

Introduction to U.S. Law

Universidad de Deusto

Fall 2010

Professor Leslie Newman

This course explores the American legal system to enable international law graduates and students to read, analyze, synthesize and prepare arguments based on its authoritative sources. Through readings, written assignments, class presentations and discussion, students will be introduced to issues in judicial decision-making, legal process and the culture of the study and practice of law in the United States. The goal is to enhance students' abilities to understand the fundamental bases for common law judicial decision-making, the structure and operation of the national and state governmental and judicial systems, the use of precedent and the prevalent methods of case and statutory analysis.

All in-class work and outside assignments will be based on distributed materials. There is no textbook to purchase. There will be several short assignments and one short analytic writing assignment, which will be returned with extensive written comments, but will not be graded. All assignments are due as noted in this syllabus. Late assignments will not be accepted. There will also be several in-class exercises, and a final, graded essay examination, which will be returned with comments upon request. All writing assignments must be submitted electronically in typed form, double-spaced, with one and a half inch margins around the paper. Attachments must have the student's full name on the document.

Reading materials will be distributed electronically both before and after class sessions. Class will take place via video conference each Monday from 2 – 5 P.M., with ten minute breaks each hour. Attendance is required. Material in several sessions will be taught by guest faculty. Individual students may be in contact via e-mail at any time.

Professor Newman
Benjamin N. Cardozo School of Law
55 Fifth Avenue
New York, NY 10003
212-790-0323

newman@yu.edu

Syllabus and Class Schedule

Class 1: Monday, September 20 2 – 5 P.M.

Identification of questions and main issues of U.S. judicial and legal practice through general discussion of *Kelly v. Gwinnell*, 96 N.J. 538, 476 A.2d 1219 (1984)

Introduction and overview of course
Faculty and student introductions

Assignment:

Review *Kelly v. Gwinnell* case and accompanying materials for continuing reference in class discussion throughout the course.

Read distributed materials on case law analysis (“The Common Law”) for **Class 2**.

Class 2: Monday, September 27 2 – 5 P.M.

Description of the U.S. legal system - the U.S. Constitution; common law; statutory law; the federal governmental structure; the state and federal court system; common law vs. civil law

Overview description of U.S. legal education and methodology
Common Law analysis exercises

Assignment:

Review *Barrett v. Southern Pacific Railroad Co.*, 91 Cal. 296 (1891) in distributed materials (“A Case Sequence”) for **Class 3**.

Class 3: Monday, October 4 2 – 5 P.M.

What is a case; what is a case sequence? Why learn through the use of cases and a case sequence?

Case reading and analysis
Approaches to reading cases, formulating arguments
Common law process
Introduce, read and discuss *Barrett* case in class together
Identify and discuss: precedent, *stare decisis*, binding and persuasive cases and authorities; sources of law and authority
Review exercises on ‘what is a case’ and ‘the common law’

Assignment:

Review *Barrett*, and read *Peters* and *Sanchez* cases for **Class 4**.

No class Monday, October 11

**Class 4: Monday, October 18
2 – 5 P.M.**

Discussion of *Barrett, Peters and Sanchez* cases
Case briefing – in law school and legal practice
Common law case reading and analysis continued
In-class collaborative case brief work on *Barrett* case
Synthesis of *Barrett* and *Peters* cases
Categories of assimilation

Assignment:

Review distributed material on case briefing (“Guidelines for Case Briefing”) and prepare a one page case brief for the *Sanchez* case for submission electronically to Professor Newman (newman@yu.edu) by Friday, October 22nd at 1 P.M. (Bilbao time). This assignment will not be graded, but all submissions will be returned with extensive written comments.

**Class 5: Monday, October 25
2 – 5 P.M.**

Review, discussion and return of *Sanchez* case briefs
Discussion of case sequence related hypothetical problems; preparation of arguments
Use of precedent, dissents and concurrences
Statutory overlay on the common law
Common law/Civil Law similarities and differences continued
Contract Law hypothetical

No class Monday, November 1

Assignment: (for Monday, November 8)

Read distributed material (“In The Domain of Statutes”) on statutory interpretation in common law analysis, which includes the following cases: *Filmore v. Metropolitan Life Insurance Co.*, 82 Ohio St. 208 (1910), *Deem v. Millikin*, 6 Ohio Cir. Ct. 357 (1892), *Riggs v. Palmer*, 115 N.Y. 506 (1889), *Wadsworth v. Siek*, 23 Ohio Misc. 112 (1970), and *Shrader v. Equitable Life Assurance Society*, 20 Ohio St. 3d 41 (1985) for discussion in **Class 6**.

Read U.S. Supreme Court Justice Sandra Day O’Connor’s essay on Justice Thurgood Marshall entitled “The Influence of a Raconteur,” distributed and also found at 44 Stan. L. Rev. 1217-20 (1992) for discussion in **Class 6**.

Class 6: Monday, November 8
2 – 5 P.M.

Statutory authority and statutory interpretation
Discussion of *Filmore, Deem, Riggs, Wadsworth and Shrader* line of cases
In-class exercise:
Short negotiation/oral argument session on *Filmore* case group issues
Public Interest legal issues
Discussion of “The Influence of a Raconteur”
Narratives of legal work – presentation by Cardozo Law School student

Class 7: Monday, November 15
2 – 5 P.M. Class conducted by Professors Newman and Jeffrey Mailman

Discussion of structure and purpose of U.S. law documents including letters, memoranda, litigation documents and appellate court briefs
Argument structure in responding to hypothetical law problems orally and in writing
In-class review and discussion of particular problem exercises
English grammar tips to improve your writing
Idioms

Class 8: Monday, November 22
2 – 5 P.M. Class conducted by Professor Alexandra Otis

Legal Research Methodologies
U.S. law school learning practices using electronic research resources and tools
Academic and professional ethics
Exercise on the hierarchy of sources

Assignment:

Review *Filmore* line of cases for further class discussion. Review notes and questions following the *Filmore* line of cases for discussion in **Class 9**. Read *Holy Trinity* case and review accompanying materials (“Theories of Statutory Interpretation”) and review “A Symposium on Statutory Construction,” distributed, and found at 3 Vanderbilt L. Rev. 395-404 (April, 1950) for **Class 9**.

Class 9: Monday, November 29
2 – 5 P.M.

Continued discussion of *Filmore* line of cases.
Statutory interpretation continued
Canons of construction
Discussion of *Holy Trinity* case

Assignment:

Review distributed practice examination question for in-class discussion in **Class 10**.

No class Monday, December 6

Class 10: Monday, December 13

2 – 5 P.M.

Class conducted by Professors Newman and Jeffrey Mailman

Exam preparation and writing skills
Practice exam review and discussion

Course review

Following class, Answer Notes on the reviewed examination and Course Notes will be distributed.

Class 11: Monday, December 20

2 – 5 P.M.

Doctrinal course outlines
U.S. Constitution
Glossary of terms review
Other jurisprudential voices and topics including Law and Economics, Critical legal Studies, Critical Race Theory, Feminist Jurisprudence, current views on statutory and Constitutional interpretation in the U.S., changing views of the judicial role
English language idioms
Review of hypothetical question
Course review
Questions and comments

Additional materials distributed:

- Map of United States Federal Courts
- Sources of U.S. Law and Descriptions of U.S. Federal Governmental and Court System
- Description of Case Progression from Complaint to Appeal
- Guidelines for Case Briefing
- Guidelines for E-Mail Communication
- Memorandum on Plagiarism
- Civil Law/Common Law Comparison Chart / U.S. Legal Education categories and courses
- Glossary of Terms
- U.S. Constitution

- Book on English language idioms
- Core U.S. Law School Course Outlines