

# Spring 2010 Course Descriptions 11-5-09

**##**: indicates courses that satisfy the advanced writing requirement (Academic Regulations 2.1 (2))

**\*\***: indicates courses that satisfy the research requirement (Academic Regulations 2.1 (3))

**^^**: indicates courses that meet the skills requirement (Academic Regulations 2.1 (5))

## **B510 Global Health Law ## (3)– Fidler**

This course, which will satisfy the writing course requirement, studies the increasing importance of international law in efforts to improve global health. The course will explore how and why international law is used in different global health contexts, and the relationship between international law and global health governance. Specific topics that will be addressed include the global spread of infectious diseases, the new International Health Regulations, the global pandemic of tobacco-related diseases and the Framework Convention on Tobacco Control, the threat of bioterrorism, tensions between trade and health (e.g., within the agreements under the World Trade Organization), international environmental law and health, and human rights and health (especially in the context of HIV/AIDS). The course will also explore areas in global health in which the role of international law has been limited, such as in fostering health systems reform and improving social determinants of health. As a course that satisfies the writing course requirement, students will be evaluated on the basis of regular writing assignments. Enrollment will be limited to 15 students. This course has no prerequisites for student enrollment.

Updated 10/09

## **B517 Advanced Patent Law (3)– Collins**

Advanced Patent Law is exactly what its title suggests it is: an advanced course in patent law. Contemporary patent practice requires a mastery of a large and specialized body of legal doctrines and concepts. The basic Patent Law course offers an overview of patent law that is useful for students who plan to practice patent law and for students who expect to encounter patent-law issues in their more diversified corporate, litigation, or transactional careers. It focuses on the validity requirements, introduces the process of proving patent infringement, and provides a quick overview of patent remedies. Advanced Patent Law has the basic Patent Law course as a prerequisite, and it builds on the knowledge conveyed in the basic course. Designed to prepare students for a career in patent law—whether as a prosecutor, litigator, or a transactional attorney—it offers a more thorough look at specific topics that are beyond the scope of the material that can reasonably be included in the basic course. The precise contents of the course will vary from year to year, but some representative topics are addressed below. Advanced Patent Law is designed as a complement to the Patent Prosecution course, so it does not focus at length on the art of drafting claims or the procedures involved in obtaining patents from the Patent and Trademark Office (PTO).

Advanced Patent Law examines some of the topics introduced in the basic Patent Law course in greater depth, e.g., patent eligibility, claim construction, equivalents (both statutory and common law), and remedies. It also considers how some of the doctrines introduced in the basic course have developed in specific areas of technology, such as software, biotechnology, and pharmaceuticals. In particular, it addresses the art-specific rules of nonobviousness and the disclosure doctrines.

Advanced Patent Law also introduces new topics that were not introduced (or were only discussed in passing) in the basic Patent Law course. It may address the exceptions and limitations to patent rights (e.g., reverse doctrine of equivalents, experimental use exception, geographic limitations on US patent rights), standing to sue for licensees and declaratory judgment plaintiffs, joint inventorship rules, double patenting, patent misuse and antitrust concerns, Hatch-Waxman patent litigation (involving pioneer drug companies and generic drug companies), administrative law issues (e.g., the role of the PTO in crafting patent doctrine and policy), and reexamination and reissue proceedings at the PTO. In addition, Advanced Patent Law introduces students to some "hot topics" in contemporary patent practice and scholarship. Topics such as the art of drafting claims and the regulations governing patent prosecution are not addressed because they are left for the Patent Prosecution course.

Updated 10/09

### **B518 Intellectual Property Colloquium ## (2)– Janis**

In this colloquium, students read and respond to cutting-edge works-in-progress from leading intellectual property scholars and commentators. Approximately six such scholars/commentators will visit campus during the semester to present their works-in-progress to colloquium students. Students will be expected to read each work-in-progress, along with any assigned background readings, and discuss the work and the readings in a class session prior to the presentation. Students will then attend the presentation, and pose questions to the presenter. Students will also typically have the opportunity to engage with the presenter informally during the presenter's visit. Other faculty from IU and elsewhere, and IP practitioners, will also be invited to participate. At least one intellectual property course is a prerequisite, and participation in the colloquium is by permission of the instructor. The colloquium satisfies the advanced writing requirement for graduation.

Updated 10/09

### **B520 Comparative Civil Liberties (3)– Cox**

In this course, we will be engaging in a critical analysis of various matters connected with civil liberties and civil rights and will be doing through the vehicle of comparative law. Thus we will consider various issues (listed below) having regard to the approach taken to these issues in amongst others, Great Britain, Ireland, Australia, Germany, United States, South Africa, Council of Europe and, on occasion, other states including a theoretical Islamic state. The issues considered are

1. The concept of universal Human Rights and civil liberties as well as universal understandings of what these rights entail and the principled bases on which these rights can be restricted.
2. The Right to Privacy both generally and in the following contexts
  - The issue of "unconventional sexual practices"
  - Justifying restrictions on the right to privacy by reference to moral concerns
  - Abortion
  - Gay Marriage
5. The right to Freedom of Expression both generally and with a specific focus on the concept of offensive expressions including blasphemy against Islam, cross burning and Nazi marches in the United States and Holocaust denial in Germany.

(Professor Neville Cox is a regular faculty member at the Trinity University Law School in Dublin, Ireland. He has won numerous teaching awards there and has been getting rave teaching reviews from our own students who have taken his course in our summer joint program with USD. He is visiting here only for this spring semester. In addition to his faculty duties, he also is a practicing Barrister.)

Updated 11/09

### **B523 International Law: The Milošević Trial ##(3)- Waters**

It has been three years since the trial of Slobodan Milošević -- the longest and most prominent war crimes trial of the modern era -- was brought to an abrupt halt by the defendant's death, leaving the court, the peoples of the former Yugoslavia, and the world community without a definitive legal resolution. Precisely because the trial ended without final judgment, its meaning and value are especially contested: for some, the indictment and trial of a sitting head of state reaffirmed the importance of international criminal law as a robust response to state criminality; for others, the collapse of this sprawling case proved the insufficiency of judicial responses to complex mass violence.

Through the lens of this single trial and the court in which it took place, the course examines a range of perennial and current problems arising in international criminal law, transitional justice, and the Balkans in particular. By examining different phases of the Milošević trial, students will study the processes and politics of investigating, indicting and trying senior political figures, the changing field of war crimes, and the impact of criminal trials on reconciliation and transitional justice in regions affected by war.

A separate conference on the Milošević trial will take place in February 2010, in parallel with the class, and students will have an opportunity to participate in that conference, engaging with scholars and trial participants and critiquing their work in written assignments and class discussions. This course will meet occasionally on Wednesday, not every Wednesday.

There are no prerequisites for this class; previous study of either the Balkans or of international or criminal law will be helpful, but not necessary. This course satisfies the advanced writing requirement for graduation.

Updated 10/09

### **B525 Criminal Process (4) – Bradley**

Perhaps the most basic grievance that led to the Declaration of Independence was that concerning searches and seizures. The enforcement of the Stamp Act by means of writs of assistance aroused the colonists against the British. When the Bill of Rights was passed, a prohibition against unreasonable searches and seizures was one of its most fundamental provisions. It is thus not surprising that Fourth Amendment law is the subject to which the Supreme Court has devoted a great deal of attention. A close second, in terms of both its importance to the Bill of Rights and to today's Supreme Court, has the right against self-incrimination(though not so much recently). It is with these two constitutional rights that the course is concerned. The expanded course will also cover such post-indictment subjects as the defendant's right to effective assistance of counsel at trial, right to discover exculpatory information and the right to confront witnesses. Criminal Procedure cases make up about 90% of the petitions to the Supreme Court and are among the most common subjects of Supreme Court (and all court) decisions. Consequently, a solid grounding in this field is essential to a well rounded legal education. It is of particular importance to students contemplating a judicial clerkship. Also, it is important for all bar exams, including Indiana's.

Updated 10/09

### **B526 Tax Policy Colloquium ## (2) – Mehrotra**

This course offers an opportunity for students to read and react to scholarly works in progress on an array of tax policy topics (generally relating to federal taxation, particularly federal income taxation of individuals and business entities). There will be approximately six presentations during the semester, typically by scholars from other universities. Students will be expected to read each work-in-progress in advance of the presentation, along with any assigned background reading, and write a short reaction paper; to discuss the article draft and background materials in the class session prior to the presentation; to pose questions to the presenter about the article; and to participate in a short recap discussion in the class session following the presentation. Interested I.U. faculty members and others will likely also attend the presentation sessions and participate in those discussions. B650 Introduction to Income Tax is a prerequisite. [This is a writing course that fulfills the "advanced writing" requirement.] It is a limited enrollment course, and students may enroll only after receiving permission from the instructor. To apply, send a resume and 1 page statement of interest to Professor Mehrotra (amehrotr@indiana.edu) at least one week before the deadline for 3L registration, or, if that deadline has passed, e-mail Professor Mehrotra to find out whether applicants are still being considered.

Updated 10/09

### **B549 International Intellectual Property (3) – Leaffer**

The practice of intellectual property law and lawmaking has increasingly assumed an international dimension. This course has two basic objectives. One is to equip students with the methodology necessary to engage in international intellectual property practice in both public and private international law. Accordingly, International Intellectual Property will consider topics such as territoriality, national treatment, choice of law, multilateral treaties, and regional agreements that frame the substantive rules of intellectual property law in a transnational setting. As a second objective, this course will consider intellectual property from a comparative law dimension. In this regard, it will focus on the basic differences in the approach to IP rights in national and international systems and will examine the cultural economic differences that have led to divisions between developed and developing countries relating to intellectual property. There are no specific prerequisites for enrollment. However, some familiarity with the basic concepts of intellectual property rights will be assumed and strongly recommended.

Updated 10/09

### **B558 Conservation Law Clinic ^^ (3) - Weeks, Director; Hyman, A. Need, Staff Attorneys**

The Conservation Law Clinic is an opportunity for second and third year law students to serve as interns in the Conservation Law Center, a public interest law firm that represents clients who need assistance with natural resource conservation matters. The Clinic is a three credit hour course that includes work on client matters, readings and discussion relating to skills essential to conservation law practice, and weekly client team meetings with the Clinic Director or one of the Clinic's Staff Attorneys in which progress with clients, cases, and matters is reviewed.

Participation in the Clinic gives students interested in public interest law and/or conservation law valuable experience in advocating for clients and working in a public interest firm setting. The Clinic's clients include a variety of non-profit conservation organizations as well as governmental bodies. Clinic matters have included extensive work on the law of conservation easements; analysis of conservation related laws; development of new legislation and strategies to protect the Great Lakes from aquatic invasive species; and research and preparation of motions in matters to be litigated. Permission of the Clinic Director is required for enrollment. Preference will be given to students who have completed half of the required course work toward a degree or joint degree, and to students interested in enrolling in the Clinic for two consecutive semesters. To apply, please send a statement of interest and a copy of your resume to W. William Weeks ([wweeks@indiana.edu](mailto:wweeks@indiana.edu)) prior to registration.

Last updated 03/09

### **B559 Patent Prosecution ^^ (2) – Gandy**

Patent prosecution involves counseling with clients to understand their inventions, drafting patent applications designed to optimize legal protections for the inventions, and advocating for the grant of respective patents before U.S. and foreign patent offices. In the process of doing so, a weave of federal statutes, regulations, and case law must be taken into account in crafting and prosecuting patent applications that maximize clients' rights. This course will provide a complete overview of the patent process and will emphasize practical skills that are the foundation for effective patent prosecution.

The course begins as most representations begin, focusing upon the initial client contact and matters that must be well handled at the start. Issues and regulations related to subject matter conflicts and party conflicts, and practical techniques for investigating/handling them, will be addressed. This is followed by instruction upon how to work with clients (inventors) to understand and develop their invention disclosures to enable maximal protection, and the identification and review of databases and hard copy resources that are useful to search for "prior art" that might negate or limit the scope of patent protection available on the client's invention.

In logical sequence, the course turns to a series of lectures that provide a review of the statutes, regulations and case law that govern the requirements of an application for patent, combined with practical drafting sessions for the major patent application components: claims defining the scope of the invention; the specification containing a detailed written description sufficient to enable others to make and use the invention; the background section setting up the need for the invention. Several in-class and take-home practical sessions will be given to provide hands on drafting experience designed to simulate real world experiences as a patent attorney.

The course will then cover statutes, federal rules and case law pertaining to filing and prosecuting the patent application before the United States Patent Office. The prosecution of patent applications typically involves a series of exchanges between the patent attorney and the Patent Office Examiner in which arguments are forwarded with respect to whether the invention (as defined by the claims you have submitted) is sufficiently unique to deserve patent protection. These exchanges explore whether the claims define an invention which meets the statutory requirements of novelty and nonobviousness set forth in Title 35 of the United States Code. It is the Examiner's job to make sure that no "unworthy" inventions proceed to patent. It is your job to convince the Examiner that the claimed invention is worthy, and to help the client make key decisions whether the claims need to be amended to more fully distinguish from the prior art. Written records of prior successful prosecutions

will be reviewed to provide specific context to the lectures, and again, practical drafting sessions of our own will be conducted.

After an application has been successfully prosecuted with a given set of claims, there are still other issues that need to be considered. Should another related application be filed to pursue additional protection through claims that are worded differently? "Continuing" patent application practice affords the opportunity to do this, and the related principles and procedures will be addressed in the course. As well, patents that have already been granted can be corrected or reviewed in "Reissue" or "Reexamination" proceedings initiated in the Patent Office. The conduct of these proceedings will likewise be reviewed.

The course finishes with lectures directed to patent prosecution practice in the broader context, instructing as to due diligence reviews in patent licensing and acquisition transactions, and how to effectively develop, manage and prosecute portfolios that include both U.S. and foreign patent applications.

Patent prosecution requires an understanding of a series of statutes, regulations and cases, and how they shape effective advocacy in securing patent rights for your clients. This course will lay a foundation of understanding and practical experience that will provide value to those who are considering patent law as a specialization as well as those who simply want to develop a better understanding of the patent process.

Patent Law is a prerequisite for this course.

Updated 10/09

### **B561 Elmore Entrepreneurship Law Clinic ^^ (3)– Need**

The Elmore Entrepreneurship Law Clinic is a joint program between the Law School and the Kelley School of Business. It is designed to provide students the unique opportunity to work on actual business formation, planning, and strategy issues in a multidisciplinary setting. Students interested in transactional law practice, advising entrepreneurs, or becoming entrepreneurs are typical candidates for participation in the Clinic.

The Clinic operates much like a small law firm, with Clinic interns working under the supervision of the Clinic Director, providing legal and business consulting to a variety of early stage companies. Client projects vary widely, but frequently include advising clients on appropriate business form; drafting necessary formation documents; obtaining permits and licenses; researching and registering intellectual property rights; negotiating contracts and leases; and providing business planning advice.

Clinic interns meet with the Director in groups or individually to review project status and to discuss experiences and concerns. Occasional travel may be required.

Clinic interns also attend a two-hour class each week. The course surveys typical legal issues affecting entrepreneurial enterprises, including choice of entity issues; ownership and governance issues; employment issues; operational liabilities and insurance issues; intellectual property issues; financing issues; and employment issues.

Prerequisites for participation in the Clinic include Corporations, Corporate Taxation, and Business Planning, or equivalent preparations as determined by the Director. Per Indiana Supreme Court Rules, students participating in the Clinic must also have completed or be enrolled in a Professional Responsibility course. Enrollment in the clinic is limited, so students must, simultaneous with enrollment, submit a current resume and a brief statement of interest in order to obtain permission of the Director for participation.

Updated 3/09

### **B563 Domestic Relations Mediation Course (3) and**

### **B691 Family and Children Mediation Clinic (3) combined ^^ – A. Applegate**

This combined mediation course and clinical offering, offered for a total of six (6) credit hours, is generally available to eight (8) students each semester. Through this program, 2L and 3L students become eligible to serve as registered domestic relations mediators in Indiana, and mediate actual family law cases. **The special scheduling requirements for this offering are described below – please note that for the 2009-2010 school year, the clinic and its students will be participating in an interdisciplinary training and research program with faculty and students from the IU Department of Psychological and Brain Sciences (Psychology Department).** Interested students should contact Professor Applegate by e-mail (aga@indiana.edu) explaining their interest in the program, and attaching a current resume. Students may only enroll in the program after receiving advance approval from Professor Applegate to enroll. Given the limited number of spaces, any interested student should contact Professor Applegate in advance of 3L registration.

**Mediation Course:** During the first three and a half weeks of the semester, class will meet on most weekday mornings from 8:45 a.m. to 12:30 or 1:00 p.m. This schedule will allow the students to (1) complete the three-credit hour skills-based course in family law mediation and be properly trained to start mediating real life cases for the remainder of the semester and (2) receive some additional interdisciplinary training for a child-informed mediation process that is being piloted in the clinic in the 2009-2010 school year. Through the basic course, Professor Applegate provides students with the necessary training to become registered domestic relations mediators in Indiana; after completing the course component, the students will apply to become registered domestic relations mediators in Indiana. In accordance with state licensing requirements, experts in communications and mental health issues will teach several of the classes during the first and a half weeks. In addition to Professor Applegate, several experienced local mediators will periodically attend to demonstrate and/or provide feedback to students during the role plays, thus exposing students to different styles of mediation. Interested students should understand that for state licensing purposes, attendance during the course is mandatory. In addition, there is a substantial amount of reading, as well as class preparation and simulated role plays in the course. For the 2009-2010 school year, faculty from the Psychology Department will also be participating in the interdisciplinary training.

**Mediation Clinic:** After the first three and a half weeks of the mediation course, the three credit hour clinic component of the offering will begin. During the next ten weeks of the semester, students in the clinic will observe and then mediate actual cases referred by judges in local and nearby counties. Students will mediate custody, parenting time, child support, asset and debt division, and other disputes between parents in family law cases. During these ten weeks, the students will mediate in teams of two; in some cases, the student mediators will also be working with child consultants (graduate students from the Psychology Department). Each week, students will generally be scheduled to attend (1) an intake session for one case (approximately 2-3 hours) and/or a second mediation session in another case (approximately 4 hours), (2) a supervision meeting, and (3) class on Monday mornings from 9 a.m. until noon. Class training in the clinic phase will focus on additional interdisciplinary training (with students and faculty from the Psychology Department), the development of the students' mediation skills, and exploration of advanced mediation topics, including drafting mediation agreements, effective mediation practice, domestic violence concerns, involvement of children in mediation, and the effect of certain ethical issues and concerns on mediation practice. Students will keep a reflective journal of their mediation experiences, and will share their experiences with Professor Applegate and the other students in case rounds during class. Mediations will be conducted at the law school or in the courts. The clinic will be taught and supervised by

Professor Applegate. In addition, students who have successfully completed the clinic in a prior semester may also assist in mentoring and supervising clinic students, and family court coordinators may assist with supervision of students mediating cases in court.

**Grading/Exam Policy:** During the first three and a half weeks of the semester, students will take an open book proficiency examination in Indiana family law, and at the conclusion of the course, students will conduct a videotaped simulated mediation. Final grades in the course will be based on performance in the proficiency examination, the videotaped simulated mediation, and class attendance and participation. Final grades in the clinic will be based on a combination of factors, including students' mediation skills (and improvement of their skills), professionalism, preparation for mediations, the quality of student journals and other documentation, knowledge of Indiana law, and class attendance and participation. Although there is no final exam in either the course or the clinic, students will be tested on their level of knowledge about family law and social science, and will participate in focus groups two times during the semester in connection with inter-disciplinary training done through the clinical program. This knowledge testing and the participation in the focus groups done in connection with inter-disciplinary training are mandatory, but will not be considered in grading students.

**Special Scheduling Requirements:** Students wishing to enroll in the course/clinic must be available every weekday from 8:45 a.m. to 1:00 p.m. for the first three and a half weeks of the semester. Student attendance during the course is mandatory, based on state licensing requirements for mediators. For the remaining ten weeks of the semester, students will generally be scheduled to attend (1) an intake session in one case (approximately 2-3 hours) and/or a second mediation session in another case (approximately 4 hours), (2) a supervision meeting, and (3) class on Monday mornings from 9 a.m. until noon. Given the daily classes during the first and a half weeks of the semester, it is not possible for students enrolled in the course/clinic to take other courses that meet before 1:15 p.m.

**Selection of Students in the Program:** In the fall semester, preference for enrollment is generally given to 3L students. In the spring semester, preference for enrollment is generally given to 2L students. These preferences are designed to ensure that there are a sufficient number of students who will be available to continue on as student mentors in the semester following completion of the program. In addition to these preferences, students are selected on the basis of a number of criteria, including their level of commitment to the program, professionalism, work ethic, ability to work independently and as part of a team, interpersonal skills, organization skills, and background/special interest in the program.

**Prerequisites:** There are no prerequisites for this offering. However, students enrolled in this combined course and clinical offering must participate in all six (6) credit hours (i.e., students cannot choose to take just the course or the clinic). In addition, students enrolled in this clinical program must attend a mandatory clinic-wide orientation program at the Law School early in the semester.

**Contact Information:** Interested students should contact Professor Applegate by e-mail (aga@indiana.edu) explaining their interest in the program, and attaching a current resume. Students may only enroll in the program after receiving advance approval from Professor Applegate to enroll. Given the limited number of spaces, any interested student should contact Professor Applegate in advance of 3L registration.

Updated 10/09

## **B567 Intellectual Property Practicum: Legal Aspects of the Music Industry ^^ (2)-Meitus**

This course will involve working in a quasi-clinical mode with actual clients and complements Entertainment Law, Copyright Law and other intellectual property offerings. A prerequisite for this course will be Entertainment Law (or permission of the instructor). Enrollment will be limited to 10 students.

Methods for this course will include readings, legal research, contract drafting, classroom role enactments, client presentations and meeting and discussions. The class will work much in the way a small law firm or legal clinic would work, where the professor will play the role of firm partner or clinic director, and the students will turn in their work product to me. Students will be evaluated on legal writing exercises—either legal memoranda or contracts—and in client presentations and meetings.

Students will be assigned readings from Donald Passman's "Everything You Need to Know About the Music Business" and from other sources and will work on a variety of actual music representations and issues for several types of clients, including, recording artists, composers, small record labels and music publishers.

The rough draft syllabus for the course is as follows:

1. Introduction (1 week)

Course introduction and methodology explained; introductions of clients and initial project assignments.

2. Copyright law and music publishing (2 weeks)

*Goals:* Understand copyright law related to musical compositions, including mechanical licenses for "cover" recordings, print publishing and performance organizations (ASCAP, BMI, SESAC); gain practical experience in this area.

*Projects:* Research, draft and execute mechanical, synch, sample and other clearances and licenses; register clients with performing rights organizations; administrate mechanical royalty statements for record label. Prepare related materials and educate clients re: all of these issues.

3. Copyright law and recording contracts (2 weeks)

*Goals:* Understand copyright law related to sound recordings, artist-label recording agreements, side-artist and feature artist clearances and related issues (e.g., right of publicity); gain practical experience in this area.

*Projects:* Research, draft and execute recording agreements, artist clearances and related documents. Prepare related materials and educate clients re: all of these issues.

4. Music in Film & Television (1-2 weeks)

*Goals:* Understand the various ways in which music is licensed to producers of television shows, commercials, and motion pictures and the role of synchronization and master use licenses.

*Projects:* Research, draft and execute synch and master use agreements and prepare related materials.

5. New Media (2 weeks)

*Goals:* Understand the interplay between the Internet, digital downloading and streaming and other new technologies and traditional music and copyright law; understand issues related to artist web sites.

*Projects:* Research and help clients work with ASCAP, BMI and SESAC streaming licenses, SoundExchange and digital performance rights in sound recordings, and digital distribution options for independent artists; work on artist web site legal issues.

6. Personal and Business Management (1-2 weeks)

*Goals:* Understand differing roles of artist and business managers in artists' careers.

*Projects:* Draft and/or review personal and business manager agreements.

Updated 10/09

**B568 Gender and the Law ## (2)- Matthews**

A critical examination of the historical and modern treatment of gender under the law, this course will provide an introduction to the concrete legal contexts in which issues of gender have been articulated and challenged and a discussion of the extent to which these issues have been resolved. This course aims to provide students with an understanding of the strategies used to undermine and recreate women's legal status in the United States. The goal of the course is to think broadly and critically regarding the interaction of law, society, and gender while exploring the potential and the limitations of law and litigation as tools for social change. Although this course will use a number of different feminist legal theories as a framework for discussion and analysis, this course is not a survey of feminist jurisprudence. Topics may include education, the legal profession, the public/private divide, issues in the workplace and in the family, and the role of power and difference.

Students will be evaluated on participation in class discussion, short reflective assignments, memos, analytical papers, and oral presentations in class. As such, this course satisfies the advanced writing requirement for graduation.

Updated 11/09

**B569 Nonprofit Organizations (2)- Carmichael**

This course explores the legal issues related to nonprofit organizations with an emphasis upon charitable organizations. The first unit of the course will consider issues of state law, including state nonprofit corporation statutes, duties of officers and directors, and laws for regulating nonprofit organizations. The second, somewhat longer unit of the course will turn to issues of federal law, examining how nonprofit organizations qualify for tax exemption under the Internal Revenue Code. During this part of the course, we will examine what it means for an organization to be engaged in "charitable activities," and we will also look at the political and unrelated business activities of tax-exempt organizations. Along the way, we will look at current issues impacting nonprofits, such as the law of the internet and the current momentum for charitable reform.

Jeffrey Carmichael is a 1995 summa cum laude graduate of our school. His first position after graduation was a clerkship with U.S. District Court Judge Larry J. McKinney, and in his current practice in the business/tax group at Hall, Render, Killian, Heath & Lyman in Indianapolis, he advises nonprofit organizations, particularly in the health care industry, and assists individuals with their estate planning needs.

Last updated 10/07

### **B584 Trial Competition ^^ (2, spring)– Tanford**

Trial Competition is part of the law school's comprehensive litigation curriculum. There are two parts to the course. In January-February, students will participate in an intra-school trial competition for which they prepare and try a tort case. There will be two or more preliminary rounds followed by a single-elimination tournament. Up to 8 students will be selected based on their performances in the tournament to represent IU at the annual AAJ Student Trial Advocacy Competition February 28-March 1. In order to enroll in this course, students must have completed Evidence. Trial Advocacy and Advanced Trial Practice are recommended but not strictly required. A brief introduction to Trial Practice and Procedure will be offered to anyone who wants to participate in the Trial Competition but has not yet taken a Trial advocacy class. Two hours of pass-fail credit are available. Open to 2-L and 3-L JD students.

Updated 10/09

### **B587 Information Security Law (3) – Cate**

Information security (or information assurance, as it is sometimes called) is a new and rapidly growing area of law that responds to the need to secure information and information systems (like the Internet) from hacking and other forms of unauthorized access, viruses and denial of service attacks, terrorist attacks, misuse, and accidental destruction or alteration. In it also concerned with the use of the Internet and other information networks by criminals and terrorists to plan illegal activities, and by law enforcement and national security officials to search for those activities. This course will examine these topics and the legal and policy issues they raise. We will look at statutes and cases addressing Fourth Amendment and related issues, including the USA PATRIOT Act; industry-specific laws and regulations affecting information security; and a variety of constitutional provisions concerning freedom of expression, association, and religion, privacy, anonymity, and other civil liberties. No technical knowledge is required.

Updated 10/09

### **B588 Strategies in Critical Reading and Writing: The Letter and Literature of Family Law ## (3)– Conrad**

This course emphasizes skills and techniques of analysis and evaluation, both in reading and in writing. This semester the substantive focus will be Family Law. We'll read a survey of the black-letter law and sample a wide range of other readings, from court documents to the scholarly literature. The course satisfies the "Advanced Writing Requirement." Any student might well choose to take the course largely as a general introduction to Family Law. But this course offers such an introduction that is neither as substantively comprehensive nor as pedagogically conventional as that offered in the other sections of the introductory Family Law course at our School.

Updated 10/09

### **B595 Advanced Environmental Law and Practice ^^ ## (3) – Barnes**

This is an advanced course that builds on knowledge acquired in Introduction to Environmental Law and develops practice skills in the contexts in which environmental lawyers commonly utilize their knowledge and skills. These include: compliance/counseling; enforcement; litigation; and policymaking. Students undertake a number of exercises that entail legal research and analysis, drafting of memos and complaints, negotiation, interviewing, and oral

presentations. This class satisfies the advanced writing requirement. Prerequisite: Introduction to Environmental Law.

Updated 10/09

### **B607 State and Local Government Law (3)– Gellis**

The course studies the legal status of local governmental units in the American political system, focusing on the structure and distribution of power among levels of government. It will review the scope of local governmental powers in terms of the ability of municipalities to respond to the needs of modern communities. The study of local government involves fundamental concepts of constitutional law, including the nature of federalism and questions of due process and equal protection. The course also deals with issues of planning and land-use control. The course material would be of value to those intending to practice in the public sector at the state or local government level. It would also be useful to general practitioners in their dealings with local governmental planning and regulatory agencies.

Updated 10/09

### **B608 Family Law (3) – Orenstein**

This course examines legal issues that arise from government's regulation of the family. It is primarily concerned with the definition, creation, maintenance, and dissolution of the family. It covers topics such as who may marry, property distribution within the family, divorce, child custody, paternity, and adoption. We also examine the underlying policies of the state's involvement in family unit and the role of gender in family law. Students are required to conduct brief research assignments, answer small problems in writing, figure out a complicated child support problem, and draft a divorce petition. Grades will be based on performance on a final exam, preparation, the small assignments, and in-class discussions.

Updated 10/09

### **B619 Law and Medicine (3)– Cox**

This subject involves consideration of aspects of the health care system, including

- the licensing and regulation of health care institutions and health care professionals,
- liability for professional malpractice of health care professionals and institutions,
- the role of healthcare insurance and of public Medicaid assistance,
- the role of informed consent to medical treatment,
- healthcare reform,
- abortion and "pre birth" ethical issues of reproductive technology,
- euthanasia/assisted suicide and the ethics of "end of life" technology.

(Professor Neville Cox is a regular faculty member at the Trinity University Law School in Dublin, Ireland. He has won numerous teaching awards there and has been getting rave teaching reviews from our own students who have taken his course in our summer joint program with USD. He is visiting here only for this spring semester. In addition to his faculty duties, he also is a practicing Barrister.)

Updated 11/09

## **B620 Negotiations ^^ (2) – Ardery**

Class purpose/goal: *LEARN TO NEGOTIATE BETTER AND ENJOY IT MORE*

The class is designed to offer students an opportunity to increase their self-awareness and awareness of others and learn and practice concrete negotiation skills. Students should gain a theoretical understanding of negotiation and learn to transfer skills from the classroom to address conflict and engage in negotiation in a professional, ethical and effective way in professional and personal settings.

We will use the textbook as a springboard for class discussion. Much of the classroom time will be spent practicing different negotiation skills. We will consider evaluation, style, tactics and subtexts for negotiations.

A wide range of excerpts from texts other than the main book will be used including portions of the following books:

On Death and Dying

Getting to Yes

Descarte's Error

The Road Less Traveled

Blink

The Gift

The Science of Influence

We will discuss specific negotiations in which members of the class may have engaged in during the course of their daily lives, and we will also examine current events and the effective or ineffective negotiation skills of public figures.

Grades will be determined 25% attendance and class contribution, 25% result of final filmed negotiation exercise; 25% paper on final negotiation; 25% skills used in final negotiation.

Updated 10/09

## **B623 Negotiable Instruments (3) – Hughes**

This is a course about risk allocations in payments transactions. Pure and simple: some risks are fully allocated by state or federal statute, some by contracts, and some by system rules. Understanding which risks are allocated already helps people draft and manage transactions.

This course covers state and federal laws on making payments, and the increasing numbers of special contracts and system rules that are taking over for newer payment methods. The essential rules governing commercial paper (checks, drafts, and promissory notes) and bank deposits and collections are contained in Articles 3 and 4 of the Uniform Commercial Code ("UCC"). Federal law covers expedited funds availability and electronic fund transfers (debit and prepaid cards).

The course also covers other retail payments (credit cards, e-payments like Paypal, and electronic funds transfers) and wholesale payments (wire transfers and letters of credit) that play increasingly prominent roles in domestic and international trade transactions, but not in great detail.

We will concentrate on how the UCC and related federal statutes and regulations apply to common transactions and will evaluate problems likely to arise in practice, such as lost, stolen, and forged "instruments", stop payment orders, and wrongful dishonor of checks. We also will discuss technological changes and the stresses they place on payment systems.

Error resolution rules for non-UCC payments differ substantially from those covered by the UCC. We will discuss the differences in how error-resolution works in both arenas.

This course also covers suretyship and the law of guarantees that plays a huge role in insurance and commercial real estate development practices, and that assists in garden-variety commercial litigation as well.

Laws pertaining to commercial paper and the relationships among banks and their depositors affect nearly all businesses and consumers every day. There are strong practical as well as theoretical parts of this material. Students should leave this course able to recognize and research more complex problems as they arise. This course also introduces students to one of the toughest sets of bar materials to learn on one's own.

I use a text that emphasizes problems, rather than gleaning principles from judicial opinions. This approach requires students to read statutory materials and apply the statute to variant fact-patterns. Students then consider what stresses on these rules - technology and shift structure of domestic and international financial institutions and other payment systems service-providers - mean for the future of regulation of these payment mechanisms. I welcome class discussion.

This class will have a traditional in-class examination. I normally allow more than three hours for students to take it. LLM candidates will get additional time to complete this examination in accordance with the School's graduate student examination policy.

I love all my courses, but this frankly is my personal favorite.

I have lots of personal examples and tales of unscrambled embezzlements and other frauds to share to make these rules more interesting.

Updated 10/09

### **B631 Advanced Bankruptcy (Business Reorganization in Chapter 11) (2)- Lorch, Carr**

This course will be taught by Judge Basil H. Lorch III, JD 1974, the Chief Judge of the US Bankruptcy Court for the Southern District of Indiana and by James M. Carr, JD 1975, Chair of the Commercial, Financial & Bankruptcy Services Group of Baker & Daniels, LLP in Indianapolis. The course will cover the full range of issues related to the bankruptcy reorganization of business entities under Chapter 11 of the US Bankruptcy Code. Topics addressed will include an introductory overview and history of reorganization law in America (including the various uses of Chapter 11 to implement a variety of business strategies and a description of the key players in a Chapter 11 case); business operations in Chapter 11; the Chapter 11 "toolbox" (including rejection and assumption of leases and executory contracts; allowance, disallowance, estimation, and subordination of creditor claims; the reduction of secured obligations to the value of collateral; borrowing by the debtor ("DIP financing"); preference and fraudulent transfer avoidance actions; and sale of assets free and clear of liens); process and procedure regarding dispute resolution (motion practice, contested matters and adversary proceedings); special rules regarding small business debtors, individuals, single asset debtors and other special cases; the core importance of, and various concepts involved in, the valuation of assets and enterprises; the process of creating and proposing a plan of reorganization; standards for confirmation of Chapter 11 plans; and the alternatives for restructuring outside of Chapter 11. In addition to a conventional casebook, the course will explore several actual bankruptcy reorganization cases in which the instructors have presided or participated. Students will be required to complete a number of drafting exercises including a pleading and a Chapter 11 plan of

reorganization. Evaluation will be based on the exercises and a written examination. There are no prerequisites for this course. However, prior completion of the basic bankruptcy course and secured transactions is highly recommended.

Last updated 10/08

### **B645 Wills & Trusts (3) – Gjerdingen**

The first half of the course covers execution, revocation, and revival of wills, and will contests, as well as intestate succession and restrictions on testation, will construction and interpretation and will substitutes. The second half of the course covers public and private trusts. We start with the creation, modification, and termination of trusts and end with fiduciary administration and future interests. At least two weeks will be spent on The Rule Against Perpetuities --- a favorite rule of law students for centuries. Investing for individuals and fiduciaries, as well as the role of retirement accounts (such as IRAs and 401k) in estate planning also will be covered. This is an introductory, survey course. We will cover estate taxation of estates and estate planning briefly, but given our limited time, the fine points of estate planning will not be covered in depth.

Updated 10/09

### **B649 State and Local Taxation (2)– Paul**

The course in state and local taxation will cover the historical development of the state and local tax laws prevalent in the various states, as well as dealing with the theory for each tax, how each tax works and certain planning opportunities being utilized in business today to minimize each of the various taxes. Primary emphasis in the course will be on both real and personal property taxes, state income taxes, state sales and use taxes, and the statutory underpinnings and constitutional restrictions (both federal and state) which characterize each tax. During the course of the semester, leading state and local tax lawyers from around the United States will be invited to give guest lectures on certain of the topics and participate in discussions revolving around state and local tax issues which have become most relevant today. The basic income tax course is a pre-requisite for participation in the class.

Updated 10/09

### **B650 Introduction to Income Taxation (4) – Mehrotra**

Primary emphasis is placed on the underlying structural premises of the federal income tax as it affects individuals: What is income? Whose income is it? When is it income? What income is eligible for preferential rates? The different roles played by Congress, the Treasury, the Internal Revenue Service, and the courts in developing tax law are discussed. Primary focus is on the concepts, context, and policy aims that underpin the federal income tax system. Attention is also given to the policies which do and should play a part in framing the income tax law. Cases and problems form the background for discussion. There are no pre-requisites. The course is a prerequisite for most advanced tax courses. The course is aimed at the general legal practitioner as well as the future tax and business law specialist.

Updated 10/09

### **B652 Accounting for Lawyers (2) – Hilycord**

"Accounting for Lawyers" is designed to introduce basic accounting terminology and procedures. The course will step through the fundamental elements of financial statements and the standards within which the accounting profession operates. This knowledge obtained will be discussed in conjunction with current accounting issues in the media. Basic

accounting knowledge should be beneficial for people taking the following courses: Wills & Trusts, Corporations, Family Law, Bankruptcy, Tax Law, Antitrust, Securities Law, Employment and Labor Law, Law and Economics, Commercial Law, Estate Planning, and International Law.

People who have already taken any basic accounting course are not eligible to enroll in this course. This will be a two hour pass/fail course. There will be two exams - one mid-term (40%) and one final exam (60%). The exams will be multiple choice format. No textbook.

Updated 10/09

### **B653 Corporations (3) – Nagy**

This course examines the structure and characteristics of the modern business corporation, including both the large, publicly held corporation and the closely held corporation. Particular emphasis is placed on the distribution of powers among officers, directors, and shareholders; the fiduciary duties which limit these powers; and the enforcement of such duties by shareholder suits. Other topics include the regulation of proxy solicitation and insider trading under the federal securities laws.

Updated 10/09

### **B656 Corporate Finance (3) – Broughman**

This advanced business law course addresses financial decision making in the modern corporation. Topics may include the time value of money, valuation of bonds and stocks, market efficiency, option pricing, and theories of capital structure. Particular attention will be given to understanding a firm's choice of capital structure (i.e. the mix of common stock, preferred stock, debt, options, and other convertible instruments) and the legal rights these financial instruments create. Students will be required to work through some numerical problem sets.

Updated 10/09

### **B670 Sales (3) – Long**

This course will cover the primary statutory codes governing the sale and lease of goods including Article 2 (Sales) and Article 2A (Leases) of the Uniform Commercial Code, as well as (in less detail) the United Nations Convention on Contracts for the International Sale of Goods. The focus of the course will be on the solution of realistic problems requiring close reading of the statutes and appreciation of the interaction among statutes. The goals of the course include a substantial understanding of Articles 2 and 2A as well as a facility to interpret other complex interlocking legal codes. Familiarity with the law of sales and the UCC in general is useful on the bar exam and is expected of business law practitioners. (This course will not consider the 2003 revisions of Article 2 and Article 2A which have failed to become enacted by any state and are now considered to be "dead letters.") The course grade is based on a three hour essay-type examination.

Updated 10/09

### **B672 Secured Transactions (3) – Long**

This course examines Article 9 of the Uniform Commercial Code which governs the creation and enforcement of security interests in personal property. A security interest gives a lender

the right to seize and sell a borrower's property (without the need for bringing a lawsuit) if the borrower defaults in the repayment of a loan. A common example of a security interest is a bank's right to repossess a borrower's automobile if repayment of the purchase loan is in arrears. On a larger scale, security interests are a central feature of virtually every transaction in which business lawyers participate.

The course is taught primarily through the solution of problems requiring a close reading of Article 9 and other articles of the Code. Students taking the course will not only gain familiarity with the law of secured transactions but will improve their skills for dealing with any complex interlocking statutory code. The bar examinations of most states include questions in the area of secured transactions.

The course grade is based on a three hour essay-type examination. There are no prerequisites for this course.

Updated 10/09

### **B675 Public Natural Resources Law (3) – Fischman**

This course will examine the tension between public control of and private interests in natural resources. The course will begin with a historical overview of the development of the patterns of resource ownership, policies toward resource development, and relevant legal doctrines. Building on this historical foundation, we will discuss the following issues: federalism in resource regulation; proprietary management models; separation of powers; judicial review; and public participation. We will study these issues in the context of the laws and policies governing mineral, timber, range, recreation, wildlife, and preservation resources. Most of these issues involve the federal public lands in the American West and the policies that guide their management. We will address the fundamentals of this field as well as current controversies involving such concerns as logging in national forests, mining reform, access to resources, and privatization.

Most class sessions will be discussion-oriented. Professor Fischman welcomes graduate students representing a wide variety of fields to bring a multi-disciplinary perspective to public natural resource law and policy reform.

Most required reading will be from the case book *Federal Public Land and Resources Law*, by Coggins, Wilkinson, Leshy & Fischman (6th ed. 2007) (on reserve at the law library). The table of contents reflects the materials we will consider in this course.

There are no prerequisites required for this course.

Updated 10/09

### **B678 Amateur Sports, Law and Society (2) – Westerhaus**

This course will cover current legal issues and new developments that affect the regulation and governance of college sports. Topics may include constitutional law, tort law, antitrust law, the legal relationship between an institution of higher education and its student athletes, amateurism, National Collegiate Athletic Association and athletic conference regulations, and pertinent gender, race and disability laws. It will also examine the doctrine of "Intersectionality" and address how courts review the intersection of race and gender equity compliance within the context of Title VI and Title IX.

Updated 10/09

### **B688 Community Legal Clinic ^^ (3) – Singleton**

The Community Legal Clinic functions as a law firm comprised of second and third year law students who provide legal representation to clients while acting under the supervision of a licensed supervising attorney. The objective of the course is to allow students to gain practical experience while using the excellent intellectual and analytical skills gained elsewhere in the law school.

The course has two components: 1) a classroom seminar and 2) the actual representation of clients. Clinic clients are local residents with family law problems involving dissolutions of marriage, child custody, child support, parenting time, paternity, guardianship, adoption and abuse and neglect. Most, if not all, Clinic clients have limited incomes and may not be able to afford private counsel. Clinic students have primary responsibility for assigned cases and may be expected to perform some or all of the following tasks: client interviewing, drafting legal documents, engaging in discovery (including taking formal depositions), negotiating, motion practice and trials. Students have weekly office hours and supervision sessions with their supervising attorney to discuss progress in their cases.

The seminar component consists of a weekly class meeting during which the students are introduced to the relevant substantive and procedural areas of the law. To be eligible for the Clinic students must have completed one-half (½) of the hours required toward graduation and have completed or be taking the Legal Professions course. Enrollment is limited. Students may enroll for three (3) credit hours per semester, for a maximum of six(6) credit hours for this clinic.

Updated 10/08

### **B700 Corporate Taxation (3) – Lederman**

This course focuses on the federal income taxation of corporations and their shareholders. It covers both "C" corporations and "S" corporations (electing small business corporations), including many topics that apply to both types of corporations. Topics covered include choice of business entity, the tax consequences of contributions of property to a C or S corporation, distributions to shareholders, redemption of stock, liquidation of a corporation, and basic mergers and acquisitions (acquisitive reorganizations). Introduction to Income Tax or equivalent background (as determined by the instructor) is a prerequisite.

Updated 10/09

### **B713 Administrative Law (3) – Aman**

This course treats those aspects of the administrative process that are common to almost all administrative agencies. Primary consideration is given to the constitutional justification for the administrative agency and the agency's relationship to the legislature, the executive, and, in significant detail, the courts. Administrative discretion to formulate policy and the manner in which policies are made is stressed. Specific topics include the constitutional basis of administrative procedure, the scope of judicial review, the difference between rulemaking and adjudication, the limits of procedural due process, as well as the construction of the Administrative Procedure Act. It also examines what is emerging as a new source of administrative law, public /private partnerships, outsourcing and various approaches to privatization. The course emphasizes federal administrative law, but most of the concepts apply to state law as well. This is a second or third year course. There are no prerequisites other than completion of the required first year courses.

Updated 10/09

### **B719 Employment Law (3) – Dau-Schmidt**

This course provides an introduction to the growing body of law that governs the employment relationship and that is unrelated to either the law on employee organization or the law on employment discrimination. Topics to be covered include: the hiring and firing of employees; the erosion of the employment-at-will doctrine; covenants not to compete; the protection of trade secrets; the employee's duty of loyalty; the use of lie-detectors, drug testing, and HIV-testing in hiring and discharge decisions; and the Occupational Safety and Health Act. There are no prerequisites.

Updated 10/09

### **B722 Trial Advocacy ^^ (3) – Kellams, Vaidik, Diekhoff, and Cook**

Trial Advocacy is one of the core courses in the litigation curriculum. It covers the techniques, tactics and performance aspects of the trial, including opening statements, direct and cross-examination, exhibits, experts, and closing arguments. Students learn by doing, with every student performing every week. In lieu of a final exam, students conduct a full trial. Trial Advocacy is the second course in the trial practice sequence. Evidence is taken first, and is a prerequisite to Trial Advocacy. Trial Advocacy is taken second, and is a prerequisite to Advanced Trial Practice and Trial Competition. Trial Advocacy is also useful as preparation for clinical courses that involve litigation, such as Community Legal Clinic. Trial advocacy is taught by experienced trial lawyers and judges.

Please note that in addition to the sections managed by each of the respective instructors on Tuesday and Wednesday, the students from all sections will meet on Tuesdays at 7:35 for a one hour lecture, allowing all students to be exposed to the teaching style and experience of the other instructors as well as their own.

Updated 10/09

### **B723 Evidence (3) –Bethel**

Evidence law regulates the proof of facts at trial and reflects the construction of courtroom "truth". In this three-hour survey course we will examine the rules of evidence, and explore some aspects of their practical application. The course will cover relevancy, hearsay, confrontation, character, impeachment, authentication, and best evidence.

Updated 10/09

### **B723 Evidence (4) – Orenstein**

Evidence law regulates the proof of facts at trial and reflects the construction of courtroom "truth." In this course we will examine the rules of evidence and explore some aspects of their practical application. The course will cover: relevancy, hearsay, privileges, character, impeachment, experts, authentication, and best evidence. We will look at the rules and cases to analyze how evidence law may perpetuate and influence the cultural values, legal rules, and social norms that our society uses to assess credibility. The course is taught via problems and case law with an emphasis on close reading of the rules.

Updated 10/09

### **B727 Securities Regulation [formerly Securities Regulation I] (3) – Nagy**

This course provides an overview of the federal securities laws and focuses primarily on the Securities Act of 1933. Topics include the definition of a security; underwriting and the registration process; exempted securities and exempted transactions; secondary

distributions; and private rights of action for Securities Act violations. Prerequisite or Co-requisite: Corporations (B653). This course can be taken in the second or third year. Updated 10/09

### **B729 Antitrust (3) – Heidt**

Antitrust has been called the "constitutional law" of our competitive market economy. Its prohibitions and severe penalties are directed at business behavior deemed to deny the public the benefits from competition. Arising from a couple of short and enigmatic statutes, antitrust principles have evolved through judicial interpretation much as common law principles have evolved. This course emphasizes the principles applicable to horizontal restraints such as price fixing, bid rigging, the allocation of customers and territories, exchanges of information, mergers, and joint ventures. The application of the modern Rule of Reason to these restraints is also emphasized. Vertical restraints such as exclusive dealing arrangements, tying arrangements, resale price maintenance and vertical mergers receive little, if any, attention.

Any attorney involved in commercial practice or in representing consumer interests will benefit from a working knowledge of antitrust law. Business transactions often carry some competitive significance that could trigger antitrust exposure. The ability to identify and avoid (or exploit) antitrust problems can provide an important "edge" even to the practitioner who does not specialize in antitrust.

Updated 10/09

### **B733 Federal Jurisdiction (3) – Scott**

This course is about the power of federal courts. It examines how that power is shaped and limited by the Constitution, by Congress, and by the courts themselves. In a variety of settings, we will consider the manner in which these sources of law apportion authority between state and federal courts and among coordinate branches of the federal government. Among the topics to be considered are the "case" and "controversy" requirements of Article III, state immunity from federal suit under the Eleventh Amendment, the authority of Congress under Article III to regulate the original jurisdiction of lower federal courts and the appellate jurisdiction of the Supreme Court, the authority of federal courts to exercise either less or more subject matter jurisdiction than Congress has enacted, and the responsibility of federal courts to supervise state criminal judgments under habeas corpus.

Updated 10/09

### **B740 Estate Planning (2) – Retzner**

This course will explore the various estate planning options available to individuals to enable them to achieve their objectives with respect to taxation and the transition of wealth, including closely-held business holdings. The emphasis will be on practical, real-life situations and positive steps available to the lawyer to deal with them. Each student will be expected to have a working knowledge of Gift and Estate Tax as well as Wills and Trusts prior to taking the course but by no means any expertise. Suggested prerequisites or co-requisites for the course include Income Tax, Gift and Estate Tax, and Wills and Trusts; however, total familiarity with the estate and gift tax consequences of estate planning options will not be expected until the end of the semester.

Emphasis throughout the course will be placed on the practical consequences on the family of the various options available and practical ability to counsel clients on the same. This

course is intended to provide practical training for any law student who plans to do any estate planning for clients of any level of wealth.

This course has the expectation that completion of the course will allow a new attorney to practice law in the area of estate planning and business succession. Since the course meets only once per week, attendance, within certain parameters, is mandatory. The final grade is based on a combination of attendance, a practical including simulated client counseling and a final exam.

Updated 10/09

### **B745 Conflict of Laws (3) – G. Shreve**

Conflicts is a useful law school course in that conflicts problems often come up in practice and it is hard to learn the subject in bits and pieces after graduation. Because of the interstate character of travel, communication and commerce, conflicts issues arise quite often in litigation. Moreover, because of the growing practice of designating the law of a given place to govern in contracts, trusts and other legal instruments, an understanding of conflict of laws has become important even to practicing attorneys who do not litigate.

The course is open to both second and third year students. Enrollment in the past has usually been about evenly divided, and the course is appropriate for either year. The advantage in taking the course in the second year is that conflict of laws is largely a common-law course; therefore, the subject matter may balance to an extent the statutory emphasis of many other second-year courses. The advantage in taking the course in the third year is that conflicts can be a kind of capstone course, enabling students to synthesize basic principles from a number of subjects they studied in the first and second years.

The focus of the course will be on the choice-of-law process: approaches to the problem of which law to apply in civil actions when the laws of two states conflict and the controversy may touch upon the interests of both states. We also take up other topics (for example, special conflict-of-laws problems encountered by federal judges and selected problems in territorial jurisdiction and intersystem preclusion).

To get an idea what sort of issues arise in the choice-of-law process, consider the typical case. Plaintiff says the law of state X governs an issue in the lawsuit (on liability, damages, or whatever). Defendant says the same issue is instead governed by the law of state Y. Plaintiff has a vested interest in having the court apply the law of state X because, if the court does, it is likely that plaintiff will win the lawsuit. Defendant has a vested interest in having the court apply the law of state Y because, if the court does, plaintiff will lose the lawsuit. The facts of the case suggest a basis for applying the law of either X or Y. Since both cannot be applied, which should the court choose? Courts have always been reluctant to give the appearance that they are resolving conflicts issues on an ad hoc basis. Instead, they have resorted to general formulas to explain their choice-of-law solutions. We will examine the content of these various formulas and how they work in application. We will consider choice-of-law questions arising in areas including torts, contracts, and intestate succession. We will also consider the role of the United States Constitution in limiting choice-of-law abuses, particularly courts' unwarranted choice and application of their own law.

Updated 10/09

### **B748 Comparative Law - Comparative Legal Systems (2)– Krishnan**

Our goal for this course is to place United States' legal system in a comparative context. We shall approach this issue by focusing on the judicial processes and legal professions

of certain countries in Europe, Latin America, Africa, and Asia. We will also comparatively examine the intersection between legal institutions, legal actors, and notions of rights within the countries we study. We will then return to evaluate the overall merits of how the United States fits into this analysis.

There is No Formal Text; all readings will be on On Course or on reserve or sent to you by email.

Grading:

1/3 of your final grade will be participation in – and preparedness for – class

1/3 of the final grade will be a 2,000-3,000 thought-piece due the Friday before the exams period begins (The paper will be based on a review of a book, article, series of articles, or foreign case recently decided. Your selection must be cleared first by the instructor.)

1/3 of the final grade will be a two-hour essay exam during the regularly scheduled exam time

Updated 10/09

### **B749 Real Estate Finance (3)– Gellis**

This course introduces students to the substantial role that mortgage lending plays in real estate sales and purchases, including residential, commercial and investment transactions. Students learn the basic structure of secured real estate loans from the financial, economic and legal perspectives. The course will cover the crucial historical roots of modern mortgage law, the settled principles that govern the legal relationships among the parties to such transactions, the legal advantages and disadvantages and potential pitfalls and drawbacks of various financing devices and techniques, the significant contrasts from state to state as to rules governing the foreclosure process and rights to possession and rents after default and prior to foreclosure, and the issues of lien priority and other concerns that arise in the context of foreclosures. Real Estate Finance builds on basic concepts of property law, the rights of creditors and, to some extent, federal tax law. The course will be of particular assistance to those students interested in a real estate practice, whether in the area of single family residences or commercial development of, or investment in, rental apartment, office or retail properties.

Updated 10/09

### **B756 Race, American Society and the Law (3) – Brown**

Justice O'Connor's opinion for the Court in *Grutter* noted that the benefits of enrolling a critical mass of underrepresented minority students are substantial.

"The Law School's admission policy promotes 'cross-racial understanding,' helps to break down racial stereotypes, and 'enables [students] to better understand persons of different races.' These benefits are 'important and laudable,' because 'classroom discussion is livelier, more spirited and simply more enlightening and interesting' when the students have 'the greatest possible variety of backgrounds.'"

For the first time, a majority of the justices on the Supreme Court recognized the tremendous educational value obtained from exposing people to the different perspectives derived from the experience of minority groups with a history of discrimination. The benefit is substantial enough to constitute a compelling state interest. The recognition of this reality could not have come soon enough. American society is in the threshold of major changes in its racial and ethnic make-up. In fifteen years a majority of those under the age of 18 will be minorities.

This course shall further the educational benefit recognized by a majority of Supreme Court

in *Grutter*. It will probe the meaning of diversity by discussing racial issues involving African-Americans, through a Post Desegregation Awareness. The Post-Desegregation Awareness is the conscious awareness that important social phenomena-including racial phenomena-are more enlightening when they are comprehended from multiple perspectives or points of view. The Post-Desegregation Awareness is thus a conscious awareness that racial or ethnic phenomena are not understood as separate, isolated and unconnected incidents. In American society, the comprehension of any particular racial or ethnic phenomena is always done against a *sub silento* background of a much larger set of ideas about race and ethnicity that structures and limits the perception of such a phenomena and the types of arguments that are persuasive to resolve a given racial or ethnic dispute. This course will present and discuss not only the history of American society with regard to its treatment of blacks including slavery and segregation, but also current racial issues such as school resegregation, affirmative action, the intentional creation of majority-minority legislative districts, and achievement gaps on standardized tests such as the ACT, SAT and the LSAT from four different perspectives: Traditional Americanism, African-American Centralism, Colorblind Individualism and American Collectivism. In so doing this course will show how the same racial issues is comprehended and understood differently by people whose thinking about such matters is formed within the boundaries of different perspectives.

Updated 10/09

### **B758 Trademark and Unfair Competition Law (3) – Janis**

This course will introduce students to the federal Lanham Act and related common law doctrines that protect against consumer confusion and the appropriation of commercial goodwill. We will investigate the creation and maintenance of trademark rights, trademark registration and administrative proceedings, loss of trademark rights, infringement of trademark rights, proof of infringement, defenses and limitations, unfair competition law, and jurisdiction and remedies. In addition to these essentials of trademark eligibility, registration, and infringement, we will consider the constitutional and economic foundations of trademark protection and evaluate current trends of trademark law in a digital environment such as the protection of internet domain names.

Updated 10/09

### **B759 International Trade (3)– Lynch**

The importance of international trade has dramatically increased in the last decade, making it one of the most important topics in international relations and international law. This course's focus is the international legal framework for international trade provided by the World Trade Organization (WTO). The course covers the arguments for and against free trade, the history of the GATT system, the WTO's creation, and core international legal principles of the WTO system. The course also addresses some current WTO controversies, including international trade in services; TRIPS and access to essential medicines in developing countries; the trend toward regional and bilateral trade agreements; trade and environmental protection; trade, human rights, and labor standards; how the WTO deals with developing countries; and WTO dispute settlement issues.

Updated 10/09

### **B760 Constitutional History Colloquium: Our "Original" Culture Wars ## (3)– Conrad**

This course offers focused and sustained historical perspectives on some of the key themes in our current so-called "Culture Wars" - in particular, the contested meanings of eleven selected key words in our national public discourse that are variously taken to signify fundamental American public "values." Thus, the course is organized to address, in turn: republicanism, liberalism, democracy, liberty, equality, rights, private property, religion,

Christianity, family, and citizenship. And, while there will be discussion in class of how the meaning of each of these words is debated today - for example, in our daily newspapers and in recent judicial opinions - nevertheless, the emphasis of the course will be on the contested meanings of these words at the time of the late eighteenth-century American "Founding." The course satisfies the "Advanced Writing Requirement."  
Updated 10/09

### **B761 Law and Philanthropy (2) – Purcell**

Over one million tax-exempt organizations, supported by over \$300 billion in annual gifts, provide essential services ranging from urban hospitals, major universities, nationwide social service agencies and grant-making private foundations to "grassroots" homeless shelters, food pantries and health clinics. Attorneys fulfill an important role as counsel to or staff of tax exempt organizations and to the donors who support these charitable missions. Charitable giving tax laws will be examined in detail, illustrating the various ways in which a charitable gift may be made in the context of an estate plan. Special attention will be paid to the unique tax, financial and estate planning benefits of these charitable giving techniques. This course will explore issues related to the creation, operation and governance of tax-exempt organizations, especially as these issues concern philanthropy.

Updated 10/09

### **B763 The Regulation of Toxic Substances and Hazardous Wastes (2)– Simmons**

This course covers the environmental laws that regulate toxic substances, that is, chemicals and wastes, which have long-term deleterious health effects even at very low levels of exposure. Real life examples of current toxic regulatory issues will be addressed including the regulation of PCB's, PFOA's (contained in Teflon), diacetyl (a food ingredient) and others will be discussed. We begin with the basic science of toxic substances and their effects, and the fundamentals of risk-based regulation. We will discuss concepts of risk assessment, no adverse effect levels, toxicology, epidemiology, and how those scientific principles have been integrated into the regulatory process. We next examine the various approaches to toxics regulation that are found in statutes whose primary target is conventional pollutants. These form the background for the four principal statutes that govern the life cycle of toxic substances: TSCA (manufacture , import or use of industrial chemicals), FIFRA (sale and use of pesticides), RCRA (treatment ,storage and disposal of hazardous waste), and CERCLA (Superfund) (clean-up of abandoned waste sites). Finally, we will study emerging trends in toxics regulation, and how the EU and other countries have advanced to regulation of toxics in products and how these new product conformance laws and regulations are being adopted by some states in the US. Finally we will study the various ways that popular opinion about public health policy has shaped some environmental statutes such as right-to-know and environmental justice legislation. The primary text is Applegate, Laitos & Campbell-Mohn, The Regulation of Toxic Substances and Hazardous Wastes (2000).

Updated 10/08

### **B769 Banking Law/Regulated Industries (3) – Hughes**

Banking law – or how we were supposed to keep the financial crisis of 2007 to today from happening?

Banking is one of the fastest-changing fields internationally and domestically. Since late

2007, the banking industry has never failed to be a headline in many major newspapers and the threats to the domestic and global economies from excessive risk-taking in commercial and investment banking, as well as by hedge funds, are now beginning to be understood and addressed.

This course will explore a variety of issues that affect banks domestically and internationally. We will cover some of the basics of bank regulation in the United States, the regulation of "foreign" banks in the U.S., the types of activities and investments that banks themselves may engage in and separately what bank holding companies and bank subsidiaries may do, and the increasing overlap and competition with securities firms and insurance companies.

We will do this in a way that maximizes opportunities to follow issues of the moment -- how will we domestically and internationally re-regulate risk-taking in banks, what role does compensation have to do with risk-taking, what does it mean to be "too big to fail," and whatever additional hot topics may arise. We also will devote time to US laws that seek to deter money laundering and the movements of money in supporting of arms trafficking and terrorism. Finally, we will spend more time than I ordinarily do this year on the resolution of failed banks (bank bankruptcies essentially) and on actions against those third-party professionals who advised banks that ran into trouble. In fact, we might start there. We also will discuss the legislation creating the proposed Consumer Financial Protection Agency, now pending in Congress, and the pros and cons of certain regulatory approaches and solutions so that when your turn comes to advise a state banking regulator, a federal or international regulator, a legislature, or a client, you will have some background on which to draw.

This course covers some basics of federal administrative law and bank antitrust.

The examination will be a regular law school -in class examination for both JD students and graduate students. It will be open-book, open-statutes, and open-note. Graduate students will take a somewhat shorter examination and will have appropriate time to complete it. There are no prerequisites to enrollment. Graduate students wishing to take this course should see Professor Farnsworth about their plans before enrolling. Graduate students usually appreciate the more civil-law orientation of this course.

Because there are so many topics from which to choose, I ask students who decide to enroll to send me a brief e-mail or paper-based message describing what that individual's greatest interest is. I will use these messages to fine-tune the syllabus in December and as developments occur next semester.

I have several good textbooks from which to choose. I normally choose them as I see the size and make-up of the class.

Updated 10/09

### **B771 Mediation ^^ (2)– O'Connor**

This course explores mediation as a method of dispute resolution and lays a foundation for the development of advocacy skills in a mediation environment. Class sessions will explore the text materials and the theories discussed therein about mediation and negotiation strategies in the mediation context. In addition the class will participate in role playing exercises. This course will cover relevant authority and rules governing mediation, and will include a discussion on legal ethics in mediation.

As stated, role playing in various areas of practice (i.e. divorce, personal injury, business dispute) will be used to reinforce mediation skills that have been discussed in class. These role playing sessions will be assigned to groups, may be enacted on videotape, and conducted on days that the class would otherwise meet for a general class session, and may be conducted off site in a law office setting.

Written work will consist of three assignments: a Confidential Mediation Statement; a research paper about mediation, confidentiality and enforcement of agreements; and preparation of a detailed mediation agreement. These written assignments will count for 50% of the course grade, with the remaining 50% of the course grade based on participation in class discussions and role playing exercises. There will be no end of the semester course examination.

This course will be limited to 20 participants. Satisfactory completion of this course will enable the new lawyer to understand the role of mediation in the justice system and prepare the lawyer to represent a client in a mediation session.

Updated 03/09

### **B783 International Environmental Law (2) – J. Applegate**

International environmental law examines the legal standards that apply to environmental effects arising in one nation and causing harm in one or more other nations. These range from relatively simple transboundary effects to environmental concerns of a regional or global character. The course begins with an introduction to international law and organization. We then examine a variety of environmental harms, including air and water pollution, hazardous waste disposal, and protection of endangered species. We will also consider the relationship between environmental protection and international trade. This course will satisfy the advanced writing requirement; there will be no final examination.

Last updated 03/08

### **B788 Labor Arbitration ^^ (3) – Bethel**

The course will focus on labor arbitration as a method of settling disputes that arise under a collective bargaining agreement. The first few weeks will cover the law that created and governs labor arbitration in the private sector. We will also discuss public sector arbitration and employment arbitration. The latter is arbitration of contractual and statutory claims brought by individual employees. The rest of the course is advocacy training for arbitration. Each student will participate in arbitration advocacy exercises, including the trial of an arbitration case. The grade is based principally on performance in the skills component. There are no prerequisites. Enrollment is limited.

Updated 10/09

### **L634 Seminar in Regulatory Reform: Current Issues \*(2)– Aman**

This seminar will examine some of the new regulatory approaches—substantive and procedural—emerging in federal administrative agencies over the last few years. It will especially examine some of the new initiatives of the current administration. We will focus on subject matters as diverse as health care, communications, welfare, prisons, bankruptcy and cost benefit analysis and regulatory techniques such as privatization, outsourcing and direct government involvement in the automobile and insurance industries.

To set the stage for our analysis of current regulatory reforms, the readings in this seminar will focus first on the regulatory characteristics of three previous eras: the New Deal Era, the Environmental Era and the Global Era. Specifically, what was the nature of the

problems, the policy responses crafted to deal with those problems and the salient legal issues that arose in each of these eras? How did these factors differ from era to era and what has been the overall role of state and especially the federal government in attempting to solve these issues? What role should government play today when it comes to issues such as health, communications, welfare, and a host of other societal issues? Is there a new regulatory era now in the making? What makes it different?

Student grades will be determined by the quality of their class participation and especially by a research paper dealing with some aspect of current regulatory reforms. There are no restrictions when it comes to the regulatory reform subject matter addressed by the papers. The papers are due at the end of the semester on the Friday before the exam period begins.

Updated 10/09

### **L637 Seminar: Introduction to Biotechnological Innovation \*\* (2) – Cripps**

This seminar will focus on the ways in which biotechnological developments are affecting traditional notions of property, intellectual property and information. In addition to patent law, other forms of protection, such as copyright, will be examined in relation to biotechnology and compared with the way in which they operate, for example, with regard to the internet and digital technology. There will also be an examination of whether genetically engineered organisms, clones and other biotechnological products should, if at all, be granted intellectual property protection either within the existing frameworks of intellectual property law or under some new regime designed specifically for that purpose. As is inevitable in any discussion of intellectual property law, international perspectives will be included.

No prior knowledge of either biotechnology or intellectual property law is necessary for this class which will be conducted in an open discussion format.

Updated 10/09

### **L650 Seminar on Tort Reform \*\* (3)– Heidt**

This new seminar examines the rival philosophies and goals informing modern tort law, from deterrence to corrective justice to compensation. Recent tort reform efforts focus and ground our examination. These include efforts to reform the current procedural and substantive law governing medical liability, contingency fees, class actions, joint and several liability, non-economic and punitive damages, and product liability. They also include efforts to immunize from liability discrete groups, e.g., volunteers and vaccine producers.

Students are expected to complete a research paper and to make an oral presentation concerning the topic they have researched. Grades are based on the paper, the oral presentation and class participation generally. No exam.

Updated 10/09

### **L670 HEALTH LAW AND BIOTECHNOLOGY \*\* (2)– Cripps**

This seminar examines legal principles and practice in the fields of biotechnology and health law, including the economic impacts of relevant laws and methods of regulation. We shall discuss the role of the law in regulating and protecting stem cell research, cloning, recombinant DNA research, surrogacy and in vitro fertilization. Other topics include definitions of life and death; experiments on human subjects; medical error and liability;

health insurance and public health care; and organ transplantation.

Updated 10/09

### **L684 Seminar in Constitutional Design in Multiethnic Countries \*\* (2)– Istrabadi**

Over the past twenty years or so, a corpus of scholarly writings has arisen relating to constitutional issues common to emerging democracies. Issues such as the constitutional design of the executive and legislative branches of the State (e.g., whether presidential v. parliamentary systems better promote constitutional democracy) and the efficacy and need for constitutional courts have been widely debated. Other issues raised in the scholarly literature deal with involve safeguarding representation of women and minorities in such governmental institutions. Readings in this course will examine these writings, with the intention of introducing some of the relevant literature regarded as canonical in the field of democratization studies. Law students (J.D. and LL.M.) will have an option either to write a research paper that would satisfy the advanced research/writing, graduation requirement or to take a 24-hour take home examination, as scheduled. This seminar would be particularly good for 3Ls and LLM students, but would also work well for second year students who are on a journal or who have interest in this topic. For second year students, it is unlikely that this seminar will be offered in the following year of 2010-11. Please contact me at [fistraba@indiana.edu](mailto:fistraba@indiana.edu) if you have any questions.

Updated 10/09

### **L704 Seminar in Discrimination in Education \*\* (2)– Brown**

Conditions in American society regarding the education of racial and ethnic minorities are undergoing rapid changes. In K-12 education, for example, the percentage of black students attending predominantly minority schools is up to 73% and the percentage attending schools where minorities constitute at least 90% of the student body is up to 38%. For Latinos, the corresponding figures are 78% and 39%, respectively. In the summer of 2007, the Supreme Court in *Parents Involved in Community Schools v Seattle School District No. 1* actually struck down the use of racial classifications to foster racial and ethnic integration. Thus, despite the acceptance of the educational benefits of diversity, blacks and Latinos are more segregated in public schools now than they were in the early 1970s.

In almost all important indicia of academic success, black and Latino school children continue to lag far behind their non-Hispanic white and Asian counterparts. Responding to this situation, Congress enacted into law in January, 2002 the centerpiece of President Bush's educational reform, No Child Left Behind Act (NCLB). NCLB requires that states, school districts, and individual schools demonstrate adequate yearly progress toward enabling all public school students to meet the state's academic achievement standards, while narrowing the racial and ethnic achievement gaps. The failure of schools to make adequate yearly progress in both measures triggers harsh sanctions. These sanctions can include the termination of teachers, department heads, principals and school superintendents. However, studies suggest that this "go for broke" effort has only marginally improved academic performance of blacks and Latinos.

The stage is set in American society for fundamental rethinking of public education, particularly in urban areas. Minnesota established the first charter schools in 1991. They are public schools; however, they often operate somewhat independently of public school authorities. Over one million public schoolchildren currently attend charter schools. Some states including Florida, Ohio and Wisconsin have used public funds to pay for private education for K-12 students. Washington D.C. and Baltimore, Maryland have established public boarding schools

for urban schoolchildren. Chicago, Milwaukee, San Francisco and Miami are considering similar proposals. Baltimore actually created a boarding school for black males in Eastern Kenya.

At the college level, American society is continuing to witness the disappearance of black males. There is also growing evidence pointing to a historic change in the racial and ethnic make-up of blacks admitted to selective higher education programs. The percentages of blacks attending selective colleges, universities and graduate programs who are foreign-born or sons and/or daughters of black immigrants or biracial students have increased sharply over the past 15 years. At 42.5%, Africans over the age of 25 actually have the highest college graduation rate of any racial or ethnic group in the United States.

This seminar will examine the fundamental changes that are shaping American education for underrepresented racial and ethnic minorities. Students must write and present a research paper of 25 to 35 pages on a topic approved by the Professor. The topics include, but are not limited to the following:

1. Effects of No Child Left Behind on educational achievement of racial and ethnic minorities;
2. Current research data on the educational benefits of charter schools and boarding schools;
3. Current status of publicly funded private education i.e. Tuition Vouchers;
4. Domestic and international boarding schools as a charter school options for urban school children;
5. Performance of Black and Latino immigrants in K-12 public school in comparison to native black and immigrants; and
6. Changing racial and ethnic ancestries of blacks on affirmative action.

Updated 10/09

### **L712 Seminar in International Law: The Role of Law in Complex Operations \*\* (3)– Fidler**

The policy and practical challenges posed by “complex operations” have become one of the most important political topics governments face. The term “complex operations” is used to describe military and civilian operations in contexts of counterinsurgency, post-conflict stabilization and reconstruction efforts, peacebuilding operations, and humanitarian disaster relief and response. Complex operations require governments to draw upon and coordinate all elements of their national power to address effectively. A critical component of undertaking complex operations is the role domestic and international law plays in such operations. This seminar explores the legal issues, questions, and problems that arise in the conduct of complex operations. Legal challenges include undertaking “rule of law operations” in the context of counterinsurgency campaigns (e.g., in Iraq and Afghanistan), rebuilding legal systems in post-conflict stabilization operations, problems peacebuilding operations pose for domestic and international law, and the perceived inadequacy of international law on humanitarian disaster relief. Students will be required to complete a research paper, the grade on which will compromise the majority of the student’s grade. Thus, this seminar will satisfy the research requirement for graduation. Enrollment will be limited to 15 students. If permissions can be obtained, seminar participants may also visit training currently taking place in Indiana for civilian personnel from the Department of State, U.S. Agency for International Development, and the U.S. Department of Agriculture who are being deployed to Afghanistan to conduct various aspects stability, reconstruction, and development operations.

Updated 10/09

**L713 Seminar in Law and Economics \*\*(3) – Dau-Schmidt**

This seminar explores recent and classic articles on the economic analysis of law. The seminar begins with a thorough discussion of the Coase Theorem, its assumptions and implications, and then continues with a survey of the law and economics literature on property, torts, contract and criminal law. The seminar concludes by examining the question of whether the law does or should promote efficiency.

This seminar can satisfy either the second year writing requirement or the third year research paper requirement for graduation. Second year students who take the seminar to meet their second year writing requirement will be expected to write a series of research papers based on the readings for the seminar. This series will consist of five short papers (3-4 pages in length) and 2 long papers (10-15 pages in length). Third year students will be expected to write a longer research paper on a subject of the student's choice. Original research is expected.

The seminar is designed so that even those with no previous background in economics can fully participate. There are no prerequisites.

Updated 10/09

**L736 Constitutional Law Seminar: Congress, the President and the Courts \*\*(2) – Johnsen**

This seminar will examine issues arising out of the constitutional allocation and separation of powers among the three branches of the national government. Please note the unusual meeting schedule: We will meet weekly for the first five weeks of scheduled classes for discussion of assigned readings, and we will meet for three hours each class (that is, we will meet from 4:30 to 7:30, from 1/19 to 2/16). We will then break for the remainder of the semester for work on individual research papers, with one final meeting later in the semester for a research paper workshop. The required research paper satisfies the advanced research paper requirement; a draft as well as a final paper will be required. There is no exam.

Among the possible areas for exploration, both for class discussion and for individual research papers (this is just a partial list): What are the relative powers of the President and Congress in the areas of national security, military action, and foreign affairs? When is judicial oversight of such matters appropriate, particularly in times of conventional war and the "war on terror"? When, if ever, may the President refuse to enforce laws he believes are unconstitutional? Are presidential signing statements an appropriate vehicle for the President to express constitutional concerns with legislation? What are permissible forms of congressional oversight of the Executive Branch, including limitations on the appointment and removal of executive branch officers, the Independent Counsel Act, the legislative veto, and presidential impeachment and removal? When may the President assert executive privilege and refuse to comply with requests for information from Congress or the courts?

Updated 10/09

**L736 Constitutional Law Seminar: The Freedom of Speech \*\*(2) – Johnsen**

This seminar will examine "hot" and enduring issues of First Amendment law, and in particular the freedom of speech. As a prerequisite, students must have taken either Constitutional Law II or Communications Law (or have completed other comparable study of First Amendment law).

Please note the unusual meeting schedule: We will meet weekly for the first five weeks of scheduled classes for discussion of assigned readings, and we will meet for three hours each class (that is, we will meet from 4:30 to 7:30, from 1/20 to 2/17). We will then break for the remainder of the semester for work on individual research papers, with one final meeting later in the semester for a research paper workshop. The required research paper satisfies the advanced research paper requirement; a draft as well as a final paper will be required. There is no exam.

Possible areas for exploration (just a partial list), both for class discussion and for individual research papers, include the constitutionality of government restrictions on the following: hate speech, sexually explicit speech, depictions of animal cruelty, campaign finance, government-subsidized speech, freedom of expressive association, commercial speech, "dangerous" speech that may incite or aid and abet violence.

Updated 10/09

### **L738 Seminar in Employment Discrimination: Disparate Impact Theory \*\* (3) – Lamber**

This seminar examines employment discrimination issues by focusing on the disparate impact theory, which prohibits facially neutral practices with discriminatory effects. The disparate impact theory is one of the most important and controversial developments in anti-discrimination law. We will read and discuss selected materials as a class but the main work of the seminar will be individual students' research papers. In addition, each student will be expected to make an oral presentation concerning the topic that he or she has researched. Grades will be based on the paper, the oral presentation, and class participation (including written critiques of other students' papers). Successful completion of this seminar satisfies the law school's "advanced research writing" requirement. There are no prerequisites.

Updated 10/09

### **L784 Seminar in Tax Procedure \*\*(2) – Lederman**

This seminar will cover a variety of issues that arise in civil tax controversies and litigation between taxpayers and the Internal Revenue Service, which may take place in any of three federal courts, including the United States Tax Court. Topics that will be covered include an overview of the tax controversy process; a variety of procedural issues that arise in Tax Court litigation, include the controversy over confidential factfinding; and aspects of the strategic choice between the Tax Court and the "refund" fora. The course will also cover certain aspects of tax administration, such as issues that arise in tax compliance and enforcement of the tax laws. A general familiarity with the Internal Revenue Code is helpful for this course. Therefore, prior or concurrent enrollment in Introduction to Income Taxation (or equivalent tax background, as determined by the instructor) is required.

Updated 10/09

### **L793 Seminar in Human Rights \*\*(3) – Ochoa**

This seminar explores the law of international human rights. Seminar topics will include the historical and philosophical origins of human rights as well as the modern sources of human rights law. The course will also investigate the roles individuals play in the formation of the human rights norms and the interaction between individuals, the state and the international system in the formation of human rights norms and law. Seminar discussions will arise from

the written work of prominent academics and activists. A substantial paper will be required in connection with this course and participation will be highly valued. While neither a basic international law course nor a previous human rights course are required, students will find such preparation helpful.

Last updated 10/08

### **L797 Seminar in American Jurisprudence \*\*(2) – Shreve**

This seminar should be suited either for students with no prior exposure to philosophy or jurisprudence, or for students who wish to carry on interests already developed in these areas.

The required texts will be Patterns of American Jurisprudence by Neil Duxbury (Oxford Univ. Press 1995) (paperback) and Ages of American Law by Grant Gilmore (Yale University Press 1977) (paperback). Copies of these books for people to look over are on reserve. Duxbury's book provides a valuable description and bibliography for a number of movements: formalism and the Supreme court's social Darwinism; legal realism; policy science (Lasswell & McDougal); process jurisprudence; law and economics; critical legal studies. Gilmore's book treats some of the same topics but offers a competing, evolutionary concept of American jurisprudence. Class meetings will utilize Duxbury and Gilmore. Students will meet with the instructor during this time to plan their topics.

Students may develop their topics with the aid of the Duxbury or Gilmore formats or from other approaches, e.g., Harold Berman's tripartite division of positivism, natural law and historical jurisprudence. Students may also address current cultural and political influences on American jurisprudence, including law critical race theory, feminism, gay rights, and religious studies. Topics may also address interdisciplinary intersections of jurisprudence with literature, cultural anthropology, discourse or communication theory, rhetoric, pragmatism and postmodernism, among others.

Grades will be based primarily on the student's final paper, although a part of the grade will be based on student participation at the seminar meetings. Students should be well along in the completion of their final papers by the end of the seminar, but need not submit them by that time.

Updated 10/09