academic Universe (available through Van Pelt). It has a multitude of legal sources—cases, law review articles, news sources, etc. And when you find a citation, such as 317 U.S. 111, you can plug it in to the “Look Up a Legal Case” feature and it will take you right there. And if you find references to law review articles, many are accessible through the Academic Universe, and the database HeinOnline is also very helpful for finding law review articles.

Thirty-five percent of your final grade will come from the written brief. You will receive the same grade as your partner. Fifteen percent of your final grade will come from the oral argument. You will receive a separate grade from your partner.

In judging the briefs, I’ll be asking questions such as: 1) How accurate was the legal discussion? 2) Did this team cover the basics? 3) Did this team come up with some creative

arguments that others did not have? 4) Was the brief written clearly? 5) Grammar, punctuation, etc. ok? 6) Most importantly, overall, how persuasive was the brief?

In judging the oral arguments, I'll be asking such questions as: 1) How clearly did the student present his/her argument? 2) How persuasively were the arguments presented? 3) Was the presentation concise and powerful or rambling and unfocused? 4) How well did the student answer the questions that I asked? 5) Most importantly, how persuasive was the overall argument?

The briefs are to be in your own words. Your relationship with the other team in your group should be a love/hate relationship. Hate, because you wish to vanquish them in oral argument. Love, in that you need to cooperate with them so that you are addressing the same issues and arguments in your briefs and oral argument and are not writing and talking past one another. The more direct engagement between the two teams in written and oral arguments, the better both arguments will be.

Oral argument format:

Petitioner's Opening: 8 min.

Respondent's Opening: 8 min.

Petitioner's Rebuttal: 8 min.

Respondent's Rebuttal: 8 min.

Judge's questions: 18 min.

In the rebuttal, you should respond to the other team's key arguments but may naturally have some prepared arguments to further reinforce or advance your own earlier arguments. It is an excellent idea to go to YouTube and check out a couple of videos of oral arguments (in real courts or in law school moot court competitions) just to get the conventions right. Or, you can listen to audios of U.S. Supreme Court arguments on its official website.

Briefs are due before 11:59 pm on Wednesday, November 4. You will have six weeks or so before the final draft is due, but it wouldn't hurt to start working right away.