

A M E R I C A N L E G A L T H O U G H T

UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW

SYLLABUS – CLASS # 20091

SPRING 2023– LAW 6225 – 3 Credits

Professor Charles W. Collier

Holland Hall Office 373

Office Hours: Mondays and Wednesdays, right after class or by appointment (right before class is not a good time). You may contact me via *Canvas* / Inbox.

MEETING TIME AND LOCATION

Mondays & Wednesdays, 5:15 pm – 6:40 pm; Room HH 285B

COURSE DESCRIPTION

An introduction to the fundamental issues and ideas that have shaped the law. Theorists of American law include legislators, governmental administrators, judges, lawyers, legal scholars, and commentators from other disciplines.

STUDENT LEARNING OUTCOMES

Understanding of key concepts and cases in American legal thought and ability to apply them in novel situations.

REQUIRED READING MATERIALS:

Casebook: Charles W. Collier, *Basic Themes in Law and Jurisprudence*.
LexisNexis or Anderson Publishing Co., 2000. Pp. xviii + 486.

Additional materials will be posted to the “Files” section of the course’s *Canvas* page.

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

DISCOURSE, INCLUSION, AND THE CLASSROOM

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions. As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines.

EVALUATION

The exam will be a take-home final examination (with a length limitation of approximately 10 double-spaced pages). A practice exam will be handed out toward the end of the semester and discussed at a special review session. More detailed information concerning the exam will be given out later.

CLASS ATTENDANCE POLICY:

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed 6 unexcused absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course. The law school’s policy on attendance can be found [here](#).

COMPLIANCE WITH UF HONOR CODE:

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments.

INFORMATION ON UF LAW GRADING POLICIES:

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

| Letter Grade | Point Equivalent | Letter Grade | Point Equivalent |
|--------------|------------------|--------------|------------------|
| | | | |

| | | | |
|------------------|------|---------------------|------|
| A (Excellent) | 4.0 | C (Satisfactory) | 2.0 |
| A- | 3.67 | C- | 1.67 |
| B+ | 3.33 | D+ | 1.33 |
| B | 3.0 | D (Poor) | 1.0 |
| B- | 2.67 | D- | 0.67 |
| C+ | 2.33 | E (Failure) | 0.0 |

The law school grading policy is available [here](#).

OBSERVANCE OF RELIGIOUS HOLIDAYS:

UF Law respects students’ [observance of religious holidays](#).

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

EXAM DELAYS AND ACCOMMODATIONS:

The law school policy on exam delays and accommodations can be found [here](#).

STATEMENT RELATED TO ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page, available at <https://ufl.instructure.com/courses/427635>.

STUDENT COURSE EVALUATIONS

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

RECORDINGS OF CLASS

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

ABA OUT-OF-CLASS HOURS REQUIREMENTS: ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Each weekly class is 3 hours in length, requiring at least **6 hours of preparation** outside of class including reading the assigned materials, writing critical analyses, and a take home final examination. Please budget accordingly.

COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS (TENTATIVE)

The sections below generally represent what I will attempt to cover during a class period, but they are only estimates. We may move faster or slower depending on how the classes progress. You can anticipate what the next class period's reading assignment will be from the material given if you wish to start early or read ahead.

Course Description

1. Casebook: Charles W. Collier, *Basic Themes in Law and Jurisprudence*. LexisNexis or Anderson Publishing Co., 2000. Pp. xviii + 486.

Additional materials will be posted to the "Files" section of the course's

Canvas page.

2. Preparation. Advance preparation for class is essential. I will usually attempt to give a rough estimate of the next week's reading on Wednesdays. *But in any event you are always responsible for preparing at least 10 pages beyond the point where the previous class ended.*

We'll generally follow the order of the readings in the materials, but some selections may be skipped, and other assignments may be added from other sources from time to time. Parts IV and V will not be read in their entirety; a modified list of selections from those parts will be handed out later. (Any other modifications will be announced in class.) Selections in [brackets] are optional.

3. Office hours: Mondays and Wednesdays, right after class. (Right *before* class is not a good time.) You may contact me via *Canvas / Inbox*.

Short questions may be raised right after class in the classroom. As a general matter, substantive legal questions that arise after class are best reserved for the beginning of the following class, where everyone can participate in their resolution (potentially resulting in a better answer).

Course Requirements

There are three main graded components of the course.

I. Four Memos

Four one-page (double-spaced) memorandum assignments will be handed out on *Canvas*, to be returned a few days later. These will cover most if not all of the substantive and procedural aspects of American Legal Thought dealt with in this course. The memos are designed to simulate the types of assignments you might actually receive as a junior associate in a law firm, a beginning legal aid attorney, an assistant state attorney, or a law clerk to a judge.

The memos will be graded on the following Pass / Fail scale:

Pass+

Pass

Pass-
Fail

The memos will count for 20% of the course grade. Receiving a “Pass” on each memo will fully satisfy the 20% allocation; it is perfectly fine to aim for a “Pass” on each memo. *Interpretation:* “Pass” means that everything important has been adequately covered; “Pass+” means that something extra or out of the ordinary has also been contributed; “Pass-” means that not everything important has been adequately covered; “Fail” means that most of the important things have not been adequately covered. (I will be happy to go over your memo with you if it received a Pass- or Fail.).

Memo 1 (graded assignment)

Memo 2 (graded assignment)

Memo 3 (graded assignment)

Memo 4 (graded assignment)

[Four Memos = 20% of grade / graded Pass+, Pass, Pass-, Fail]

II. Final Exam

Seventy-five percent of your course grade will be allocated to a take-home, open book final exam covering approximately 10 double-spaced pages. You will have the entire examination period to work on your exam.

About 50% of the exam (about 5 double-spaced pages) will be devoted to issue-spotting and analysis of issues in fact patterns.

About 50% of the exam (about 5 double-spaced pages) will be devoted to an essay-style analysis of a theory, doctrine, or case(s)

The exam will be discussed more in class; and a special “Practice Exam” will be handed out toward the end of the semester.

[Final Exam = 75% of grade]

III. Class Participation and Presentation

One class presentation will be expected of each student; the presentation is on a class subject of your choice, to be approved in advance; and it may be a group presentation with up to three students.

Class participation reflects your preparedness when called on as well as volunteered contributions, which are always welcome.

This relatively small allocation to your grade may serve as a tie-breaker or borderline factor in grading.

[5% of grade]

Catalogue Description / Summary

Credits: 3. An introduction to the fundamental issues and ideas that have shaped the law. Theorists of American law include legislators, governmental administrators, judges, lawyers, legal scholars, and commentators from other disciplines. This course examines basic concepts in legal thought, primarily of the American twentieth century. Topics include: law as literature and as portrayed in literature; law and society; freedom and necessity; the reach of the law; the legal and the non-legal; law and morality; justice; and critical perspectives on law (Critical Legal Studies). This course is especially recommended for students who are interested in the development of legal theory or are considering a career in law teaching.

Part I
Law and Society

Introduction

Chapter 1: Communities in Crisis

Shirley Jackson, “The Lottery” (1948)

The Lottery (film)

A Trial of Witches (1682)

Thomas J. Dimsdale, *The Vigilantes of Montana* (1866)

Panic in Year Zero! (1962) (film excerpt)

Kai T. Erikson, “On the Sociology of Deviance,” in *Wayward Puritans* (1966)

Notes and Questions

Chapter 2: From Community to Society

Garrett Hardin, “The Tragedy of the Commons” (1968)

The Federalist No. 10 (James Madison) (1787)

Papachristou v. City of Jacksonville (1972)

City of Chicago v. Wilson (1978)

Walker v. Superior Court (1988)

Paris Adult Theatre I v. Slaton (1973)

Notes and Questions

Part II
Freedom and Necessity

Introduction

Chapter 3: Life or Death

Regina v. Dudley and Stephens (1884)

United States v. Holmes (1842)

Lifeboat (by John Steinbeck, film excerpt)

Lon L. Fuller, “The Case of the Speluncean Explorers” (1949)

Notes and Questions

Chapter 4: Self-Defense and Its Limits

Bill Bell v. State (1885)

People v. Goetz (1986)

Notes and Questions

Chapter 5: Other Forms of Necessity

Bird v. Jones (1845)

United States v. Moore (1973)

[Bailey v. Alabama (1911)]

[Robert L. Hale, “Coercion and Distribution in a Supposedly Non-Coercive State” (1923)]

Notes and Questions

Part III *The Reach of the Law*

Introduction

Chapter 6: Some Findings of Social Science

Solomon E. Asch, “Opinions and Social Pressure” (1955)

Obedience (documentary film by Stanley Milgram)

Stanley Milgram, “Behavioral Study of Obedience” (1963)

Craig Haney, Curtis Banks & Philip Zimbardo, “A Study of Prisoners and Guards in a Simulated Prison” (1973)

Katz v. Superior Court (1977)

Notes and Questions

Chapter 7: Warfare and the Reach of the Law

The Nuremberg Trials: Justice Jackson's Report to the President (1945)

Nuremberg: Reflection and Resonance (documentary film)

The Nuremberg Trials: Proceedings (1946)

The Nuremberg Trials: Judgment (1946)

United States v. Calley (1973)

Notes and Questions

Chapter 8: The Abuse Excuse

United States v. Alexander and Murdock (1972)

Jahnke v. State (1984)

State v. Norman (1989)

Notes and Questions

Part IV

The Legal and the Non-Legal

Introduction

Chapter 9: Rule-Governed Institutions

Ferdinand de Saussure, “Invariability and Variability of the Sign,” in *Course in General Linguistics* (1916)

Law No. 94-665 of 4 August 1994 Relative to the Use of the French Language (1994)

Emily Post, *Etiquette* (1922)

Emily Post, “The True Meaning of Etiquette,” in *Etiquette* (10th ed. 1960)

New York Rules of Court: Standards of Civility (1998)

Gretchen Craft Rubin & Jamie G. Heller, “Restatement of Love” (1994)

Cornell University Sexual Harassment Procedures (1991)

Willey v. Springs (1995)

Notes and Questions

Chapter 10: Smaller Groups and Associations

“The Scout Law,” *Boy Scout Handbook* (7th ed. 1965)

Randall v. Orange County Council, Boy Scouts of America (1998)

Boy Scouts of America v. Dale (2000)

Walter O. Weyrauch, “Unwritten Constitutions, Unwritten Law” (1999)

Dawkins v. Antrobus (1879)

United States v. Ballard (1944)

Stambovsky v. Ackley (1991)

Notes and Questions

Chapter 11: Quasi-Legal Governance

Mercury Bay Boating Club v. San Diego Yacht Club (1989)

Robert's Rules of Order Revised (1915)

Department of the Army Field Manual, *The Law of Land Warfare* (1956)

Notes and Questions

Part V

Law and Morality

Introduction

Chapter 12: The Realms of Law and Morality Distinguished

Oliver Wendell Holmes, “The Path of the Law” (1897)

H.L.A. Hart, “Moral and Legal Obligation,” in *The Concept of Law* (1961)

Riggs v. Palmer (1889)

Notes and Questions

Chapter 13: Legal Implications of Personal Morality

Henry M. Hart, Jr. & Albert M. Sacks, “The Invitation to Dinner Case,” in *The Legal Process* (1958)

Hamer v. Sidway (1891)

People v. Lafka (1959)

Bowers v. Hardwick (1986) (selection)

Lawrence v. Texas (2003) (selection)

Notes and Questions

Chapter 14: Are There Affirmative Legal Duties?

Union Pacific Railway Co. v. Cappier (1903)

People v. Beardsley (1907)

Pope v. State (1979)

Theodore Dreiser, *An American Tragedy* (1925)

Notes and Questions