

BASIC INFORMATION ON IN-CLASS SIMULATION
(during the last half-hour-plus of class,
Tuesday, June 3, 2014)

Explanation of Simulation Focus:

This simulation focuses on a lawsuit filed to challenge Texas' voter-identification law. Although the actual lawsuit raises substantial jurisdictional questions – including the standing of plaintiffs to sue, these are really more “P Sc 104A” issues than 104D issues. Instead, our simulation will focus on the core question involving judicial involvement in electoral politics: issues involving the challenge to the validity of the Texas voter-identification law under the federal Voting Rights Act.

Basic Format:

The simulation will be conducted as a legal argument to a U.S. district court judge (or which we have SEVEN!)

Students playing roles as legal counsel will advocate in this order:

1. The first advocate (Student Horton) will assume that the challengers to Texas' voter-identification law have the right to challenge whether it violates the federal Voting Rights Act; the advocate will make and defend the arguments made in the challengers' Complaint (9/17/13) and in their Response to Motion to Dismiss by Texas NAACP and MALC (11/23/13)
2. The second advocate (Student Mehryar) will also assume, for purposes of this argument, that the challengers have the right to challenge whether Texas' law violates the federal Voting Rights Act; this advocate will make and defend the arguments made by Texas in their Motion to Dismiss (10/25/13)

At the discretion of District Judge Smith, each advocate will have between 12-15 minutes. The first three minutes of each advocate's time will be reserved for an “opening statement,” during which the other District Court Judges (Students Covington, Hardy, Keane, Lite, Nash, Pecoraro & von Nyssen) may not interrupt with questions. At the end of the first three minutes – or if the advocate indicates before the end of their three minutes that they do not wish any further opening-statement time – questioning by the Judges will begin. Questioning thereafter should evolve naturally based on questions and answers; however, Judges who

have been able to ask several questions should generally defer to other members who have asked significantly fewer questions.

Other questions about format and procedure should be addressed to Prof. Smith.

Assigned Additional Readings for Advocates/Judges & Other Class Members:

The assigned readings for this simulation can be accessed through this webpage of New York University Law School's Brennan Center for Justice: <http://www.brennancenter.org/legal-work/naacp-v-steen>).

All class members should "skim read" (i.e., read from a "global" perspective to get a sense of the structure and basic arguments or decisions at issue) the Complaint (item 1 below). Students participating as advocates or judges in the simulations should carefully read items 2 & 3 below, and use this careful reading as the main basis for their preparation for the simulation. (NOTE: You are welcome to find and read cases cited in items 2 & 3 to more fully understand these cited materials; but, please do not over-emphasize this expanded knowledge in the simulation – because the main purpose of the simulation is to demonstrate in an interesting way the main arguments made by the disputants in this controversy (and not to get into an advanced discussion of the underlying legal doctrines).

Class members not directly participating in the simulation should "skim read" items 2 & 3, so that they will be able to follow the flow of the in-class simulation.

1. Complaint (09/17/2013) [PDF]: Skim read to get a sense of facts and legal arguments of challengers
[NOTE: If you have difficulty accessing the Complaint directly from the webpage above, use this link:
<https://www.brennancenter.org/sites/default/files/legal-work/88%20TX%20NAACP%20and%20MALC%20Response%20to%20Motion%20to%20Dismiss.pdf>]
2. Motion to Dismiss by State of Texas (10/25/13) [PDF]: Read pp. 1-3 (introduction and summary of argument); and pp. 16-31 (Parts V through VII)
3. Response to Motion to Dismiss by Texas NAACP and MALC (11/22/13) [PDF]: Read pp. 1-8 (introduction and background); and pp. 18-28 (Parts III & IV)

Please also consider how, if at all, the case excerpts assigned for June 3rds

class (to be posted soon on the class webpage) – especially excerpts from the U.S. Supreme Court opinion in Crawford v. Indiana – apply to this controversy.

Informal Written Responses to be Prepared by Simulation Participants:

Advocates. The main “job” of the advocates is to use their introductory statement and their responses to the “judge’s” questions to develop and defend the main points argued in the actual documents filed in the controversy over the Texas law. Effective advocates also have one overall “theme” (e.g., involving fairness or some other transcendent policy) they continually reinforce.

To prepare for this role, both advocates should prepare a brief and informal written outline of their theme and main points. (Advocates will turn these in at the end of the simulation.)

Judges. The main “job” of the judges is to ask each counsel the questions that the judges most need answers to/clarifications of/assurances about in order to decide the case.

To prepare for this role, judges should prepare a brief and informal outline of the main questions / areas of inquiry they have for each advocate. (Judges will turn these in at the end of the simulation.)