

Law, Language and Values §F-J (Fall 2014)

Course Website: <http://weblaw.usc.edu/users/rgaret/llv.html>

Professor Ronald Garett

Assignment for the first day of class

All readings are included in your photocopied course materials. Please purchase your copy of the materials in CopyVision, room 18 in the Lower Level of the law school. The materials will be available on **Friday, August 22**, and the purchase price is **\$xx.xx** cash and **\$xx.xx** for check or credit card.

Please read the Table of Assignments and all of the course information on this website --

<http://weblaw.usc.edu/users/rgaret/llv.html> -- the course website. During the semester, visit the course website for study resources such as practice questions, handouts, and any revised reading assignments. (Do not go to Blackboard.) The only course materials not posted to this website are sample answers to the exercises. They will be posted instead to the law school's **Secure Documents** page. (You access documents posted there by using the same password that you use to enter the Law Portal.)

A PDF of the required readings for the first day of class, Monday, August 25, can be found [here](#). Please come to class prepared to discuss the exercise, "*Walk a mile in my shoes.*"

Here is a PDF of the [Collated Handouts](#). The last column of the Table of Assignments, below, points you to any handout within the Collated Handouts that applies to that day's class.

Thank you. Welcome to the USC Law School. It is a privilege to be your LL&V teacher.

Review resources

Our LL&V final exam is likely to include: a fact-pattern essay question (much like the exercises you prepare for class), some multiple choice questions, and some short answer questions. The entire exam is open-book, open-notes. The exam will likely be three hours long. The fact-pattern essay part of the final exam will likely be about two hours long; and the short answer and multiple choice part of the exam will total about one hour.

Fact-pattern essay question. The exercises we prepare for class provide the best possible practice and preparation for the essay part of the exam. (Almost all of the exercises originated as LL&V final exam questions. These include: *State v. Pauper* (2012), *In re Akers-Baker transfer* (2011), *Cleaner Skies* (2010), and *Los Paisanos* (2009), just to list some recent ones.) As soon as we have finished our class discussion of an exercise, I post a sample answer to the Secure Documents section of the Law Portal. Be sure to read these sample answers. Once you have prepared your own answer and read the posted sample answer, I welcome any questions you may have about the issues presented, analysis of the issues, and possible conclusions, holdings, and dispositions.

Short answer questions. You have three short-answer questions among the exercises we prepare for class. They are: *If this be treason* (assigned for class #3), *The return of the ring* (assigned for class #18; this was part of the 2013 final exam in LL&V), and *Soaring over North Virginia* (assigned for class #23). An additional short-answer question is:

[Additional LL&V practice short-answer question](#)

[Practice short-answer question WITH ANSWERS](#)

Multiple choice questions. Here are ten practice multiple-choice questions.

[LL&V practice multiple choice questions](#)

[Practice multiple choice questions WITH ANSWERS](#)

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The number to the left of each entry in the reading assignments column corresponds to the reading number at the left margin of the Table of Contents of your course materials. For each assignment designated “Exercise,” be prepared to state and analyze the issues presented in the exercise, and to state and offer reasons for your conclusions. You will find it very helpful, in preparing each Exercise, to write out a short answer. The Exercises are similar to the “fact pattern” questions on final exams. They enable you to apply the skills and concepts that we are learning.

We begin by noticing the value choices or moral decisions that actors face in legal roles such as client, lawyer representing client, and judge. Each actor brings to those choices his or her own personal goals and preferences. In what ways, if any, does the nature of the legal role rightly constrain or shape the actor’s pursuit of those goals? In what ways does the fashioning of arguments – about what the law means (questions of law) and about the interpretation of what happened (questions of fact) – activate a lawyer’s powers of moral reasoning? Our first exercise raises those questions in connection with a hearing (trial) in a case arising under a statute (statutory interpretation case). Our first case, Smith, also inquires into the relation between moral and legal reasoning in statutory interpretation: but because the case is in an appellate court (U.S. Supreme Court), the focus is solely on the law (what does the statute mean), not on the facts (which have already been ascertained at trial). Our second exercise, like the first, asks us to consider how the legal role (here, prosecutor) constrains or shapes the actor’s pursuit of his or her personal goals and preferences. As compared to our first exercise and to Smith, both of which are statutory interpretation cases, what difference does it make that the issues in the second exercise are questions of constitutional interpretation? Does a lawyer embrace a statute’s – or the Constitution’s – principles and purposes as her own? (How does one know what those principles and purposes are?)

1	Monday, Aug 25	Introduction to Law, Language and Values, pp. vii-xi. Exercise: Walk a mile in my shoes, pp. 525-528.	A sample answer to the Shoes exercise will be posted to the Secure Documents page of the Law Portal.
2	Wednesday, Aug 27	Statutory Interpretation and Legal Reasoning I.A. The formal (X/Y) issue formulation 1. Textual interpretation in legal reasoning, pp. 1-3. 2. Notes and questions on textual interpretation in legal reasoning, pp. 3-5. I.B. Linguistic and normative grounds of decision 3. <i>Smith v. United States</i> , pp. 5-13. 4. Notes and questions on <i>Smith v. United States</i> , pp. 13-17.	

	Monday, Sept 1	Class does not meet (Labor Day)	
3	Wednesday, Sept 3	I.C. The level of generality (choice of description) problem 5. Note on levels of generality, pp. 17-22. I.D. Initial comparison between common law, statutory interpretation, and constitutional interpretation, in relation to representative democracy 6. "Legislative overruling" and three kinds of adjudication, pp. 22-26. Exercise: If this be treason, pp. 518-521.	A sample answer to the Treason exercise will be posted to the Secure Documents page of the Law Portal.
<p>Now we look more closely at theories and methods of statutory interpretation. Our goal is to equip ourselves for a world in which not only the meaning of particular statutory words and phrases, but the whole enterprise of interpreting statutes, is unsettled and contested. Our case, <u>Weber</u>, and our third exercise, help us consider the merits and limits of competing theories and methods of statutory interpretation. We focus especially on claims about legislative intent. But the larger question, held over from our first cases and exercises, remains: what is the connection, if any, between what a law means and what it should mean? Who, acting in which legal roles, determines what a statute means and should mean?</p>			
4	Monday, Sept 8	I.E. Textualism, intentionalism, and purposivism 7. Garrett, "Legislation and Statutory Interpretation," pp. 27-34. 8. Notes and questions on Garrett, pp. 34-35. 9. <i>United Steelworkers of America v. Weber</i> , pp. 35-45. 10. Notes and questions on <i>United Steelworkers v. Weber</i> , pp. 46-49.	Collated Handouts 1. <i>Intentionalism, Textualism, and Purposivism</i> , p. 1
5	Wednesday, Sept 10	Inquiring Further into Legal Reasoning 19. The meaning of words in legal rules, pp. 107-117. 124. Note on overinclusiveness and underinclusiveness, pp. 558-559. Exercise: <i>Inmates v. Warden Grim</i>, pp. 534-535.	Collated Handouts: 2. <i>Overinclusiveness and Underinclusiveness</i> , pp. 2-4 A sample answer to the Inmates exercise will be posted to the Secure documents page of the Law Portal.
<p>Now we pause to take stock of what we have learned. What is an issue (what are the parties arguing about); what is the difference between questions of law and questions of fact; what reasons and evidence are responsive to such questions, and why? Our main case, <u>Ulane</u>, returns us to the trial court. Which value judgments, if any, does the law require (permit, prohibit) the judge to make when reaching conclusions of law and findings of fact? Are a lawyer's arguments convincing because they are morally persuasive or for some other reason?</p>			
6	Monday, Sept 15	126. Note: choosing between rules and standards, pp. 580-581. 125. The legal syllogism, pp. 559-580.	

7	Wednesday, Sept 17	I.G. Hard questions of law and fact <i>In preparation for our discussion, represent Judge Grady's legal reasoning as a double syllogism deciding questions of law and fact.</i> 16. Introduction to <i>Ulane v. Eastern Airlines</i> , pp. 80-81. *17. <i>ULANE V. EASTERN AIRLINES</i> , (VERSION DISTRIBUTED IN CLASS), pp. 1-9.* 18. Notes and questions on <i>Ulane</i> , pp. 100-106.	
When carrying out legal reasoning within legal roles (such as lawyer representing client, judge presiding at trial, juror, appellate court), who is authorized to engage or activate his or her own life experiences, moral beliefs, beliefs about the way that the world works, preferences, hopes? When carrying out legal reasoning in the law classroom, is the student required (permitted, prohibited) to apply, reassess, or express her values?			
8	Monday, Sept 22	Group Identity, Personal Values, and Legal Reasoning VII.A. Social roles, outsider identities, and the struggle for authenticity 107. Montoya, "Máscaras, Trenzas, y Greñas," pp. 403-420. 108. Notes and questions on Montoya, pp. 421-423.	For further discussion of Prof. Montoya's article, see the link in the box below the Table of Assignments.
9	Wednesday, Sept 24	VII.B. Does life experience legitimately inform legal judgment? 109. Identity, empathy, and legal reasoning: the Sotomayor confirmation hearings, pp. 424-429. 110. Notes and questions on identity, empathy, and legal reasoning, pp. 429-430. 114. Notes and questions on authority, authenticity, and objectivity, note #9, pp. 440-442.	Collated Handouts: 3. <i>Life experience and legal reasoning</i> , pp. 5-6
10	Monday, Sept 29	VII.D. Does life experience supply articulable legal reasons? 115. What is the relation between the "big I" of personal identity and the "little i" of the issue? pp. 443-444. 116. Bravin, "Lt. Colonel Stuart Couch: The Conscience of the Colonel," pp. 444-453. 117. Notes and questions on "The Conscience of the Colonel," pp. 453-455.	
So far, we have asked: which actors, in which legal roles, are required (permitted, prohibited) to engage value questions? Now we begin to sort out three different (though related) ways to engage value questions. (1) Ask who one is and ought to be, and choose in such a way as to be that person. We will call this the ethics of character. We begin by seeing this ethics in action in the <i>Phillip Becker</i> case, and notice how legal reasoning frames good (and bad) character by storytelling (narrative). (2) Ask which of the available options (or rules) will achieve the greatest social benefit net of costs going forward. We will call this economic analysis or cost-benefit analysis. (3) Ask which outcome vindicates the rights of the parties under whatever principle best fits and justifies the law under which the parties make their claims. We will call this rights-based reasoning. Our cases and exercises for the remainder of the course ask us to consider not only <u>whether</u> legal reasoning engages values, and <u>whose</u> legal reasoning engages values, but <u>what kind of value reasoning</u> is most responsive to the issues under dispute and why? We will practice not only making but critically evaluating arguments that sound in all three kinds of value reasoning.			

11	Wednesday, Oct 1	The Story in Which We Find Ourselves VIII.A. Narrative as a form of justification 118. Narrative, character, and normative reasoning, p. 456. 119. <i>Guardianship of Phillip Becker</i> , pp. 457-470. 120. Notes and questions on <i>Phillip Becker</i> , pp. 470-472.	Collated Handouts: 4. <i>Frameworks for lawyers' normative reasoning</i> , pp. 7-9
	Monday, Oct 6	Class does not meet (Class holiday)	
12	Tuesday, Oct 7 (Monday classes meet)	II.B. Three theories of adjudication 20. Three theories of adjudication: legal formalism, legal realism, and natural law, pp. 117-132. Exercise: <i>United States v. Diamond</i>, pp. 509-515.	A sample answer to the <i>Diamond</i> exercise will be posted to the Secure documents page of the Law Portal.
13	Wednesday, Oct 8	Economic Analysis 40. Introduction to normative reasoning, p. 188. IV.A. Cost-Benefit Analysis 41. Introduction to cost-benefit analysis, pp. 188-195. 42. Notes and questions on cost-benefit analysis, pp. 195-196. 43. Valuing nonmonetary costs and benefits, pp. 196-198. 44. Notes and questions on valuation, p. 198. 45. Introduction to oral argument in <i>Enterger v. Riverkeeper</i> , p. 198. 46. Oral argument in <i>Enterger v. Riverkeeper</i> , pp. 198-200. 47. Notes and questions on <i>Enterger v. Riverkeeper</i> , p. 200.	
14	Monday, Oct 13	IV. E. Information 61. Jackson et al. on moral hazard, adverse selection, and the principal-agent problem, pp. 241-248 (top of page). 62. Notes and questions on moral hazard, adverse selection, and the principal-agent problem, question #1 (p. 253) and note #3 (p. 254). Exercise: <i>State v. Pauper</i>, pp. 553-557.	Collated Handouts: 5. <i>Information problems</i> , pp. 10-12 A sample answer to the <i>Pauper</i> exercise will be posted to the Secure documents page of the Law Portal.
15	Wednesday, Oct 15	48. Utilitarianism, economic analysis, and the redistribution of income, pp. 200-204. 49. Questions on utilitarianism, economic analysis, and the redistribution of income, p. 204. IV.C. Externalities 53. Butler & Drahozal, "Externalities," pp. 214-222. 54. Notes and questions on externalities, pp. 222-223.	

16	Monday, Oct 20	<p>IV.D. The Coase Theorem</p> <p>56. Barnes & Stout, "The Coase Theorem and the Efficient Exchange of Rights," p. 227.</p> <p>57. Polinsky, "The Coase Theorem," pp. 227-237.</p> <p>58. Notes and questions on the Coase Theorem, pp. 237-238.</p> <p>Exercise: <i>Los Paisanos</i>, pp. 529-531.</p>	<p><u>Collated Handouts:</u></p> <p>6. <i>The Coase theorem</i>, pp. 13-15</p> <p>A sample answer to the <i>Los Paisanos</i> exercise will be posted to the Secure documents page of the Law Portal.</p>
17	Wednesday, Oct 22	<p><i>Review the Coase Theorem and Los Paisanos. Be prepared to discuss questions one and two on <u>Collated Handouts</u> 6., The Coase theorem, pp. 13-15.</i></p> <p>55. The prisoner's dilemma, collective action, and free riding, pp. 223-226.</p>	<p><u>Collated Handouts:</u></p> <p>7. <i>Prisoner's dilemma and collective action problems</i>, p. 16</p>
18	Monday, Oct 27	<p>Rights</p> <p>V.A. Instrumentalism, rights and ordinary understanding</p> <p>65. Introduction: anti-instrumentalism, pp. 274-275.</p> <p>66. <i>Lindh v. Surman</i>, pp. 275-281.</p> <p>67. Kull, "The Simplification of Private Law," pp. 282-287.</p> <p>68. Two conceptions of private law, pp. 287-288.</p> <p>69. Questions on Lindh and Kull, pp. 289-292.</p> <p>72. "Corrective justice" and "private law," pp. 295-297.</p> <p>73. Questions on Kull, p. 297.</p> <p>*EXERCISE: THE RETURN OF THE RING (IN MATERIALS DISTRIBUTED IN CLASS, pp. 10-11)*</p>	<p>A sample answer to the <i>Ring</i> exercise will be posted to the Secure documents page of the Law Portal.</p>
19	Wednesday, Oct 29	<p>V.D. Mandating vaccination: utility, natural right and fairness</p> <p>81. Mandatory vaccination, health and civil liberties, pp. 316-318.</p> <p>82. <i>Jacobson v. Commonwealth of Massachusetts</i>, pp. 318-321.</p> <p>83. Notes and questions on <i>Jacobson</i>, pp. 321-322.</p> <p>84. Legal developments subsequent to <i>Jacobson</i>, pp. 322-323.</p> <p>V.E. Philosophical justifications relevant to mandatory vaccination, p. 323.</p> <p>85. Nozick, "Moral Constraints and the State," pp. 323-331.</p> <p>86. Nozick and vaccination, pp. 332-333.</p> <p>87. Comments and questions on Nozick, pp. 333-334.</p>	

20	Monday, Nov 3	<p>Continue discussion of readings ##85-87.</p> <p>88. Mandating vaccination: equal right and fair play, pp. 334-337.</p> <p>89. Mandatory vaccination and fair play, pp. 337-338.</p> <p>90. Comments and questions on Rawls, pp. 338-340.</p> <p>Exercise: <i>The Gould virus</i>, pp. 542-543.</p>	<p>A sample answer to the <i>Gould virus</i> exercise will be posted to the Secure Documents page of the Law Portal.</p>
<p><i>Recall that actors offer legal reasons within roles. Because statutory interpretation is so pervasive in law today, we have focused primarily on legal reasoning within statutory interpretation roles (such as lawyer representing client in a case in which the outcome depends on which interpretation of a statute the court adopts). Now we turn our attention to legal reasoning in the common law. What makes one interpretation of a common law case, or line of cases, better than a competing interpretation? What value judgments enter into that determination of which is better? As before, we apply the ethics of character, economic or cost-benefit analysis, and rights-based reasoning, and consider which (if any) of these modes of thought are responsive to the legal reasoning tasks in hand. For synthesis and review, we then compare and contrast the role of value judgments and moral reasoning in statutory interpretation and the interpretation and application of the common law. Are the two roles strikingly different (as Scalia argues) or perhaps rather similar (as Dworkin suggests)?</i></p>			
21	Wednesday, Nov 5	<p>Legal Reasoning in Common Law Adjudication</p> <p>III.A. Interpreting a holding</p> <p>28. Introduction to common law reasoning, pp. 157-158.</p> <p>29. <i>Boyd v. Coca Cola Bottling Works</i>, pp. 159-161.</p> <p>30. Notes and questions on <i>Boyd</i>, p. 161.</p> <p>31. <i>Liggett & Myers Tobacco Co. v. Cannon</i>, pp. 161-165.</p> <p>32. Notes and questions on <i>L&M Tobacco</i>, p. 165.</p> <p>35. <i>Pillars v. R. J. Reynolds Tobacco Co.</i>, pp. 168-170.</p> <p>36. Notes and questions on <i>R. J. Reynolds</i>, pp. 170-171.</p>	
22	Monday, Nov 10	<p>102. Dworkin, "How law is like literature," pp. 377-382.</p> <p>III.B. The problem of retroactive lawmaking</p> <p>37. <i>Macpherson v. Buick Motor Company</i>, pp. 171-181.</p>	
23	Wednesday, Nov 12	<p>21. (From II.C) Two theories of law: positivism and anti-positivism, pp. 132-134.</p> <p>38. Note: "A brooding omnipresence in the sky," pp. 182-183.</p> <p>39. Note: The distinction between law and fact, pp. 183-187.</p> <p>Exercise: <i>Soaring over North Virginia</i>, pp. 548-549.</p>	<p>A sample answer to the <i>Soaring</i> exercise will be posted to the Secure Documents page of the Law Portal.</p>

24	Monday, Nov 17	VI.A. Dworkin: Natural law across the board 100. Dworkin, "Hard Cases," pp. 361-373. 101. Notes on the distinction between principles and policies, pp. 373-377. Note: Over the semester, our assigned readings in Dworkin include: Class #4. On Weber, pp. 47-49 Class #15. Derek/Amartya scenario, pp. 201-202 Class #12, #23. Rules and principles, natural law, pp. 127-134 Class #22. How law is like literature (chain novel), pp. 377-382 Class #24. Natural law / hard cases, pp. 361-377 Class #25. Notes and questions, pp. 382-387	Collated handouts: 8. <i>Dworkin v. Scalia</i> , pp. 17-18
25	Wednesday, Nov 19	103. Notes and questions on Dworkin, pp. 382-387. VI.B. Scalia: realism for common law, formalism for statutory & constitutional cases 104. Scalia, "Common-Law Courts in a Civil-Law System," pp. 387-394. 106. Notes and questions on Scalia, pp. 400-402.	Collated Handouts: 9. <i>Scalia puts it all together</i> , p. 19
26	Monday, Nov 24	Review: Normative reasoning and statutory interpretation: Exercise: <i>Cleaner Skies</i>, pp. 539-541.	A sample answer to the <i>Cleaner Skies</i> exercise will be posted to the Secure Documents page of the Law Portal.
	Wednesday, Nov 26	Class does not meet (Thanksgiving break)	
<p><i>We conclude by asking what, if anything, a lawyer must or should believe in, if he or she is to be a good lawyer. Is there, as Fuller claims, a "morality that makes law possible"? If so, what is that morality; and must a lawyer embrace that morality as her own? We consider that not only as a "big picture" question about our lives in the law, but also as a skills question about which reasons and evidence in our concluding exercise (a statutory interpretation case) are most persuasive and why.</i></p>			
27	Monday, Dec 1	VIII.B. The ideal of the rule of law; fidelity to law 121. Note on the ideal of the rule of law, pp. 472-480.	
28	Wednesday, Dec 3	Review: 126. Note: choosing between rules and standards, pp. 575-576. *EXERCISE: IN RE AKERS-BAKER TRANSFER (VERSION DISTRIBUTED IN CLASS, pp. 12-15).* *AUDEN, "LAW LIKE LOVE," WITH NOTES AND QUESTIONS (DISTRIBUTED IN CLASS, pp. 16-18).*	A sample answer to the <i>Akers-Baker</i> exercise will be posted to the Secure Documents page of the Law Portal.

For further discussion of Prof. Montoya's article, "Máscaras, Trenzas, y Greñas," which we discuss on Monday, Sept. 22, see the Harvard Journal of Law & Gender website, <http://harvardjlg.com/still-unmasking-the-self-legal-education-and-the-experience-of-the-other/>, which posts comments and tributes to the article in celebration of its twentieth anniversary of publication. Among the tributes is a short piece of my own, "Sadness and the Criminal Law," which I first presented at an event at Prof. Armour's house.

1. Text and syllabus

All readings are included in your photocopied course materials. Scroll up to see a Table of Assignments that shows the reading assignments for each day of class. This table also includes links to other materials such as handouts.

2. Office hours and lunches

Office hours: Mondays and Wednesdays I'll stay after class in room 101, 9:20-9:50, to answer your questions. I'll also be available in my office (452) on Thursdays: 9:00-9:50 for sections G-H-I and 10:00-10:50 for sections F & J. Please send me email if you'd like to make an appointment to meet with me at another time.

Lunches: As we move into the semester I'll post sign-up sheets for lunches.

3. Class preparation and study

You may find it helpful to read a whole week's assignment once through, then reread each day's assignment before class. Be prepared to pursue your ideas and questions in class discussion. I also look forward to further discussion during office hours, and welcome your questions.

4. Learning goals

Learning goals for each segment of the course are set out in the Table of Assignments, above. The course's learning goals are further outlined in the reading, *"Introduction to Law, Language and Values,"* at the front of your course materials and assigned for the first class hour.

5. Teaching method and class participation. Laptop policy.

I do not do much lecturing in class; the introductory "lectures" are contained in the course materials. Most of the class hours are devoted to discussion of issues – to uncovering the questions that surface when lawyers try to predict how legal decision-makers will decide these issues, and to working through the reasons that lawyers give when trying to be persuasive about how these issues should be resolved. Some of the issues we will discuss in class have not yet been definitively resolved. This is because much of your work as a lawyer will involve pressing on, needing to make a decision, precisely where there is some doubt about what the legal decisionmakers (e.g. judges, juries) will decide to do. Thus as to some of the topics under discussion, reasonable minds can and do differ. In many ways, what we are learning to do is to carry out a certain kind of reasonable disagreement (named "legal reasoning") within the language and framework of the rule of law.

Because the "lectures" are contained in the reader, the class hour is not for taking notes but for thinking through problems, attaining preliminary views on the matters under discussion, and engaging your own values, convictions, and life commitments.

Laptops, iPads, cellphones and similar devices may not be used during class for notes or other purposes. While in class, you should focus on thinking and participating, not note taking. To make most note taking unnecessary, I will both post and distribute all handouts.

Attendance is required. A student who must miss class due to illness should notify the instructor. A student who misses class due to illness, and who has notified the instructor, may obtain access to an audio recording of the class missed.

6. Reasonable disagreement and mutual respect

Disagreements (even reasonable disagreements) about what the law means, and about what result the law demands or permits given some set of facts, can implicate our sense of right and wrong and our convictions about the meaning and worth of our lives. A main goal of our class is to find ways of having reasoned disagreements, ways to make reasonable arguments, precisely at the many points in which the application of the law to the facts exposes unresolved issues and touches nerves. We will try to be good friends to one another by offering arguments and counter-arguments in such a way that disagreement becomes a sign of respect. As William Blake wrote, "Opposition is true friendship."

7. Participation points and the “Socratic method”

I award participation points to recognize especially diligent preparation and especially valuable contributions to class discussion. Most students’ final grade will not be affected by these points. In some cases, the course grade will differ from the final exam grade by one tenth of a point (i.e., one grade interval) when the participation points are included.

If, at any time, you are feeling uncomfortable with some subject under discussion, or for any other reason you would prefer not to be called on in class on a given day or days, please let me know before class begins (e.g., by sending me an email or calling me). I will always honor that request. You do not need to explain why you would prefer not to be called on. Your asking not to be called on will have no effect on participation points. Though the so-called “Socratic method” can cause some anxiety, I use this method despite that effect, not because of it. I use this method to model and stimulate legal reasoning — especially to model the kind of legal reasoning that takes place at oral argument in appellate courts, when judges ask counsel to explain which interpretations of the law are plausible (and of those interpretations, which is best and why).

8. Exercises

The assignments for the semester include eleven exercises that provide opportunities for applying concepts and skills. They are exercises because they supply you with some law and some facts (a “fact pattern”), and ask you to identify the resulting issues, analyze them, and recommend a solution to them. Answering questions of the fact-pattern type “exercises” your growing skills in legal reasoning. The best way to get that exercise (your legal-reasoning workout), and the best way to prepare for the final exam, is to write out your answers. Writing out your answers will help you whether or not you are cold-called in class on the day that the exercise is discussed.

Though you are not required to write and submit answers to the exercises, I offer you the following contract. In exchange for your writing out answers to (up to) three exercises and giving them to me to read, teaching assistant Ana Luiza Reyngach and I will read your answers and offer you feedback on them. Details of this contract offer will be specified in class!

9. Final exam

The final exam will be administered on Friday, December 12, at 9:00 a.m. The final exam will include one or two fact-pattern essay questions, and a non-essay component (multiple choice, and possibly also some short-answer questions). Most of the eleven exercises are structured as fact-pattern essay questions, but some are structured as short-answer questions. The 2013 final exam consisted of one fact-pattern essay question, two short-answer questions on another fact pattern, and multiple choice questions.

10. Class begins promptly.

Since late arrivals cause a distraction to fellow students, please be on time.

Thank you! Welcome to the USC Law School. It is a privilege to be your LL&V teacher.