

LAW, LANGUAGE, AND VALUES §A-E AND §K-O (FALL 2017): SYLLABUS AND TABLE OF ASSIGNMENTS

Course Website: <http://ronaldgaret.usc.edu/llv.html>

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Office hours:

§A-E: Mondays and Wednesdays, 2:00-3:00, walk-in. Fridays, 2:00-3:00, by appointment (please make appointments by sending me email).

§K-O: Mondays and Wednesdays, 3:30-4:30, walk-in. Fridays, 3:30-4:30, by appointment (please make appointments by sending me email).

Lunches:

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

§A-E: Most Fridays and alternate Wednesdays.

§K-O: Most Mondays and alternate Wednesdays.

Course materials // Assignment for the first day of class

Please purchase your copy of **the photocopied course materials** in CopyVision, room 18 in the Lower Level of the law school.

Please read the Table of Assignments and all of the course information on this 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.)

Two other packets — one includes a few additional readings (**the distributed readings**) assigned for some class meetings, and the other supplies a set of optional secondary materials (**the study aid**) — will be distributed to you. (You may also download the study aid as a PDF, below.)

Sample answers to the assigned exercises are not available in print and are not posted to this course website. 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.)

The main text (the photocopied course materials) is available only in hard copy. But a PDF of the required readings for the first day of class, Tuesday, August 22, will be posted to the course website.

Please come to class prepared to discuss the exercise, "**Walk a mile in my shoes.**"

Here is a PDF of the optional study aid: [The Study Aid](#)

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

Using the sample answers to the LL&V exercises

After our class discussion of each exercise (such as the *Shoes* and *Treason* exercises), be sure to read the Sample Answer (posted to Secure Documents on the Law Portal). As you compare your answer to the sample answer, ask yourself:

- Are there any issues I didn't spot when I prepared the exercise?
- Did I see and state the strongest reasons on both sides of the hard issues?
- Where the call of the question asks for it, did I state my conclusions?

Don't worry about writing style. I wrote the sample answers, so they reflect my writing style. You can write an outstanding answer that is expressed in a quite different prose style.

In all of the LL&V exercises, as in the LL&V final exam (which the exercises simulate), the quality of your answer does not depend on whether you rule for plaintiff or defendant, that is, on which side wins under your analysis. If the call of the question asks for conclusions, the sample answer will state conclusions; but the quality of your own work does not depend on whether you reached the same conclusions.

TABLE OF ASSIGNMENTS

The number to the left of each entry in the **Assigned Readings** column corresponds to the reading number at the left margin of the Table of Contents of the course materials that you purchased. A few of the readings are in an additional packet distributed to you in class. They are marked in *CAPS*.

On most days, Study Aids are provided; see the **Optional readings in the Study Aid** column. Like a treatise, PowerPoint slides, or handouts, the Study Aid is meant to summarize or organize some of the main concepts presented in the readings and discussed in class. You may find the Study Aids helpful when you prepare for class, review or synthesize after class, and prepare for the final exam. The Study Aids are not required reading.

The LL&V assignments include nine **exercises**. For each of these assigned exercises, 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. Each week, after class discussion of an assigned exercise, I post a sample answer to that exercise to the Secure Documents page on the Law Portal. (The sample answers are posted to Secure Documents rather than to the course website because some instructors require their students to write and submit their answers.) Always read the sample answer and compare it to your own answer. Be sure to let me know, via email or in office hours, if you have questions or comments on the analysis in each exercise’s sample answer.

We begin by noticing that lawyers must make difficult choices (hard judgment calls). Some of the choices are difficult because we don’t know all the facts (e.g., we can’t predict with 100% certainty how judges or juries will respond). But some of the choices are difficult in an additional way; they require making value judgments. Moreover, lawyers are accountable (e.g. to their clients and to the bar) for the decisions they make. So as we set out to study law, we want to develop not only knowledge and skills but also our capacity to exercise good judgment when making value choices. We aspire to be and become a certain kind of person: a person who is worthy of responsibility and deserves to be trusted. In our first two exercises and our first main case, we identify hard choices faced by clients, lawyers, and judges. Which of those choices are hard because they require the making of value judgments where reasonable minds can differ? We flag two questions that will receive close attention throughout the course. (1) What lines of reasoning are fruitful when a lawyer must make a value judgment? (We will call these “frameworks for normative reasoning.”) (2) May/must the judge (or jury) make a value judgment; if so, how can lawyers help the judge (or jury) do so?

	Date	Assigned readings in the purchased course materials or *PACKET DISTRIBUTED IN CLASS*	Optional readings in the Study Aid
1	Tu, Aug 22	Introduction to Law, Language and Values, pp. vii-xi. Exercise: Walk a mile in my shoes, pp. 525-528.	
2	Thur, Aug 24	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.	

3	Tu, Aug 29	<p>I.C. The level of generality (choice of description) problem 5. Note on levels of generality, pp. 17-22.</p> <p>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.</p> <p>Exercise: <i>If this be treason</i>, pp. 518-521.</p>	Hard judgment calls, p. 1.
<p><i>It is clear enough that <u>when counseling the client</u>, a lawyer needs to identify choices that call for the making of value judgments. But is it equally clear that judges and juries may or must make value judgments? If the judge’s and jury’s proper role is to apply the law to the facts, and if the work of finding the facts and applying the law does not entail making any value judgments, then it would seem that even though a lawyer has to reason normatively when counseling the client, she need not (arguably should not) offer normative arguments (claims about what is just, right, good, fair, etc.) as reasons to be considered by judge or jury. Indeed, it seems self-evident that what the law <u>is</u> is not the same as what the law ought to be; and what the facts <u>are</u> is not the same as what the facts ought to be. We examine that apparently self-evident truth in the context of statutory interpretation cases. 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. In general, effective lawyers are prepared to offer normative reasons for decision, even in statutory interpretation cases. We work through a sequence of three Title VII employment discrimination cases. Our first Title VII case, <u>Weber</u>, helps 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? Our second Title VII case, <u>Vance</u>, illustrates the advantages and disadvantages of rules and standards in legislative and judicial lawmaking. (Standards more explicitly authorize the decision maker applying them, such as judge or jury, to make a value judgment.) Our third Title VII case, <u>Ulane</u>, returns us to the trial court. What is the difference between questions of law and questions of fact; what reasons and evidence are responsive to such questions, and why? Which value judgments, if any, does the law require (permit, prohibit) the judge to make when reaching conclusions of law and findings of fact at a bench trial? What reasons for decision can a lawyer, in her role as advocate, articulate responsively to such value choices?</i></p>			
4	Thur, Aug 31	<p>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.</p>	Intentionalism, textualism, and purposivism, p. 2.
5	Tu, Sept 5	<p>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. *<i>OVERINCLUSIVENESS AND UNDERINCLUSIVENESS</i> (packet distributed in class, pp. 29-31). 128. Rules and standards, §1, The distinction between rules and standards, pp. 594-596.</p>	Ambiguity; vagueness; natural kind words, p. 3. Context-sensitivity, p. 4.
6	Thur, Sept 7	<p>128. Rules and standards, §2-4: <i>Vance v. Ball State Univ.</i>; Oral arguments in <i>Vance</i>; Notes and questions on <i>Vance</i>, pp. 596-615. 130. Putting <i>Vance</i> in Title VII context, pp. 630-631. 126. Note: choosing between rules and standards, pp. 580-581.</p>	Responding to the Justices’ hypos in <i>Vance</i> , pp. 5-6. Who counts as an employee for purposes of various state and federal statutes, p. 7.

7	Tu, Sept 12	I.G. Hard questions of law and fact 16. Introduction to <i>Ulane v. Eastern Airlines</i> , pp. 79-81. * <i>ULANE V. EASTERN AIRLINES</i> (packet distributed in class, pp. 1-9). 18. Notes and questions on <i>Ulane</i> , pp. 99-106.	
<p><i>When counseling or advocating for a client, may a lawyer engage or activate his or her own life experiences, moral beliefs, or identity commitments? Do attitudes, feelings, memories, and convictions that form the core of personal life properly influence professional conduct and judgment, or do we properly leave those personal attributes behind when we perform professional services? When carrying out legal reasoning in the law classroom, is the student required (permitted, prohibited) to express, apply, or reassess his or her values?</i></p>			
8	Thur, Sept 14	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	Tu, Sept 19	VII.B. Does life experience legitimately inform legal judgment? 109. Identity, empathy, and legal reasoning: the Sotomayor confirmation hearings, pp. 424-429. * <i>ADOPTIVE COUPLE V. BABY GIRL</i> (packet distributed in class, pp. 25-28). 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.	Justice Sotomayor: the Wise Latina in <u>Adoptive Couple v. Baby Girl</u> ; the "method of correlation" and the "bleached out" view of lawyering, pp. 8-9.
10	Thur, Sept 21	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.	
<p><i>So far, we have asked: which actors, in which legal roles, are required (permitted, prohibited) to engage value questions? Now we sort out three different (though sometimes 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 <u>Phillip Becker</u> 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> (which <u>framework for normative 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.</i></p>			
11	Tu, Sept 26	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.	Frameworks for lawyers' normative reasoning, pp. 10-12.

12	Thur, Sept 28	<p>*MYSTERIES OF LEGAL REASONING (packet distributed in class, pp. 39-44).*</p> <p>Please read the course materials to which the "Mysteries of Legal Reasoning" assignment refers:</p> <ul style="list-style-type: none"> Ronald Dworkin on how law includes not only rules (or standards) but also principles, pp. 127 – middle of p. 128. Principles invoked by Lincoln and by Frederick Douglass in anti-slavery legal reasoning, pp. 130 – middle of p. 131. <p>Exercise: <i>United States v. Diamond</i>, pp. 509-515.</p> <p>You may find it helpful to have Study Aid p.13, <i>Diamond: weight thresholds for sentences</i>, in front of you as you read and apply the statute.</p>	<p><u>Diamond</u>: weight thresholds for sentences, p. 13.</p>
13	Tu, Oct 3	<p>Economic Analysis</p> <p>40. Introduction to normative reasoning, p. 188.</p> <p>IV.A. Cost-Benefit Analysis</p> <p>41. Introduction to cost-benefit analysis, pp. 188-195.</p> <p>42. Notes and questions on cost-benefit analysis, pp. 195-196.</p> <p>43. Valuing nonmonetary costs and benefits, pp. 196-198.</p> <p>44. Notes and questions on valuation, p. 198.</p> <p>45. Introduction to oral argument in <i>Entergy v. Riverkeeper</i>, p. 198.</p> <p>46. Oral argument in <i>Entergy v. Riverkeeper</i>, pp. 198-200.</p> <p>47. Notes and questions on <i>Entergy v. Riverkeeper</i>, p. 200.</p>	<p>Key concepts in our first reading assignment on economic reasoning, pp. 14-15.</p> <p>Fashioning a rule (or standard) that creates the greatest net social benefit: a Federal Aviation Administration hypo, pp. 16-17.</p>
14	Thur, Oct 5	<p>IV. E. Information</p> <p>61. Jackson et al. on moral hazard, adverse selection, and the principal-agent problem, pp. 241-248 (top of page).</p> <p>62. Notes and questions on moral hazard, adverse selection, and the principal-agent problem, question #1 (p. 253) and note #3 (p. 254).</p> <p>*EXERCISE: PAUPER V. STATE (packet distributed in class, pp. 32-38).*</p>	<p>Information problems, pp. 18-20.</p> <p>Social surplus, pp. 21-23.</p> <p><u>Pauper</u>: efficiency analysis of father's rights, p. 24.</p>
	Tu, Oct 10	Class does not meet (Monday classes meet).	
15	Thur, Oct 12	<p>129. <i>King v. Burwell</i> with notes and questions, pp. 616-628.</p> <p>*LINE-UP OF THE JUSTICES (packet distributed in class, pp. 45-47).*</p>	<p>Long statutes, p. 25.</p> <p>Administrative agency interpretation of a statute, p. 26.</p>
16	Tu, Oct 17	<p>48. Utilitarianism, economic analysis, and the redistribution of income, pp. 200-204.</p> <p>49. Questions on utilitarianism, economic analysis, and the redistribution of income, p. 204.</p> <p>IV.C. Externalities</p> <p>53. Butler & Drahozal, "Externalities," pp. 214-222.</p> <p>54. Notes and questions on externalities, pp. 222-223.</p>	<p>Triad of frameworks for normative reasoning, p. 27.</p>

17	Thur, Oct 19	<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>*<i>COASE AND AIRPLANE SEATS</i> (packet distributed in class, pp. 10-15).*</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>Where and why do we apply the Coase Theorem, pp. 28-29.</p> <p>The Coase Theorem: elements and exercises, pp. 30-32.</p> <p>Applying Coase to <u>Los Paisanos</u>, p. 33.</p>
18	Tu, Oct 24	<p>Review the Coase Theorem and <i>Los Paisanos</i>.</p> <p>55. The prisoner's dilemma, collective action, and free riding, pp. 223-226.</p>	<p>Coase Theorem stories in our readings, pp. 34-36.</p> <p>About Coase Story #3, pp. 37-38.</p> <p>Commitment devices and fidelity, pp. 39-40.</p> <p>Prisoner's dilemma and collective action problems, p. 41.</p>
19	Thur, Oct 26	<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 (packet distributed in class, pp. 16-17).*</p>	<p>Issues and holdings in <u>Lindh v. Surman</u>, pp. 42-44.</p> <p>If you were deciding the issues presented in <u>Lindh v. Surman</u>, p. 45.</p>
20	Tu, Oct 31	<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>	<p>What are the features of a just vaccination policy, pp. 46-47.</p> <p>Nozick's critique of utilitarian justifications for the coercive exercise of state power, p. 48.</p>
21	Thur, Nov 2	<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>Worksheet on the <u>Gould Virus</u> exercise, pp. 49-50.</p>

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 frameworks for normative reasoning (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)?

22	Tu, Nov 7	Legal Reasoning in Common Law Adjudication III.A. Interpreting a holding 28. Introduction to common law reasoning, pp. 157-158. 29. <i>Boyd v. Coca Cola Bottling Works</i> , pp. 159-161. 30. Notes and questions on <i>Boyd</i> , p. 161. 31. <i>Liggett & Myers Tobacco Co. v. Cannon</i> , pp. 161-165. 32. Notes and questions on <i>L&M Tobacco</i> , p. 165. 35. <i>Pillars v. R. J. Reynolds Tobacco Co.</i> , pp. 168-170. 36. Notes and questions on <i>R. J. Reynolds</i> , pp. 170-171.	What do the cases stand for, p. 51.
23	Thur, Nov 9	102. Dworkin, "How law is like literature," pp. 377-382. III.B. The problem of retroactive lawmaking 37. <i>Macpherson v. Buick Motor Company</i> , pp. 171-181.	Two concepts of "holding," pp. 52-53.
24	Tu, Nov 14	21. (From II.C) Two theories of law: positivism and anti-positivism, pp. 132-134. 38. Note: "A brooding omnipresence in the sky," pp. 182-183. 39. Note: The distinction between law and fact, pp. 183-187. Exercise: Soaring over North Virginia, pp. 548-549.	
25	Thur, Nov 16	Discuss Exercise: Soaring over North Virginia, pp. 548-549. 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. <i>Note: Over the semester, our assigned readings in Dworkin include:</i> <ul style="list-style-type: none"> • Class #4. On <i>Weber</i>, pp. 47-49 • Class #16. <i>Derek/Amartya scenario</i>, pp. 201-202 • Class #12, #24. <i>Rules and principles, natural law</i>, pp. 127-134 • Class #23. <i>How law is like literature (chain novel)</i>, pp. 377-382 • Class #25. <i>Natural law / hard cases</i>, pp. 361-377 • Class #26. <i>Notes and questions</i>, pp. 382-387. 	Review of frameworks for normative reasoning, pp. 54-58. Dworkin v. Scalia, pp. 59-60.
26	Tu, Nov 21	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.	Scalia puts it all together, p. 61. Review: Mysteries of legal reasoning and competing views of law, pp. 62-64.
	Thur, Nov 23	Class does not meet (Thanksgiving break)	
<p><i>We began our course by noticing that becoming a trustworthy lawyer involves not only acquiring knowledge and skills but also nurturing character. 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 his or her own? To whom and to what does a lawyer owe his or her fidelity?</i></p>			
27	Tu, Nov 28	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	Thur, Nov 30	Review: 126. Note: choosing between rules and standards, pp. 580-581. *EXERCISE: IN RE AKERS-BAKER TRANSFER (packet distributed in class, pp. 18-21).* *AUDEN, "LAW LIKE LOVE," WITH NOTES AND QUESTIONS (packet distributed in class, pp. 22-24).*	About the Akers-Baker exercise, pp. 65-66.
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For further discussion of Prof. Montoya's article, "Máscaras, Trenzas, y Greñas," which we discuss on Thursday, Sept. 14, see my short piece [Sadness and the Criminal Law](#), which was posted on the [Harvard Journal of Law & Gender](#) website along with many other comments and tributes to Prof. Montoya's article in celebration of its twentieth anniversary of publication.

Previous LL&V exams and other practice resources

Suggestions about studying

Our LL&V final exam is likely to include: a fact-pattern essay question, 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 ninety minutes long, and the short answer and multiple choice part of the exam will total about ninety minutes.

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), 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. Though not assigned, *Cleaner Skies* (2010), pp. 539-541, provides a good exercise in the application of normative reasoning (especially economic analysis) in a statutory interpretation context. A sample answer to the *Cleaner Skies* exercise will be posted to the Secure Documents page of the Law Portal.

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 #19; this was part of the 2013 final exam in LL&V), and *Soaring over North Virginia* (assigned for class #24).

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](#)

2015 final exam and sample answers.

[2015 LL&V exam essay and short answer questions](#)

[Sample answer to the essay question](#)

[Some very good student answers to the essay question](#)

[Some very good student answers to the short answer questions](#)

2016 final exam and sample answers.

[2016 LL&V exam essay and short answer questions](#)

[Sample answer to the essay question](#)

[Some very good student answers to the essay question](#)

[Sample answers to the short answer questions](#)

[Some very good student answers to the short answer questions](#)

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. 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.

3. 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.

4. 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 both post and distribute the Study Aid and 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.

5. 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."

6. 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).

7. Exercises

The assignments for the semester include nine 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.

8. Final exam

The final exam will be administered on **Friday, December 8, 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 nine exercises assigned during the semester are structured as fact-pattern essay questions, but some are structured as short-answer questions. The 2013, 2014, 2015 and 2016 final exams consisted of one fact-pattern essay question, some short-answer questions on another fact pattern, and multiple choice questions. (The 2015 and 2016 LL&V exams with sample answers are available to you in the “Review Resources” box near the top of the course webpage.)

9. 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.

U.S.C. Statement on Academic Conduct and Support Systems

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Part B, Section 11, “Behavior Violating University Standards” <https://policy.usc.edu/scampus-part-b/>. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct>.

Support Systems:

Student Counseling Services (SCS) - (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://engemannshc.usc.edu/counseling/>

National Suicide Prevention Lifeline - 1-800-273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. <http://www.suicidepreventionlifeline.org>

Relationship & Sexual Violence Prevention Services (RSVP) - (213) 740-4900 - 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://engemannshc.usc.edu/rsvp/>

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <http://sarc.usc.edu/>.

Office of Equity and Diversity (OED)/Title IX compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://equity.usc.edu/>

Bias Assessment Response and Support

Incidents of bias, hate crimes and microaggressions need to be reported allowing for appropriate investigation and response. <https://studentaffairs.usc.edu/bias-assessment-response-support/>

Student Support & Advocacy – (213) 821-4710

Assists students and families in resolving complex issues adversely affecting their success as a student EX: personal, financial, and academic. <https://studentaffairs.usc.edu/ssa/>

Diversity at USC

Tab for Events, Programs and Training, Task Force (including representatives for each school), Chronology, Participate, Resources for Students. <https://diversity.usc.edu/>