



Course Syllabus

Introduction to Law and Legal Reasoning
Mondays from 5:30pm to 7:30pm in Ryder Hall Room 161
Fall 2009

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Course Description

This course is designed to introduce you to the American legal system and to the types of legal reasoning used by lawyers and judges. You will be provided with the necessary skills to use legal resources and legal reasoning in your academic work, including reading and understanding cases and statutes, doing legal research and writing legal memoranda, and applying existing law to the issue at hand. Finally, the course will provide an overview of a handful of key areas of law that are particularly important for policy students, such as federalism/pre-emption, constitutional law and administrative law.

By the end of the semester you will:

- Understand basic legal concepts and terminology, the organization of the federal and state court systems in the United States, and how litigation moves through the courts
- Understand different types of legal reasoning used in cases involving both common law and enacted/statutory law
- Be able to read and understand key legal documents, especially judicial opinions but also litigation documents such as complaints and briefs
- Know how to brief a legal case, analyze a legal case and apply it to a new fact pattern
- Perform legal research by finding the applicable case law or statute and writing a legal memorandum
- Understand basic concepts in Federal constitutional law and administrative law

Course Materials

The required texts for the course are Toni M. Fine, American Legal Systems: A Resource and Reference Guide, and Steven J Burton, An Introduction to Law and Legal Reasoning. Both books are available at the bookstore. There will be other readings, all of which will be posted on the course Blackboard site (eg there is no course packet at the bookstore.)

You will need to have access to the Bluebook, a guide to legal citation. You do not need to purchase this book; there are copies on reserve at the law library and I will provide you with photocopies of some of the important pages.

Course Requirements and Grading

Attendance is important for a class such as this one; many of the classes will involve going over assignments and/or teaching practical skills necessary for future assignments, so missing a class will make it difficult for you to keep up. For your own sake, please try to avoid missing classes. Students are required to read the weekly assignments prior to class and be prepared to discuss them.

You will be assigned a letter grade in this class. Each assignment will count toward the final grade as follows:

Class participation	15%
Case Briefs (10% each)	20%
Legal Memo	25%
Final Exam	40%

The class participation component of your grade will be based on participation in the discussion that demonstrates knowledge of the assigned readings as well as completion and discussion of ungraded exercises (first case brief, research exercise)..

Assignment Due Dates

All assignments should be submitted via e-mail on the due date. It is unfair to others in the program as well as to me to extend any assignment deadlines past the due date, except under extenuating circumstances such as a health or family emergency. Any need for an extension must be discussed (via phone or e-mail) in advance of the assignment deadline, preferably at least one day in advance.

Academic Honesty

Northeastern University takes the issue of academic honesty very seriously. Any student who appears to violate the University's Academic Honesty and Integrity Policy (see www.osccr.neu.edu/policy.html) may be referred to the Vice-Provost for Research and Graduate Education. If a proven violation involves an exam or course assignment, the student shall receive a failing grade for the assignment, in addition to sanctions imposed by the Vice-Provost for Research and Graduate Education. Individual faculty, with the support of the Department, can impose harsher penalties as they deem necessary.

The Academic Honesty and Integrity Policy includes cheating, fabrication, plagiarism, and other types of dishonest activities. Plagiarism is defined broadly as taking ideas, concepts, or actual words of another person and passing them off as your own work. Of particular note in recent years is the increase in cut-and-paste plagiarism, which involves downloading phrases from websites or other Internet sources. I will be happy, upon request, to clarify specific guidelines on fair use of material for this class, but you should regard this as an official warning.

Law is a field in which you will frequently be referring to the ideas of others – judges, the authors of law review articles, etc. – and it is critical that you be clear about the origin of the ideas you use. If you have any doubts, err on the side of over-citation or contact me with questions.

I encourage you to discuss cases and concepts in this class with classmates. In fact, talking with others will help you get the most out of the course by considering different angles and opinions. Once you begin to write a brief, memo, or exam, however, you should do your own writing and analysis, and all assignments submitted in this class should be your own work.

Assignments and Class Schedule

The following is the planned case schedule and both the reading and graded assignments associated with it. This schedule is subject to change over the course of the semester. Changes will be posted as Announcements on Blackboard and also will be reflected in the Weekly Readings and Assignments sections of Blackboard.

For the ease of students just becoming familiar with legal cases, many of the cases provided on Blackboard are summarized versions of the court's full opinions. Almost all footnotes and, in some cases, citations of precedent have been omitted. A series of asterisks (*****) has been inserted wherever text from the opinion has been omitted. The citation for the opinion is always included for those studies interested in reading the full opinion.

	<u>In class</u>	<u>Due</u>	<u>Assigned</u>
Class 1 Sept. 14	<u>Introduction to the American Legal System</u> <ul style="list-style-type: none"> Welcome and Introductions Overview of course Introduction to the American legal system (Federal and state) Introduction to cases and how to brief a case 	Read Fine 1-27 Read Burton pp. 1-23 Review and print out for class “How to Brief a Case”	After reading <i>Soule</i> , prepare a case brief following the directions in How to Brief a Case (this will not be graded but will be reviewed in class next week)
Class 2 Sept. 21	<u>Cases: The Building Blocks of Law</u> <ul style="list-style-type: none"> The anatomy of a judicial opinion Reading and analyzing cases Review of <i>Soule</i> opinion and case brief Introduction to common law cases using <i>Soule</i>, <i>Phachansiri and Mathis</i> 	Read Fine pp. 29-46 Read summary version of <i>Soule</i> and compare to West version (both posted on Blackboard) and prepare case brief to bring to class Read <i>Phachansiri</i> and <i>Mathis</i> decisions (posted on Blackboard)	
Class 3 Sept. 28 Class will be rescheduled to avoid Yom Kippur	<u>The Common Law and Analogical Reasoning</u> <ul style="list-style-type: none"> Overview of the common law Comparison of common law and “enacted”/statutory law Analogical legal reasoning Example of common law: torts 	Read Burton pp. 25-41 Read <i>Dellwo</i> , <i>Chicago B & Q R. Co.</i> and <i>Van Skike</i> decisions (posted on Blackboard)	
Class 4 Oct. 5	<u>Enacted Law and Deductive Legal Reasoning</u> <ul style="list-style-type: none"> Overview of enacted law: statutes and regulations Deductive legal reasoning Combining analogical and deductive legal reasoning Interpretation of enacted law: the <i>Chevron</i> doctrine 	Read Fine pp. 47-60 Read Burton pp. 43-78 Read <i>Chevron</i> decision (posted on Blackboard)	Required Case Brief #1: after reading <i>Chevron</i> , prepare a case brief following the directions in How to Brief a Case (due Tues. Oct. 13)
Oct. 12	<i>NO CLASS—COLUMBUS DAY</i>	<i>Chevron</i> case brief due on Tuesday, October 13	

	<u>In class</u>	<u>Due</u>	<u>Assigned</u>
Class 5 Oct. 19	<u>How Cases Move Through the Courts</u> <ul style="list-style-type: none"> • Basics of civil procedure • Pleadings (complaints and replies) and discovery • Motions and briefs • Disposition of cases • Review of common mistakes made on case brief assignment • Explain research exercise 	Read Fine pp. 61-83 Read Burton pp.151-69 Read materials on <i>Allen v. Iowa Associates, Inc.</i> (ordinance, complaint and brief) posted on Blackboard	Optional research exercise (this will not be graded but will be reviewed in class next week)
Class 6 Oct. 26	<u>Legal Research and Writing</u> <ul style="list-style-type: none"> • Methods of legal research (law library and web-based) • Introduction to legal writing • Introduction to Bluebooking and in-class exercise • Review research exercise • Explain legal memorandum assignment 	Review Fine pp. 29-38 and pp. 85-114 Skim the Bluebook excerpts distributed in class last week Read guides on citation forms and use quotations in legal memoranda (posted on Blackboard)	Legal memorandum assignment (due Fri. Nov. 6)
Class 7 Nov. 2	<u>Federalism in the Courts I: Dual Federal and State Sovereignty</u> <ul style="list-style-type: none"> • Jurisdiction and roles of federal and state courts • The end of Federal common law: the <i>Erie</i> doctrine • State court interpretation of state constitutional provisions 	Review Fine pp. 16-27 Read the following posted on Blackboard: “Comparing Federal and State Court Systems” <i>Erie v. Tompkins</i> <i>Michigan v Long</i> “The Role of State Constitutions in Our Federal System”	Legal memorandum assignment (due Fri. Nov. 6)

	<u>In class</u>	<u>Due</u>	<u>Assigned</u>
Class 8 Nov. 9	<p><u>Federalism in the Courts II: To Pre-empt or Not to Pre-empt?</u></p> <ul style="list-style-type: none"> • Overview of federal pre-emption doctrine • Pre-emption of state laws • Pre-emption of state court causes of action • Current controversies: has pre-emption gone too far? • Current controversies: when should federal immigration law pre-empt local and state action? 	<p>Read the following posted on Blackboard:</p> <p><i>US v. Locke</i></p> <p>“Tying the Hands of the States”</p> <p><i>Cipollone v Ligget Group</i></p> <p><i>Riegel v. Medtronic</i></p> <p><i>Wyeth v. Levine</i></p>	<p>Required Case Brief #2: pick any one of the four cases assigned for the November 23 class on constitutional law and prepare a case brief following the directions in How to Brief a Case (due before or in class on Nov. 23)</p>
Class 9 Nov. 16	<p><u>Getting Into Court: Threshold Issues and The Availability of Federal Court Review</u></p> <ul style="list-style-type: none"> • Jurisdictional vs. discretionary issues • Constitutionally Required Standing • Ripeness • Exhaustion of remedies 	<p>Read the following posted on Blackboard:</p> <p>“A Primer on Supreme Court Procedures”</p> <p><i>Lujan v Defenders of Wildlife</i></p> <p><i>Abbott Labs</i></p> <p><i>Sims v. Apfel</i></p>	<p>Required Case Brief #2: pick any one of the four cases assigned for the November 23 class on constitutional law and prepare a case brief following the directions in How to Brief a Case (due before or in class on Nov. 23)</p>
Class 10 Nov. 23	<p><u>Constitutional Law: How Much Does Precedent Matter?</u></p> <ul style="list-style-type: none"> • Overview of constitutional law and “standard of review” • Constitutional rights and remedies • Role of precedent and “stare decisis” in constitutional cases <p>Review of common errors made in legal memoranda</p>	<p>Read the following posted on Blackboard:</p> <p><i>Brown v Board of Ed.</i></p> <p><i>PICS v. Seattle School Dist.</i></p> <p><i>Bowers v. Hardwick</i></p> <p><i>Lawrence v. Texas</i></p> <p>Case brief #2 is due</p>	

	<u>In class</u>	<u>Due</u>	<u>Assigned</u>
Class 11 Nov. 30	<u>Administrative Law: Judicial Interpretation of Statutes and Regulations</u> <ul style="list-style-type: none"> Principles of statutory interpretation Deference to agencies Review of agency action Current controversies: does/should legislative history matter? 	Review <i>Chevron</i> (previously assigned for class #4 on October 5) Read the following posted on Blackboard: <i>Motor Vehicle Mfrs Ass'n</i> <i>Gonzalez v Oregon</i>	
Class 12 Dec. 7	<u>Anatomy of a Supreme Court Case: Massachusetts v EPA</u> <ul style="list-style-type: none"> Follow the course of a lawsuit on climate change policy The appeals courts' approach to standing, agency deference and statutory interpretation Framing a case for the Supreme Court Role of "friend of the court" briefs The Supreme Court's decision Policy implications of the decision 	Read the following posted on Blackboard: Case Timeline Excerpts from DC Circuit opinion Petition for certiorari Excerpts from Petitioners' Brief Excerpts from Federal Respondents' Brief Excerpts from <i>amicus</i> briefs <i>Massachusetts v EPA</i>	Take-home exam will be posted on Blackboard on Tuesday Dec. 8 (due Thursday, December 17)
		Take-home exam due on Thursday, December 17	