

SUPPLEMENTAL COURSE INFORMATION - SPRING 2017

LAW 769 AD

ADVANCED DOMESTIC RELATIONS

(2 Credit Hours)

Professor Pate

Pre-Requisite: To be eligible to take this course a student must have either already taken Law 662 Domestic Relations, or currently be enrolled in Law 662 Domestic Relations. This course is limited to 12 students.

Students who are interested in taking Advanced Domestic Relations should note that this course has a field placement component in addition to regularly scheduled class meetings. Students will be placed with a practicing Domestic Relations attorney where they will participate in various aspects of domestic relations cases under the supervision of the attorney and Professor Pate. In addition, the field placement will involve supervised participation with the Birmingham Volunteer Lawyer Program's "Domestic Relations Help Desk," which provides assistance to pro bono litigants who need direction. Students will be required to work a minimum of sixty (60) hours at their field placement during the semester, and should anticipate not less than five (5) hours per week at the placement.

LAW 657 01

ALABAMA CIVIL LITIGATION PRACTICE & PROCEDURE

(2 Credit Hours)

Professor Jay Holloway

This course will present the practical aspects of civil litigation in Alabama, in the chronological order in which a practitioner will be exposed to issues in a real-world setting. It will involve the survey and analysis of the application of, and interplay between, the Alabama Rules of Civil Procedure, selected Alabama and federal statutory provisions, Alabama case law and selected provisions of the Alabama Rules of Appellate Procedure.

Law 799 ALP

ALABAMA LEGISLATION AND LAW OF THE POLITICAL PROCESS

(2 Credit Hours)

Robert McCurley

The course will include the interpretation of the Constitution and Statutes, both general laws and local legislation; Court Rules; and Administrative Procedure Rules. Also included will be the study and impact of Opinions of the Justices and Attorney General Opinions and their legal effect. The class will be involved in case studies of statutory interpretation drafting, conflicts, constitutionality as well as critiquing and interpreting legislation.

LAW 614 01 or LAW 614 R

AMERICAN CONSTITUTIONAL HISTORY

(3 Credit Hours)

Professor Ross

The interpretation of the U.S. Constitution is intricately intertwined with the history of the nation. Political, social, economic, and cultural events have decisively influenced judicial construction of the Constitution. The decisions of the courts, in turn, have had a vast impact upon the political, social, economic, and cultural development of the United States.

This course will examine the relationship between the historical development of constitutional interpretation and the broader history of the United States. The course will proceed chronologically. The

first session will explore the events that led to the adoption and ratification of the Constitution. Subsequent classes will address the following topics: the early history of the Constitution; the influence of the Marshall Court on federalism, separation of powers, judicial power, and property rights; the Taney Court era, with emphasis on the regulatory powers of the states and issues relating to slavery; the impact of the Civil War and Reconstruction; the emergence of social and economic regulatory legislation during the late nineteenth and early twentieth centuries and rise of economic due process; the Progressive era; the impact of the First World War; the Great Depression, the New Deal, and the demise of economic due process; and the emergence of the Supreme Court's modern role as a guardian of non-economic personal liberties, particularly with reference to race and the nationalization of the Bill of Rights in the decisions of the Hughes and Warren Courts.

The textbooks will be Melvin I Urofsky and Paul Finkelman's *A March of Liberty: A Constitutional History of the United States* (Oxford University Press) (two volumes) and Kermit L. Hall, William M. Wiecek and Paul Finkelman, *American Legal History: Cases and Materials* (Oxford University Press). These volumes are available for inspection in the Cumberland library and in the instructor's office. These are textbooks rather than casebooks and contain mostly narrative rather than case excerpts. The instructor will distribute a list of other books that he recommends for supplemental reading.

The principal format of the course will be lecture, and voluntary class participation will be encouraged.

An examination will be required. Students will have the option of writing a paper for fifty percent of the grade. Students who elect to write a paper may use, but are not required to use, the paper in fulfillment of their writing requirement.

The instructor will distribute a sample examination.

The instructor will be pleased to answer any questions about the course.

LAW 798 AML

AMERICAN LAW, PROCEDURE, AND PRACTICE: A Course for Third Year Law Students (3 Credit Hours)

This course provides third year law students the opportunity to review fundamental areas of substantive law and civil and criminal procedure that are tested heavily on bar exams. Students in the course will complete and receive feedback on exercises that are based on old Multistate Bar Exams (multiple choice questions), Multistate Essay Exams (essay questions), and Multistate Performance Tests (exercises that require students to perform practice-based tasks). The course is thus particularly useful to students who will take the bar exam in states that use the Uniform Bar Examination (UBE), because it focuses on "general law" as tested on the UBE (rather than state-specific law) and because it allows students to become familiar with the assessment tools they will encounter on the UBE. The course is intended primarily for students in their last year of law school.

LAW 673 01

ANTITRUST

(3 Credit Hours)

Professor Stone

The Antitrust course described below will be offered only next semester (Spring 2017). As a course offered every other year, it will not be offered in the following year (Spring 2018).

The Antitrust course will provide tools for lawyers serving in small, medium and large firms, as well as those working for business organizations, public interest groups, and government agencies. The focus will

be on the law relating to the contradictory pulls between competition and those forces which interfere with competition through such antitrust violations as price fixing, division of markets, mergers to monopoly, price discrimination, and other consumer protection violations.

It has been estimated that as much as 80-90% of law work is business-related. Antitrust and its tools are at the heart of the thinking of lawyers representing not only sellers and buyers but lawyers working for government regulatory agencies and public interest groups. The tools are used not only in civil and criminal lawsuits but as negotiating tools in representing small, medium and large clients. In addition, the tools are valuable for avoiding the legal risk of Antitrust violations in the drafting of contracts and other business entity documents.

You will be taking this course at a pivotal point in American history. Firms as large as Microsoft and as small as local dairies and retailers have been pursued as Antitrust violators. Numerous class actions have been pursued. Small to large purchasers, sellers, and others represented by small and medium size law firms as well as large firms have sought relief from Antitrust violators.

Although practical tools of economics will be raised throughout the course, their simplicity and usefulness should provide students with vehicles for understanding rather than frustration. A prior exposure to economics is not required and the course will be conducted as if students have had no prior exposure to economics.

Large, medium and small clients will be our focus. Accordingly, the tools of Antitrust can contribute substantially to preparing students for careers in law, business, government, or public interest group work in the twenty-first century.

I welcome all students who would like to add the tools of Antitrust to their credentials. The class will meet from 12:00-1:15 MW. The books for the course are classics which will greatly facilitate an organized understanding of the Antitrust material, and are as follows:

- (1) Posner and Easterbrook, Antitrust
- (2) Gwartney, etc., Common Sense Economics: What Everyone Should Know About Wealth and Prosperity

LAW 777 01

Mergers & Acquisitions

(2 Credit Hours)

Professor Leara

This course is offered to introduce upper-level law students to the practical aspects of transactional lawyering. The intent is to spend the semester analyzing a “deal”; starting from the “dating” phase – the preliminary discussions between the principals of two organizations, progressing through the “courtship” phase – the negotiation of a letter of intent, onto the “betrothal” phase – the execution of the purchase/merger agreement and performance of due diligence, and culminating with the “honeymoon” phase – the post closing experiences and price-adjusting events.

The course should be reserved for second and third year students who have already studied (or concurrently enrolled in) contracts, property, UCC (especially secured transactions), business organizations, tax (even though the course will only dabble slightly in the areas of corporate and securities taxation), and Constitutional law. Although the following suggested courses need not be prerequisites, students will be more prepared for the class and understand certain nuances that cannot be fully explained in great detail during the course of the semester if they have already been exposed to, or are currently studying: bankruptcy, antitrust, securities, corporate finance, banking and conflict of laws.

What is the real purpose of this course and does it accomplish? Simply put, to enhance students understanding of complex business transactions. The course covers a variety of substantive areas for which the students have already studied; this course will give them some practical insight as to how these areas mesh together, with the focus on how each side in a transaction is concerned about separate and distinct needs. Regardless of what area of law they eventually gravitate towards, every lawyer is exposed to a business transaction of some sort in their work experience. They will learn that, more often than not, the differences between the mega-merger and the local, closely held business merger are relatively small in scope.

We use a textbook authorized by Professor Williams J. Carney of Emory Law School, entitled Cases and Materials on Mergers and Acquisitions. Professor Carney's text uses cases intermixed with examples of negotiated documents and provides great insight as to what level of detail is required for the negotiated transaction and how important battle lines are drawn/develop over the assignment of various risks between the parties in transactions.

Finally, Cumberland offers this class to help nurture and cultivate quality transactional skills for its graduates. The legal profession is better served with more, competent transactional lawyers with some idea of what to do, as opposed to the "business" lawyer who tries to learn on the job or via an LLM program.

LAW 640 WBR
PUBLIC HEALTH LAW
(3 Credit Hours)
Professor Nelson

A three-credit hour online course focusing on topics of significance for lawyers engaged in advising governmental agencies in the formation of public health policy. There is no examination on this course. The grade is based on participation in online forum discussions (30%) and a paper that will satisfy the law school writing requirement (70%). The following topics will be considered:

- (1) The role of administrative agencies in public health regulation.
- (2) The role of the states and the federal governments in regulating to protect and promote public health.
- (3) Constitutional and statutory limitations on state and federal public health regulation.
- (4) Federal and state laws relating to quarantine and isolation.
- (5) The role of the states in responding to public health emergencies.
- (6) The role of the states in disease control, i.e., disease surveillance, reporting, and contact tracing.
- (7) The role of surveillance and informed consent in public health research.
- (8) The role of the states and the federal government in tobacco regulation
- (9) The role of the states and federal government in health promotion activities.
- (10) The role of the states and federal government in firearms regulation.
- (11) The role of the states, the federal government, and international organizations in addressing threats of bioterrorism.

LAW 798 ILT
READING LAW: THE INTERPRETATION OF LEGAL TEXTS
(2 Credit Hours)
Judge William Pryor

A seminar about textualism. In the first year of law school, all students learn the common (that is, judge-made) law of torts, contracts, and property. Students learn how judges have developed and applied rules to resolve private controversies. But often law schools neglect training students in the skill of interpreting legal texts, and students get the wrong impression about the role of judges in a modern and text-based legal system. That problem is especially acute in the United States where we have a written Constitution and a regulatory state that promulgates a wide range of statutes about securities, employment, taxation, environmental protection, immigration, bankruptcy, and crime and punishment. This seminar concerns how judges should interpret legal texts according to two leading proponents of textualism, Associate Justice Antonin Scalia who serves on the Supreme Court of the United States and Professor Bryan Garner who serves as editor in chief of *Black's Law Dictionary*. We will read and discuss their new book, *Reading Law: The Interpretation of Legal Texts*, and explore both the fundamental principles of interpreting texts and established canons of interpretation. Students will take a final exam.

LAW 799 R

SELECTED TOPICS IN TAXATION – TAX POLICY

(2 Credit Hours)

Professor Roberts

This seminar examines the legal, economic, and political considerations relevant to the formulation and implementation of federal tax policy. This class will examine the following issues: the concept of income, defining efficiency and equity, incidence, ability to pay, progressivity, the tax expenditure concept, taxing capital income, taxing labor income, consumption taxation, the double taxation of corporate income, cost-benefit analysis, political economy, externalities and public goods, insurance and human capital. Students will prepare two short written analyses of a tax policy issue during the semester and prepare one final paper that will meet the writing requirement for the law school.

LAW 771 R

SELECTED TOPICS IN TORT LAW

(2 Credit Hours)

Professor Evans

This is a seminar designed to explore some of the current issues in tort law. The class will address existing case law and principles, but is primarily concerned with whether, or how, those principles can be or are being extended to address changing social norms and advancing technology. Topics may include, but are not limited to, the current state of tort reform, fraud, business torts such as interference with contract, prospective advantage and injurious falsehood, the intersection of contract and tort in “life-support” and fertility cases, third-party duties of care, family immunities theories in non-traditional families, causation issues in toxic and mass torts, tort liability for fraudulent conception, medical monitoring damages and related issues in exposure cases, the appropriate role of “loss of chance” theories in tort law, the law of affirmative obligations, social justice and economic theory, and assessing risk in tort law. Grades will be determined by a combination of class participation and a paper.

LAW 755 01

SHAKESPEARE AND TRIAL ADVOCACY

(2 Credit Hours)

Prof. Kim West, Esq.

While all the world is a stage, courtrooms in particular fit that famous dictum. Trials are live dramatic performances, resolving competing stories. Lawyers are the actors on this stage. Through storytelling, they succeed or fail in persuading a finder of fact their client's position. The work of our great

playwright and persistent pro se litigant, William Shakespeare, yields essential insights for effective courtroom presentation.

This seminar course explores the intersection of three related disciplines -- Shakespearean studies, dramatic techniques, and trial advocacy. The premise of the course is that effective trial advocacy draws on and can be enhanced by techniques illustrated in Shakespearean courtroom scenes. Such scenes from at least four plays from the Shakespearean canon -- *The Winter's Tale*, *Henry VIII*, *Measure for Measure*, *The Merchant of Venice* -- will be utilized in evaluating this premise. Each play will provide an example of direct and cross examination, opening and closing arguments, and appellate advocacy. The objective of the course is to provide students with a practical sampling of the dramatic and linguistic riches available for use in the courtroom.

The course is not contemplated to overlap with Basic or Advanced Trial Advocacy courses. It does not involve the use of case studies, other than selected courtroom scenes from the Shakespearean canon. Previous exposure to Shakespeare is not a prerequisite, nor are acting skills. The course involves extensive use of outside resources, including video and live performance, guest lectures by actors, practicing attorneys, and Shakespearean scholars. This material meshes with traditional lectures and analysis of the texts, selected critical essays, and classroom discussion.

Though the course may sound experimental, and is indeed outside the traditional law school curriculum, it draws upon the well-recognized legal and literary field of Shakespeare and the Law. Almost before the ink had dried on the plays, lawyers -- from Sir Edward Coke to Justices Souter and Scalia -- began analyzing and cribbing from the texts. Exposure to this field should be enjoyable as well as practical.

LAW 639 01
TAXATION OF NONPROFIT ORGANIZATIONS
(2 Credit Hours)

Professor DiRusso

If exempt organizations are exempt from tax, why do we need a tax class on them? How are nonprofits regulated by the federal tax system? What variety of charitable and other nonprofit organizations exist and how are they classified? What rules do nonprofits need to follow to obtain and retain their valuable tax status? How can a lawyer help improve society by assisting innovative nonprofit organizations?

This course will provide an overview of the law of taxation of nonprofit organizations. It is a tax course intended both for students who are interested in tax and those who are interested in charities and other nonprofits. It does not cover the state law regulation of nonprofits in any significant detail; students wishing to further their background in that area should also take Nonprofit Entities.

This course is a 2-credit hybrid in-class and online class. Our class meets once a week for 75 minutes. Students should also anticipate spending roughly 75 (60-90) minutes a week completing the online component of the course (25 minutes of missed class time plus 50 minutes homework associated with that time). The online component of the class consists largely of completing problem sets and answer commentaries, although additional resources will appear online as well.

Students who are considering this course are welcome to contact Professor DiRusso at aadiruss@samford.edu for a draft copy of the syllabus.

LAW 798 WLS
WATER LAW & DIPLOMACY
(2 Credit Hours)
Professor Reid

“Water Law” is a broad term ranging from the legal control of water resources to the rules and regulations that govern the uses and protections of these resources. It is also a regime in constant calibration as state regimes intersect with federal powers. As a practitioner of “Water Law” one finds that the legal regime coexists along side, and often intertwined with, a complex diplomatic framework. Rarely will one find a case that is cut and dry. Much more common are situations in which one must operate within the parameters of the water law regime yet negotiate with a complex array of stakeholders to achieve practical solutions to complex problems

This course is designed to explore the multifaceted legal regime of water resource management and to engage in an iterative exercise in water diplomacy in order to resolve water disputes within complex networks. To accomplish this, the course will follow two parallel tracks. The first will cover the fundamentals of water law. Topics that we will cover in this track will include Surface and Groundwater Law, Riparian Rights, Public Trust Doctrine, Regulated Riparianism, Environmental Regulation, and Instream Flow Protection. In the second track we will engage in an iterative water diplomacy exercise in which the class will be divided into groups and assigned various stakeholder interests to promote.