

Law 300: Concepts in American Law (Spring 2016)

Professor Ronald Garett rgaret@law.usc.edu

Tuesdays and Thursdays, 2:00-3:50, Law School room 130

Students other than *PPL* and *Law, History & Culture* majors must obtain clearance to enroll.

Course webpage: <http://mylaw2.usc.edu/users/rgaret/l300.html>

I will use the course webpage, rather than Blackboard, to post information to you. Plan to visit this webpage once a week, so you can access up-to-date assignments and download handouts.

Jump to Table of Assignments

Course description

Law 300 invites you into the internal perspective of lawyers and judges who are responsible for giving legal reasons for deciding questions of law and fact, easy issues and hard issues. To that end, I teach the course in much the same way that I teach required first-year courses at the USC Gould School of Law. You will read cases and materials, respond in class to questions that prompt you to apply your growing legal reasoning skills, and discuss with classmates difficult and contested questions of interpretation, morality, and policy. You will notice how claims about history, culture, society, politics, morality, personality, and other elements of the human condition, are asserted and contested in the course of legal reasoning.

The required texts are Frederick Schauer, *Thinking Like a Lawyer* (Harvard University Press, 2012), and the Photocopied Reader (a set of cases and materials). In a typical week, we will read a chapter of the textbook together with cases and other materials in the Photocopied Reader. You will bring your marked-up Photocopied Reader to class, so you will have it in front of you to refer to when you state issues, outcomes, holdings, and reasons for decision.

Attendance and class participation are required. Use of computers, cell phones, and similar devices in class, and making a recording of class, is prohibited (except where required as a disability accommodation). Class is more like a workout than a lecture. I provide you with materials and handouts that supply the only notes or outlines that you need.

Come to class each day prepared to be a participant. Even if at a moment in class I am talking with a student other than yourself, play along with the dialogue and consider whether you agree or disagree with your classmate, and with me. Actively thinking through the issues is far more important than passively observing or taking notes.

Class adjourns at 3:20. The remaining half hour, 3:20-3:50, is reserved for meetings of your mini-firms (in which you work through the issues raised by the assigned exercises), and for office hours. In a law class, much of the learning happens in such small-group and one-on-one conversation. To make that learning possible in Law 300, you must not schedule a class, co-curricular activity, internship or job that conflicts with the 3:20-3:50 post-adjournment discussion time.

Professor Ronald R. Garett

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OBTAINING THE REQUIRED TEXTS

The required textbook – Frederick Schauer, Thinking Like a Lawyer (Harvard University Press, 2012) – will be available for purchase at the Bookstore.

The required Photocopied Reader will be available for purchase in CopyVision, in the lower level of the law school.

The first week's readings in the Photocopied Reader are available to you as a downloadable PDF, below, so you can prepare for the first week's class discussions before you obtain your hard copy.

[PDF of first week's readings in the Photocopied Reader](#)

Calendar of exercises and exams

Written exercise #1 <u>Assigned:</u> Tuesday, February 2 <u>Due:</u> Tuesday, February 9 <u>Returned:</u> Thursday, February 18	Written exercise #2 <u>Assigned:</u> Thursday, March 3 <u>Due:</u> Thursday, March 10 <u>Returned:</u> Thursday, March 24	Written exercise #3 <u>Assigned:</u> Thursday, March 31 <u>Due:</u> Thursday, April 7 <u>Returned:</u> Thursday, April 14
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In-class midterm: Thursday, February 25. The midterm exam will be closed-book and closed notes. It will include multiple choice questions and short answer questions. For examples of the kinds of questions that will be on the midterm, see the **Practice Resources** box at the bottom of the page.

Final exam: Thursday, May 5, 2:00-4:00. The final exam will be closed-book and closed notes. It will include multiple choice questions and short answer questions.

1. Required texts

Students are required to purchase both the course textbook and the Photocopied Reader.

- The textbook is Frederick Schauer, Thinking Like a Lawyer (Harvard University Press, 2012).
- The Photocopied Reader is a set of cases and materials which will be available for purchase in CopyVision in the basement (lower level) of the Law School building, room 18. The purchase price will be posted to the course website.

In a typical week, we will read a chapter of the textbook together with cases and other materials in the course reader. Reading assignments are posted in the **Table of Assignments** (scroll down this webpage).

2. Office hours and lunches

I am looking forward to talking together – in class discussions, during office hours, and at lunches.

- Office hours. Except on days when your mini-firms meet, I will answer your questions **each Tuesday and Thursday, 3:20-3:50, in our classroom.** I will also be in my office, **room 452 of the Law School,** for office hours on most **Tuesdays and Thursdays after class, 4:00-5:00.** No appointment is needed.
- Lunches. I will circulate sign-up sheets for several lunches. These are “bring your own lunch” events, where five or six of us can talk with one another about issues of interest.
- Ana Luiza Rosario Sousa office hours. My teaching assistant, third-year law student Ana Luiza Rosario Sousa, will hold office hours **in the Law School Café.** Please send email to Ana at analuiza.rosariosousa.2016@lawmail.usc.edu and she will arrange to meet with you.

3. Class preparation and study; policy on computers, cell phones, and similar electronic devices

Please come to class each day prepared to discuss that day's assigned readings. You may find it helpful to read a whole week's assignment once through, then reread each day's assignment before class. When reading a case, always annotate it (mark up the text, write marginal notes, write a short outline) so that you can answer the following questions. What are the facts? What court is hearing the case? (Is it a trial court or an appellate court? If the case is before an appellate court, what was decided in the court(s) below?) Which party is bringing suit, and which is being sued? What issue or issues has the court undertaken to decide? What decision has the court reached on that issue or on those issues? What reasons has the court advanced in support of its conclusions? If there are additional opinions, such as concurrences or dissents, how do those opinions differ from the majority's argument and analysis?

Each day in class, please have your marked-up copy of the assigned case or other reading in front of you, so that you can refer to the text (and to your notes on it) in response to a question or as evidence to support an argument or interpretation you wish to advance.

Use of computers, cell phones, and similar devices in class, and making a recording of class, is prohibited (except where required as a disability accommodation). Class is more like a workout than a lecture. I provide you with materials and handouts that supply the only notes or outlines that you need.

4. Learning goals

- You will develop an introductory ability to read cases critically. This includes an ability to identify and state issues (questions of law and questions of fact); state the facts and procedural posture of the case, and explain why these are relevant to the issues; state a decision's holding and disposition. Reading cases critically also includes being able to model or diagram the structure of a legal argument; identify the argument's assumptions, and the evidence on which the argument relies; and point out weaknesses in the argument, including possible objections that have not been answered. You will develop the instinct to always consider counter-arguments and to make responding to counter-arguments an essential part of your legal reasoning.
- You will develop your capacity for reason-giving by observing (and responding to) reasons for legal conclusions in several domains of the law, including statutory interpretation, common law, and constitutional law. You will develop your ability to give first-order reasons for decision (persuasive reasons) and second-order reasons (reasons why the legal decision maker to whom you are speaking -- such as trial judge, jury, or appellate judge -- has the institutional authority to consider your first-order reasons). You will develop your ability to recognize issues as to which there are plausible conflicting first-order reasons and plausible conflicting second-order reasons. As to these hard questions of law or fact, you will develop your ability to state the strongest reasons on both sides.
- You will develop an introductory ability to notice how claims about history, culture, society, politics, morality, personality, and other elements of the human condition, are asserted and contested in the course of legal reasoning.
- You will become attentive to the way that law uses language to make meaning, and to the way that legal language gives rise to conflicting interpretations. You will become familiar with the repertoire of interpretive techniques that lawyers use to give meaning to words in law's texts. And you will participate in debates over the nature and goals of interpretation itself, because these disagreements run deep in the life of the law.

5. Teaching method, class participation, and attendance policy

- I do not do much lecturing in class; the introductory “lectures” are mostly contained in the assigned readings (textbook and reader). 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. 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.
- Accordingly, you should come to class each day prepared to be a participant. Even if at a moment in class I am talking with a student other than yourself, play along with the dialogue and consider whether you agree or disagree with your classmate, and with me. Actively thinking through the issues is far more important than passively observing or taking notes.
- Because you learn to think like a lawyer only by doing it, attendance and participation are required. Every student is entitled to two excused absences. Unless it is impossible, excuses should be obtained in advance of class by talking to me and/or by exchange of email. If you must miss class due to illness or comparable reason, please let me know (in advance if possible), so I may assist you with the material that you miss. Unexcused absences will affect your course grade.

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. We will find ways to have reasoned disagreements, and make reasoned 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. The “Socratic method”

- I will use the principal method of law school instruction, the so-called “Socratic method.” This means that in a typical class session, I will “cold call” on a student and ask him or her one or more questions about the case that we have read. The questions I ask are meant to stimulate the reason-giving process. Accordingly, if I follow up on your initial answer by asking you another question or by offering an objection, or by testing your answer with a hypothetical scenario, I am not commenting adversely on your answer. Instead, I am investigating the ground and implications of the position you are taking.
- 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). I will always honor that request. You do not need to explain why you would prefer not to be called on.
- 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. Bases of evaluation

Written exercises: 30% of course grade

There will be three written exercises, which together comprise 30% of the course grade. The exercises are fact-pattern essay questions, in which you are given some facts and some law (such as a statute) and asked to state the issue, analyze it, and suggest how it should be decided. You are to answer the question in a short essay (two or three pages). The purpose of these exercises is to provide occasions for applying what you are learning. Because the craft of writing an answer to a fact-pattern essay question is new to most of you, your lowest grade among the three exercises will be disregarded. (In other words, the written exercise component of your course grade will consist of an average of your two highest scores among the three written exercises.) Unless I have granted an extension in advance, written exercises submitted after their due dates will not satisfy course requirements.

Midterm: 25% of course grade

The midterm exam will be closed-book and closed notes. It will include multiple choice questions and short answer questions.

Final exam: 30% of course grade

The final exam will be closed-book and closed notes. It will include multiple choice questions and short answer questions.

Class participation: 15% of course grade

Students are expected to read each assignment carefully and critically, and to contribute to class discussion. (See §§5, 6, and 7, above.)

Grading scale

Although Law 300 is offered by the USC Law School and taught by a member of the USC Law School faculty, you will receive transcript grades that conform to the College grading scale: A = 4.0, A- = 3.7, B+ = 3.3, B = 3.0, B- = 2.7, C+ = 2.3, etc. At the Law School, we have a more granular grading scale, represented in the following table:

4.1	A+
4.0	A
3.9	A
3.8	A
3.7	A-
3.6	A-
3.5	A-
3.4	B+
3.3	B+
3.2	B
3.1	B
3.0	B
2.9	B-
2.8	B-
2.7	B-
2.6	C+
2.5	C+

2.4	C
2.3	C-
2.2	C-
2.1	C-
2.0	D

Another difference between Law School and College grading is that at the Law School, all instructors must conform their grades to a normalized curve. In large classes at the Law School, the median is set at 3.3, which (as you can see from the above table) is a B+. When they receive their grades, law students (especially those with good math skills) can readily see whether their performance placed them in the top quartile, second quartile, third quartile, or bottom quartile. We are not subject to a normalization constraint in Law 300. Nonetheless, when I return grades to you (for example, after the midterm), I will tell you what the median score was and also the score thresholds for the top quartile and third quartile. I do this to help you understand how you are doing relative to your classmates. TA Ana Luiza Rosario Sousa and I are always available to answer your questions, review your work, and help you do better and better.

When I return your written work to you, you see grades to one or two decimal places, such as 4.1, 3.4, 2.95, 2.7, etc. At the end of the semester, I convert your cumulative grade into your Law 300 transcript grade as follows:

If your cumulative course grade is:	Then your College transcript grade is:
Greater than or equal to 3.75	A (4.0)
3.55-3.74	A- (3.7)
3.25-3.54	B+ (3.3)
2.95-3.24	B (3.0)
Less than or equal to 2.94	B- (2.7)

Though the work of legal reasoning is difficult and demanding, experience demonstrates that Law 300 students are capable of doing it very well. Over the first five years of the course's existence (2011-2015), about half of the students have earned an A or A-. We will grow together in our powers of legal reasoning! Do not hesitate to ask questions, whether in class discussion, in office hours, or via email. Work out your lines of reasoning carefully and clearly, consider alternative positions seriously, and question your assumptions. Set your sights high, and Ana Luiza Rosario Sousa and I will do all that we can to help you realize your goals.

9. University policies

Academic integrity.

In our legal reasoning, we try to respect one another as reasonable persons who are moral agents and who are accountable for our actions. Respect for one another is also essential to the academic enterprise. We assent to fair rules for our shared enterprise of learning “Concepts in American Law.” General principles of academic honesty include the concept of respect for the intellectual property of others, the expectation that individual work will be submitted unless otherwise allowed by an instructor, and the obligations both to protect one’s own academic work from misuse by others as well as to avoid using another’s work as one’s own. All students are expected to understand and abide by these principles. SCampus, the Student Guidebook, contains the Student Conduct Code in Section 11.00, while the recommended sanctions for academically dishonest conduct are stated in Appendix A. See <http://studentaffairs.usc.edu/scampus/>

Non-discrimination; Students with Disabilities.

USC adheres to an equal opportunities and non-discrimination policy; see:
<http://policy.usc.edu/equal-opportunities/>and
<http://catalogue2014.usc.edu/files/2010/06/catalogue-edited.pdf>

Any student requesting academic accommodations based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. Please be sure the letter is delivered to me as early in the semester as possible. DSP is located in GFS 120 and is open 8:30 a.m.–5:00 p.m., Monday through Friday. The phone number for DSP is (213) 740-0776, and its email address is ability.usc.edu

10. Other policies.

Class begins promptly. Since late arrivals cause a distraction to fellow students, please be on time. Do not enroll in this course if a conflict in your schedule will prevent you from being in your seat, with the day's assigned case open before you on your desk, by 2:00 each Tuesday and Thursday.

Thank you! Welcome to Law 300. It is a privilege to be your teacher.

Table of assignments

Schauer = Frederick Schauer, Thinking Like a Lawyer

PR = Photocopied Reader

PR Supp = Supplement to the Photocopied Reader

Class #	Date	Reading assignments	Handouts, texts	Exercises
1	Tues, Jan. 12	Schauer ch. 1, INTRODUCTION: IS THERE LEGAL REASONING?, pp. 1-12 Unit I. Introduction to legal reasoning and statutory interpretation PR, <i>Ronald Dworkin on law and chess</i> , pp. 1-5 PR, <i>Smith v. United States</i> , pp. 5-14 PR, <i>Notes and questions on Smith v. United States</i> , pp. 14-19 Descriptions of what Mr. Smith did with the gun, PR Supp p. 28 Note: discussion of <i>Smith</i> will continue on Thursday.	PDF of first week's readings in the Photocopied Reader PDF of Syllabus (contents of this website)	
2	Thurs, Jan. 14	Continue discussion of PR, <i>Smith v. United States</i> , pp. 5-14 PR, <i>Notes and questions on Smith v. United States</i> , pp. 14-19 PR, <i>Stating issues and holdings at different levels of generality</i> , pp. 19-23 Read the course syllabus carefully. Know our learning objectives, bases of evaluation, contact information, office hours, and course policies.		
3	Tues, Jan. 19	Schauer ch. 2, RULES -- IN LAW AND ELSEWHERE, pp. 13-35 PR, <i>In the matter of Blanchflower</i> , pp. 23-30 Note: discussion of <i>Blanchflower</i> will continue on Thursday.		

4	Thurs, Jan 21	Continue discussion of PR, <i>In the matter of Blanchflower</i> , pp. 23-30 PR, <i>Note on overinclusiveness and underinclusiveness</i> , pp. 30-32 <i>After Blanchflower: Effect of subsequent developments in marriage equality</i> , PR Supp pp. 29-30		
5	Tues, Jan 26	PR, <i>The legal syllogism</i> , pp. 33-56 <i>Worksheet on the legal syllogism</i> , PR Supp p. 63		
6	Thurs, Jan 28	Unit II. Legal reasoning in common law. Precedents and exceptions. PR, <i>Statutes and common law rules</i> , pp. 57-58 PR, <i>Garratt v. Dailey</i> , pp. 58-62 PR, <i>Notes and questions on Garratt v. Dailey</i> , pp. 62-65		
7	Tues, Feb 2	Schauer ch. 3, THE PRACTICE AND PROBLEMS OF PRECEDENT, pp. 36-60 PR, <i>Notes on precedent</i> , pp. 66-70 PR, <i>Boyd v. Coca Cola Bottling Co.</i> , pp. 71-73 PR, <i>Notes and questions on Boyd</i> , pp. 73-74 <i>Simplified critical path diagram of the elements of negligence</i> , PR Supp p. 65 Note: discussion of <i>Boyd</i> will continue on Thursday.		Written exercise #1 assigned (distributed in class)
8	Thurs, Feb 4	PR, <i>Boyd v. Coca Cola Bottling Co.</i> , pp. 71-73 PR, <i>Notes and questions on Boyd</i> , pp. 73-74 PR, <i>Liggett & Myers Tobacco Co. v. Cannon</i> , pp. 75-79 PR, <i>Notes and questions on L&M Tobacco</i> , p. 79 PR, <i>Pillars v. R. J. Reynolds Tobacco Co.</i> , pp. 83-85 PR, <i>Notes and questions on R. J. Reynolds</i> , pp. 85-86 Note: discussion of <i>L&M Tobacco</i> and <i>R. J. Reynolds Tobacco</i> will continue on Tuesday.		
9	Tues, Feb 9	PR, <i>Pillars v. R. J. Reynolds Tobacco Co.</i> , pp. 83-85 PR, <i>Notes and questions on R. J. Reynolds</i> , pp. 85-86 PR, <i>Crigger v. Coca Cola Bottling Co.</i> , pp. 80-82 PR, <i>Notes and questions on Crigger</i> , pp. 82-83 PR, <i>Macpherson v. Buick Motor Co.</i> , pp. 86-98 PR, <i>Notes and questions on Macpherson</i> , 99-101 Note: discussion of <i>Macpherson</i> will continue on Thursday.		Written exercise #1 due (submitted in class)
10	Thurs, Feb 11	PR, <i>Macpherson v. Buick Motor Co.</i> , pp. 86-98 (continued) PR, <i>Notes and questions on Macpherson</i> , 99-101 (continued) PR, <i>Dworkin, How law is like literature</i> , pp. 102-107 PR, <i>Notes and questions on Dworkin</i> , pp. 107-110 <i>Allocation of authority to decide</i> , PR Supp pp. 31-32		
11	Tues, Feb 16	Review Dworkin and notes, PR pp. 102-110. Schauer ch. 6, THE IDEA OF THE COMMON LAW, pp. 103-123 PR, <i>Schmitt, Definition of sovereignty</i> , pp. 110-111 PR, <i>Kahn, Political theology again</i> , pp.111-112		

12	Thurs, Feb 18	<p>Schauer ch. 10, RULES AND STANDARDS, pp. 188-202</p> <p>III.C. Rules and standards, PR pp. 125-153</p> <p>We will discuss the choice between rule-like and standard-like conceptions of “supervisor” in <i>Vance v. Ball State University</i>. (This discussion will continue on Tuesday, February 23.)</p>		Written exercise #1 returned (in class)
13	Tues, Feb 23	<p>No new reading assignment. Review III.C. Rules and standards, PR pp. 125-153; we will conclude our discussion of the choice between rule-like and standard-like conceptions of “supervisor” in <i>Vance v. Ball State University</i>.</p>		
14	Thurs, Feb 25	<p>No reading assignment. In-class midterm.</p>		
15	Tues, March 1	<p>Schauer ch. 11, LAW AND FACT, pp. 203-218</p> <p>Unit III. Questions of fact. The law-fact distinction.</p> <p>PR, <i>Introduction to the concepts of law and fact</i>, pp. 113-119</p> <p>PR, <i>Assessments built into perception and description</i>, pp. 155-156</p> <p>PR, <i>Smith v. Bocklitz</i>, pp. 156-160</p> <p>PR, <i>Notes and questions on Bocklitz</i>, pp. 160-163</p>		
16	Thurs, March 3	<p>PR, <i>Kamin and Rachlinski, Ex post ≠ ex ante</i>, pp. 163-169 (and review <i>Simplified critical path diagram of the elements of negligence</i>, PR Supp p. 65).</p> <p>III.B. Taking experience seriously</p> <p>PR, <i>Mackinnon, Sexual harassment</i>, pp. 119-120</p> <p>PR, <i>Notes and questions on sexual harassment law</i>, pp. 120-122</p> <p>PR, <i>Schultz, Reconceptualizing sexual harassment</i>, pp. 122-125</p> <p><i>Exercises on Title VII concepts and readings</i>, PR Supp pp. 33-39.</p>		Written exercise #2 assigned (distributed in class)
17	Tues, March 8	<p>PR, <i>Introduction to the Mashpee case</i>, pp. 192-194</p> <p>PR, <i>Clifford, Identity in Mashpee</i>, pp. 194-208</p> <p>PR, <i>Notes and questions on the Mashpee case</i>, pp. 208-213</p> <p>We will discuss testimony, evidence, perception and criteria in the <i>Mashpee</i> case. In preparation for class, complete a legal syllogism worksheet. Model the argument structure of the <i>Mashpee</i> decision, beginning with the relevant text of the Nonintercourse Act and concluding with the jury's finding that the Mashpee were not a tribe. See notes, PR pp. 209-213.</p>		
18	Thurs, March 10	<p>Schauer ch. 12, THE BURDEN OF PROOF AND ITS COUSINS, pp. 219-233</p> <p>III.E. Culture and judgment</p> <p>PR, <i>Michael H. v. Gerald D.</i>, pp 169-177</p> <p>PR, <i>Notes and questions on Michael H.</i>, pp. 178-181</p> <p><i>Line-up of the Justices in Michael H. v. Gerald D.</i>, PR Supp pp. 40-41</p> <p><i>Burdens and presumptions</i>, PR Supp pp. 42-43</p>		Written exercise #2 due (submitted in class)

	March 15 & 17	Class does not meet (spring break)		
19	Tues, March 22	Schauer ch. 4, AUTHORITY AND AUTHORITIES, pp. 61-84 <i>Tarr, The federal and state court systems</i> , especially the section on “The federal courts today,” PR Supp pp. 1-10 Unit IV. The rule and authority of law. How law accommodates its own subversion. IV.A. Authority concepts in law and legal reasoning, PR pp. 214-218		
20	Thurs, March 24	IV.B. Slavery and complicity PR, <i>Cover, Justice Accused</i> , pp. 218-224 PR, <i>Finkelman, Legal ethics and fugitive slaves</i> , pp. 225-253 PR, <i>Notes and questions on Legal ethics and fugitive slaves</i> , pp. 253-254 PR, <i>Frederick Douglass</i> , pp. 254-257		Written exercise #2 returned (in class)
21	Tues, March 29	PR <i>Gross, What blood won't tell</i> , pp. 182-185 PR, <i>Notes on What blood won't tell</i> , pp. 185-186 PR, <i>Introduction to Dred Scott</i> , pp. 257-263 PR, <i>Dred Scott v. Sandford</i> , pp. 263-275 PR, <i>A dialogue about the constitutional issues in Dred Scott</i> , pp. 275-278 <i>Dred Scott</i> discussion questions, PR Supp pp. 44-45 We will continue discussing <i>Dred Scott</i> on Thursday.		
22	Thurs, March 31	Schauer ch. 9, THE JUDICIAL OPINION, pp. 171-187 Continue discussing the <i>Dred Scott</i> case, PR pp. 263-275, and dialogue, PR pp. 275-278 PR, <i>Constitutional interpretation</i> , pp. 278-280 PR, <i>For further thought about the Dred Scott case</i> , pp. 280-283 PR, <i>The authority of the Constitution</i> , pp. 283-287 <i>Still waiting for citizenship</i> , PR Supp pp. 51-53		Written exercise #3 assigned (distributed in class)
23	Tues, April 5	Schauer ch. 8, THE INTERPRETATION OF STATUTES, pp. 148-170 IV.F. Coda: Exceptions and exemptions. PR, <i>Church of the Holy Trinity v. United States</i> , pp. 351-361 PR, <i>Notes and questions on Church of the Holy Trinity</i> , pp. 361-365 <i>Holy Trinity</i> discussion questions, PR Supp pp. 48-50 <i>Theories of statutory interpretation</i> , PR Supp pp. 46-47		
24	Thurs, April 7	PR, <i>Employment Division v. Smith</i> , pp. 365-366 PR, <i>Notes on Holy Trinity, Employment Div. v. Smith, and religious exemptions</i> , pp. 366-368 Schauer ch. 7, THE CHALLENGE OF LEGAL REALISM, pp. 124-147 <i>Theories of adjudication & Theories of law</i> , PR Supp pp. 54-55 <i>Some of the main insights or claims of legal realism</i> , PR Supp p. 56		Written exercise #3 due (submitted in class)

25	Tues, April 12	<i>King v. Burwell</i> , PR Supp pp. 11-25 <i>Notes and questions on King v. Burwell</i> , PR Supp pp. 26-27		
26	Thurs, April 14	IV.D. Legal realism. PR, <i>Llewellyn, The Bramble Bush</i> , pp. 334-339 IV.E. Does life experience legitimately inform legal judgment? PR, <i>Sotomayor, A Latina judge's voice</i> , pp. 339-340 PR, <i>President Obama on judicial empathy and hard cases</i> , p. 340 PR, <i>Confirmation hearings for Sonia Sotomayor</i> , pp. 341-346 PR, <i>Notes and questions on Sotomayor</i> , pp. 346-347 <i>Adoptive Couple v. Baby Girl</i> , PR Supp pp. 57-60 PR, <i>Notes and questions on legal realism</i> , pp. 347-351		Written exercise #3 returned (in class)
27	Tues, April 19	IV.C. Authority, commitment, and legal meaning. PR, <i>Cover, Nomos and Narrative</i> , pp. 287-290 PR, <i>The "no-no boys," and Kuwabara, introduction</i> , pp. 290-293 PR, <i>The question of loyalty</i> , pp. 293-306 (this is a transcript of a website; it is better to visit the website via the link provided to the right) PR, <i>Muller, Free to die for their country</i> , pp.306-333. <i>Judge Goodman's options in Kuwabara: which is best and why?</i> , PR Supp pp. 61-62	Link: The question of loyalty Link to Prof. Garet's article on Blessings and Bob Cover	
28	Thurs, April 21	IV.G, The ideal of the rule of law , PR pp. 368-386		
29	Tues, April 26	IV.H. How law accommodates or invites its own subversion PR, <i>Introduction: domesticated civil disobedience</i> , pp. 386-390 PR, <i>Glaspell, A Jury of Her Peers</i> , pp. 390-412 PR, <i>Notes and questions on A Jury of Her Peers</i> , pp. 412-416		
30	Thurs, April 28	PR, <i>Disobedient voting and speaking</i> , pp. 416-420 PR, <i>Notes and questions on disobedient voting and speaking</i> , pp. 421-422 Reconstruction Amendments as they intersect our cases and materials, PR Supp p. 64 PR, <i>Auden, Law Like Love</i> , pp. 422-424 PR, <i>Notes on Law Like Love</i> , pp. 424-425		

Final exam: Thursday, May 5, 2:00-4:00.

Practice and study resources

As you know (syllabus §8), the midterm and the final exam will include multiple choice questions and short answer questions. Here are some practice resources that illustrate the kinds of questions you can expect. The instructions given on these practice resources are similar to the instructions on the midterm and the final exam. I have also posted answers. To make best use of these resources, answer the questions in simulated test conditions, then check your answers against the answers provided.

Practice multiple choice questions

Practice multiple choice questions WITH ANSWERS

Practice short answer questions

Practice short answer questions WITH ANSWERS