

USC Gould

School of Law

LAW 210: Fundamentals of the U.S. Legal System

Spring 2020 – Room 130, USC Gould School of Law

Tuesdays and Thursdays, 12:00-1:40 pm

Instructor: Peter Johnson pjohnson@law.usc.edu

Office Hours: Tuesday and Thursday, 1:45-3:00 pm, and by appointment, Room TBD

Teaching Assistant: TBD

Prerequisite(s); co-requisite(s), or recommended preparation: None.

Units: Four (4)

Course Description

This course introduces the U.S. legal system and its relationship to basic principles of the rule of law. We will examine the criminal and the civil law systems, focusing on seminal Supreme Court decisions involving the separation of powers, federalism, and contemporary legal issues.

Learning Objectives

This course has three principal learning objectives:

- 1) Become familiar with the concept of the rule of law, including its history and significant political and judicial figures who have shaped its meaning in America, including the principles of:
 - a. Accessibility
 - b. Accountability
 - c. Equal application
 - d. Fair and impartial process (for resolution of disputes and self-governance)

- 2) Learn to read and analyze primary source materials, including the U.S. Constitution and decisions of the U.S. Supreme Court, from the time of this nation's founding to the present day; understand the continuity between the founding documents and today's political and legal controversies; accurately describe key elements of the Constitution and of Supreme Court decisions and evaluate them with respect to the rule of law. Key elements of a Supreme Court decision include:
 - a. The question presented;
 - b. The holding;
 - c. The facts and reasoning in support of the holding;
 - d. The degree to which a prior decision supports a holding;

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**

- e. Important question(s) that the decision leaves undecided.
- 3) Understand, and analyze with respect to the rule of law, basic aspects of the U.S. legal system, including:
 - a. The different roles and responsibilities of trial courts, appellate courts, and supreme courts;
 - b. Commonalities and differences between the criminal and civil justice systems;
 - c. The separation of powers and the role of an independent federal judiciary in maintaining checks and balances on each branch and source of power;
 - d. Federalism and the role of state law and state courts; and
 - e. The supremacy of the U.S. Constitution as a source of American law.

Required Textbook and Supplementary Reading

- Diane S. Kaplan, An Introduction to the American Legal System, Government, and Constitutional Law (Aspen Coursebook Series 2015) (ISBN: 978-1-4548-5733-4).
- Law 210 Course Reader (available on Blackboard and in hardcopy).

Course Requirements and Evaluation

1. Attend each class meeting punctually.
2. Complete each day's assigned reading before class.
3. Contribute to class discussion with sincerity and courtesy.
4. Complete in-class and periodic take-home written assignments on time.
5. Complete both the midterm (Date TBD) and the final examination (Date TBD).
6. Complete one analytical writing assignment, in the form of a judicial opinion. Due date TBD. See further description below.
7. Late submission of the opinion will receive a minimum 10% deduction, and potentially more at the instructor's discretion. Please be on time.
8. Evaluation: Letter grades will reflect timely completion of in-class and take-home assignments and participation in class (20 percent); midterm (20 percent); judicial opinion (30 percent); and final exam (30 percent).
9. **LAPTOPS/TABLETS** are not permitted in class, unless you have obtained permission in writing from the instructor. **PHONES** also must be put away during class, except when expressly permitted by the instructor. Any use of a laptop or phone during class without permission will result in a deduction of 1% from the student's participation score, or more at the discretion of the instructor.

Description and Assessment of Assignments

Judicial opinion: During week four, each student will be assigned to a judicial panel of three to five fellow students. Panels will then deliberate upon and render an opinion in the pending case of *United States v. Sineneng-Smith*. The issue in *Sineneng-Smith* is whether the federal law making it a crime to encourage or induce illegal immigration for commercial advantage or private financial gain is unconstitutional on its face.

Each student will be responsible for deliberating on this question with their fellow student-justices, for reaching a decision, and for contributing to the panel's oral statement announcing

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**

and explaining its decision. In addition, each student must submit an 8-12 page judicial opinion that states and decides the question presented in *Sineneng-Smith*.

Students will receive a more detailed description of the class the assignment during the semester. Preparation for this assignment will include required reading of prior decisions of the Supreme Court as shown in the syllabus, reading of the principal legal briefs filed in the Supreme Court in *Sineneng-Smith*, submission of 1-page case-briefs on several key precedential cases, in-class discussion of the briefs and of key cases, attendance at a moot court (practice argument) involving one of the lawyers who will argue this case in the Supreme Court, and guided in-class listening to an audio transcript of the actual oral argument before the Supreme Court. Each student's opinion is also expected to reflect the student's review of at least one additional case of the student's choice that is not discussed in class; students will receive guidance in selecting a suitable case.

Midterm Exam: The midterm, worth 20 points, will consist of multiple choice, short answers, and one essay question.

Final Exam: The final exam, worth 30 points, will consist of multiple choice, short answers, and two essay questions. The multiple choice and short answers will cover the second half of the course, and the essay questions will provide opportunities to discuss material from all of the course. The final exam will be given on a date and time to be determined.

Preparation and participation:

Students will receive up to 10 points for timely completion of in-class and written homework assignments ("Assignments") and for punctual and regular attendance and oral contributions to class discussions ("Participation").

Grading Breakdown

Category of Assessment	Points
Assignments	10
Participation	10
Midterm	20
Opinion	30
Final Exam	30
Total	100

Course-Specific Policies

Students shall participate in class discussions as well as the judicial opinion project with sincerity *and* courtesy. Regular and punctual attendance contributes to the class and is necessary to satisfy class hours requirements. **Students seeking an excused absence should notify the class Teaching Assistant writing prior to class;** unexcused absences, unless accompanied by a physician's note or other comparable explanation, may lower the participation score at the discretion of the instructor. A student whose attendance is not regular and punctual may be withdrawn from enrollment at the discretion of the Dean of Students and the instructor. As stated in more detail above, laptops and cell phones are not permitted in class without prior approval of the instructor.

Weekly Schedule

Week		Topics	Required Reading (Reading must be completed <i>before class</i> on the date shown.)	Written Homework (Written Homework is due by <i>11:00 a.m.</i> on the date shown.)
Week 1	Jan. 14	Jan. 14: The Rule of Law; History of the U.S. Constitution: overview of class objectives.	Jan. 14: <ul style="list-style-type: none"> • Kaplan: App. B (Declaration of Independence); Read Preamble to the Original Constitution (first paragraph only) App. A; • Reader: TBD 	Jan. 14: What is the Rule of Law? Come to class prepared to discuss examples of ways that the rule of law has an impact on your life and current events?
	Jan. 16	Jan. 16: The Rule of Law; History of the U.S. Constitution: (cont.)	Jan. 16: <ul style="list-style-type: none"> • Kaplan: Ch. 1 • Reader: TBD 	Jan. 16: Identify (in one sentence, using quotations) one of the “abuses” cited in the Declaration of Independence that the Constitution addresses, as well as the corresponding Article and Section of the Constitution.
Week 2	Jan. 21	Jan. 21: Distribution of Power – Legislative Branch - organizational structure, powers, and limitations on the powers of the legislative branch.	Jan. 21: <ul style="list-style-type: none"> • Kaplan: Ch. 2 (including <i>Heart of Atlanta Motel v. United States</i> (1964) and <i>United States v. Lopez</i> (1995)). • Reader: TBD 	Jan. 21: <ul style="list-style-type: none"> • Case questions – <i>Heart of Atlanta</i>: What does the case citation mean? What were the facts, the question presented, the holding, and the Court’s reasoning?
	Jan. 23	Jan. 23: Distribution of Power – Legislature - organizational structure, powers, and limitations on the powers of the legislative branch. (continued)	Jan. 23: <ul style="list-style-type: none"> • Kaplan: Ch 2 • Reader: TBD 	Jan. 23: <ul style="list-style-type: none"> • Case questions – <i>U.S. v. Lopez</i> and <i>McCullough v. Maryland</i>: What were the facts, the question presented, the holding, and the Court’s reasoning in each case? How can

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**

				the cases be applied to current events?
Week 3	Jan. 28	Jan. 28: Distribution of Power - Executive Branch - nature of presidential authority; impeachment.	Jan. 28: <ul style="list-style-type: none"> • Kaplan: Ch. 3 • Reader: TBD 	<ul style="list-style-type: none"> • Jan. 28: Case questions – <i>Clinton v. Jones</i> and <i>U.S. v. Nixon</i>: What were the facts, the question presented, the holding, and the Court’s reasoning in each case? How can the cases be applied to current events?
	Jan. 30	Jan. 30: Distribution of Power - Executive Branch- nature of presidential authority; impeachment. (cont.)	Jan. 30: <ul style="list-style-type: none"> • Kaplan: Ch. 3 • Reader: TBD 	Jan. 30: What do these cases tell us about resolving current issues in Executive power, such as: <ol style="list-style-type: none"> 1. Can a prosecutor indict a sitting President? 2. Can a President refuse to cooperate with an impeachment inquiry?
Week 4	Feb. 4	Feb. 4: Distribution of Power - Judicial Branch; Nature and limits of federal Judicial power: cases and controversies (advisory opinions; standing; mootness); judicial review; jurisdictional authority, and role in developing national policy	Feb. 4: <ul style="list-style-type: none"> • Kaplan: Ch. 4 • Reader: TBD 	Feb. 4: Case questions – <i>Brown v. Board of Education</i> and <i>Marbury v. Madison</i> : What were the facts, the question presented, the holding, and the Court’s reasoning in each case? How can the cases be applied to current events?
	Feb. 6	Feb. 6: Distribution of Power - Judicial Branch; Nature and limits of federal Judicial power: cases and controversies (advisory opinions; standing; mootness);	Feb. 6: <ul style="list-style-type: none"> • Kaplan: Ch. 4 • Reader: TBD 	Feb. 6:

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**

		judicial review; jurisdictional authority, and role in developing national Policy. (cont.)		
Week 5	Feb. 11	Feb. 11: Relationship among the branches - Constitutional Doctrines of Separation of Powers, Checks and Balances and Federalism	Feb. 11: <ul style="list-style-type: none"> • Kaplan: Ch. 5 • Reader: TBD 	Feb. 11: Case questions – <i>Youngstown Sheet & Tube v. Sayer</i> , <i>Rasul v. Bush</i> , and <i>Hamdi v. Rumsfeld</i> : What were the facts, the question presented, the holding, and the Court’s reasoning in each case? How can the cases be applied to current events?
	Feb. 13	Feb. 13: Relationship among the branches - Constitutional Doctrines of Separation of Powers, Checks and Balances and Federalism (cont.)	Feb. 13: <ul style="list-style-type: none"> • Kaplan: Ch. 5 • Reader: TBD 	Feb. 13: Case questions – <i>Goodridge v. Department of Public Health</i> and <i>Robicheaux v. James D. Caldwell</i> : What were the facts, the question presented, the holding, and the Court’s reasoning in each case? How can the cases be applied to current events?
Week 6	Feb. 18	Feb. 18: First Amendment - rights and responsibilities of American citizens, and the powers, and restraints on the powers, of the government.	Feb. 18: <ul style="list-style-type: none"> • Kaplan: Ch. 6 • Reader: TBD 	Feb. 18:
	Feb. 20	Feb. 20: First Amendment - rights and responsibilities of American citizens, and the powers, and restraints on the powers, of the government. (conmt.)	Feb. 20: <ul style="list-style-type: none"> • Kaplan: Ch. 6 • Reader: <i>United States v. Sineneng-Smith</i> (9th Cir. 2018) TBD 	Feb. 20:
Week 7	Feb. 25	Feb 25: Examination of Current Supreme Court	Feb 25: <ul style="list-style-type: none"> • Kaplan: TBD 	Feb. 25:

*****DRAFT Syllabus – Items and Schedule Subject to Change***]**

		Case - <i>United States v. Sineneng-Smith</i> (First Amendment, immigration, criminal law)	<ul style="list-style-type: none"> • Reader: Read briefs in <i>United States v. Sineneng-Smith</i> 	Summarize arguments for both sides and identify which argument is the strongest (in your view) for each side in <i>United States v. Sineneng-Smith</i> (provide one to three sentences per argument).
	Feb. 27	Feb 27: Examination of Current Supreme Court Case - <i>United States v. Sineneng-Smith</i> (cont.)	Feb. 27: <ul style="list-style-type: none"> • Kaplan: TBD • Reader: TBD <i>United States v. Williams</i> , 553 U.S. 285 (2008); <i>Members of the City Council v. Taxpayers for Vincent</i> , 466 U.S. 789 (1984)	Feb 27: Case questions –What were the facts, the question presented, the holding, and the Court’s reasoning in each case?
Week 8	Mar. 3	Mar. 3 Listen in class to the Supreme Court oral argument in <i>United States v. Sineneng-Smith</i>	Mar. 3: <ul style="list-style-type: none"> • Kaplan: TBD • Reader: Review Appendix in <i>United States v. Sineneng-Smith</i> 	Mar: 3
	Mar. 5	Mar. 5: Examination of Current Supreme Court Case - <i>United States v. Sineneng-Smith</i> (cont.)	Mar 5: <ul style="list-style-type: none"> • Kaplan: TBD • Reader: TBD 	
Week 9	Mar. 10	Midterm Review	Midterm Review	
	Mar. 12	Midterm Exam	Midterm Exam	
Week 10	Mar. 17	Spring Break. Enjoy!	Spring Break. Enjoy!	Spring Break. Enjoy!
	Mar. 19	Spring Break. Enjoy!	Spring Break. Enjoy!	Spring Break. Enjoy!
Week 11	Mar. 24	Mar. 24: The U.S. Litigation System – the operation of federal and	Mar. 24: <ul style="list-style-type: none"> • Kaplan: Ch. 7 • Reader: TBD 	Mar. 24: Case questions – <i>People of the State of New York v. Belge</i> .and <i>George</i>

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**

		state judicial systems operate and the relationships between the two systems.		<i>W. Bush V. Albert Gore, Jr.:</i> What were the facts, the question presented, the holding, and the Court's reasoning in each case? How can the cases be applied to current events?
	Mar. 26	Mar. 26: The U.S. Litigation System (cont.)	Mar. 26: • Kaplan: Ch. 7 • Reader: TBD	Mar. 27: Draft Opinion in <i>United States v. Sineneng-Smith</i> due by 3:00 pm on Friday April . 15.

Week 12	Mar. 31	Mar. 31: The U.S. Litigation System (cont.)	Mar. 31: • Kaplan: Ch. 7 • Reader: TBD	Mar. 31:
	April 2	April 2: The U.S. Litigation System (cont.)	April 2: • Kaplan: Ch. 7 • Reader: TBD	April 2:
Week 13	April 7	April 7: Criminal Litigation Process	April 7: • Kaplan: Ch. 8 • Reader: TBD	April 15: Final Opinion in <i>United States v. Sineneng-Smith</i> due by 3:00 pm on Friday April . 15.
	April 9	April 9: Criminal Litigation Process	April 9: • Kaplan: Ch. 8 • Reader: TBD	
Week 14	April 14	April 14: Criminal Litigation Process	April 14: • Kaplan: Ch. 8 • Reader: TBD	April 14: Case questions – <i>Gideon v. Wainright</i> and <i>Groper v. Simmons</i> : What were the facts, the question presented, the holding, and the Court's reasoning in each case? How can the cases be applied to current events?
	April 16	April 16: Criminal Litigation Process	April 16: • Kaplan: Ch. 8 • Reader: TBD	April 16:
Week 15	April 21	April 21: Opinions Day: Each panel	April 21:	April 21:

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**

		announces and summarizes its decision in class.		
	April 23	April 23: Opinions Day: Each panel announces and summarizes its decision in class.	April 23:	April 23:
Week 16	April 28	April 28: Reflections on the rule of law.	April 28: • Kaplan: TBD • Reader: TBD •	
	April 30	April 30: Final Exam Review	April 30: Final Exam Review	

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” 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, policy.usc.edu/scientific-misconduct.

Support Systems:

Student Health Counseling Services - (213) 740-9355 (WELL) – 24/7 on call
<https://studenthealth.usc.edu/counseling/>

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call
suicidepreventionlifeline.org

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention Services (RSVP) - (213) 740-9355 (WELL) – 24/7 on call
<https://studenthealth.usc.edu/sexual-assault/>

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**

Office of Equity and Diversity (OED) | Title IX - (213) 740-5086

equity.usc.edu, titleix.usc.edu

Information about how to get help or help a survivor of harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following protected characteristics: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

Bias Assessment Response and Support - (213) 740-2421

studentaffairs.usc.edu/bias-assessment-response-support

Avenue to report incidents of bias, hate crimes, and microaggressions for appropriate investigation and response.

The Office of Disability Services and Programs - (213) 740-0776

dsp.usc.edu

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

USC Support and Advocacy - (213) 821-4710

studentaffairs.usc.edu/ssa

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

Diversity at USC - (213) 740-2101

diversity.usc.edu

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

USC Emergency - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

dps.usc.edu, emergency.usc.edu

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

USC Department of Public Safety - UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call

dps.usc.edu

Non-emergency assistance or information.

[*DRAFT Syllabus – Items and Schedule Subject to Change***]**