

Syllabus

**Legal Studies 101-301: Introduction to Law and Legal Process**

Honors Program

Prof. Eric Orts

office: Legal Studies and Business Ethics Department, 648 Huntsman Hall  
telephone: 898-3018; e-mail: [ortse@wharton.upenn.edu](mailto:ortse@wharton.upenn.edu)

Texts: The following materials are required reading.

- Marvin A. Chirelstein, *Concepts and Case Analysis in the Law of Contracts* (Foundation Press, 5<sup>th</sup> ed. 2006) [paperback].
- Geoffrey C. Hazard, Jr. & Michele Taruffo, *American Civil Procedure: An Introduction* (Yale University Press 1993) [paperback].
- Richard A. Posner, *Frontiers of Legal Theory* (Harvard University Press 2004) [paperback ed.].
- Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* (Princeton University Press 1997).
- Lawrence Tribe, *The Invisible Constitution* (Oxford University Press 2008).

Coursepack: A coursepack of readings is also required and available for purchase at Wharton Reprographics in the basement floor of Steinberg Hall-Dietrich Hall.

Handouts: Supplementary handouts provided in class are also considered part of required course materials.

Course description: Legal Studies 101-301 provides an introduction to the study of law and legal process. As an honors course, it provides a more conceptual, broad-ranging, and experimental approach than the ordinary Legal Studies 101 course. The course critically explores the role of law in modern society, providing an overview of basic functional areas, including the nature of law and competing values that inform legal decision-making, an overview of the American system of legal process, a brief “mini-course” in the substantive law of contracts, and coverage of other selected topics of current legal interest. This semester’s course will focus particularly on the nature of U.S. constitutional law and legal interpretation.

Papers and Grading: There will be two short required papers and one final presentation/argument of a constitutional issue in class. Each paper and the final presentation will count for approximately one-third of the final grade for the course. Students are required to discuss paper topics with the professor in advance during office hours, by appointment, by e-mail or phone, or before/after class sessions.

Citations and Plagiarism: Students must give adequate citations for all sources quoted or used in writing papers. No specific form of citations in footnotes is required, as long as the source is identified sufficiently for it to be found and checked. Every paper must be the student's own work. *Any incident of plagiarism will be fully prosecuted through the usual channels.*

Class Participation: In addition to formal requirements, students are expected to have read and be prepared to discuss the material assigned for each class. Consistently excellent participation in class may be taken into account to increase a student's grade by one step (e.g., B+ to A-). Poor attendance or failure to participate regularly and knowledgeably in class discussion may be taken into account to reduce a student's final grade by one step.

Office hours: to be announced and by appointment.

### Course Outline

#### Part One: Introduction

##### 1. Introduction to the course [Jan. 14]

review of syllabus and class expectations; discussion of approach of the course  
introductory discussion questions: "What is law?" "What is 'the rule of law'?"

##### 2. Introduction to legal sources and terminology [Jan. 21]

Law and Language: A Preliminary Note [coursepack 1]

Introduction to Law [coursepack 2]

##### 3. Introduction to jurisprudence and legal reasoning [Jan. 26]

Jurisprudence and Legal Reasoning [coursepack 3]

Feinman, There Are No Secret Law Books [coursepack 4]

Fuller, The Case of the Spelunchean Explorers [coursepack 5]

Aside, The Common Law Origins of the Infield Fly Rule [coursepack 6]

##### 4. Introduction to jurisprudence and legal reasoning (cont'd) [Jan. 28].

An Introductory Note on Jurisprudence [coursepack 7]

Posner, pp.1-27.

5. Legal theories: law and economics [Feb. 2]

Posner, chs. 1 and 3, pp. 31-61, 95-141.

6. Legal theories: law and history [Feb. 4]

Posner, chs. 4 and 6, pp. 145-69, 193-221.

7. Legal theories: law and psychology [Feb. 9]

Posner, chs. 8 and 9, pp. 225-87.

8. Legal theories: epistemology, testimony, and evidence [Feb. 11]

Posner, chs. 10, 11, and 12, pp. 319-408.

**First paper due in hard copy at beginning of class (with electronic copy sent to professor at e-mail address above) on MONDAY, FEBRUARY 16 – 5 to 7 pages, double-spaced (page limit inclusive of single-spaced footnotes or bibliography) – on a topic covered by or related to topics discussed in the Part One of the course and discussed with the professor in advance.**

Part Two: Introduction to the Legal Process in the United States

9. The History and Structure of the American Legal System [Feb. 16]

Hazard & Taruffo, pp. vii-50.

10. Courts, Legal Proof, and the Adversary System [Feb. 18]

Hazard & Taruffo, pp. 51-104.

11. Litigation and Trial [Feb. 23]

Hazard & Taruffo, pp. 105-71.

12. Jurisdiction, Appeal, and Enforcement [Feb. 25]

Hazard & Taruffo, pp. 172-215.

Part Three: Principles of Contract Law

13. The Legal Enforceability of Agreements [Mar. 2]

Chirelstein, chs. 1 and 2, pp. 1-32.

14. Contract Formation: Offer and Acceptance, Revocation and Counter-Offer [Mar. 4]

Chirelstein, ch. 3, pp. 33-73.

Spring Break

15. Defenses to Contractual Obligation I: Unfairness and Unconscionability [Mar. 16]

Chirelstein, ch. 4, pp. 74-93.

16. Defenses to Contractual Obligation II: Interpretation [Mar. 18]

Chirelstein, ch. 5, pp. 94-114.

17. Defenses to Contractual Obligation III: Mistake and Impossibility [Mar. 23]

Chirelstein, ch. 7, pp. 155-73.

18. Contractual Remedies [Mar. 25]

Chirelstein, ch. 8, pp. 174-215.

**Second paper due in hard copy at beginning of class (with electronic copy sent to professor at e-mail address above) on MONDAY, MARCH 30 – 5 to 7 pages, double-spaced (page limit inclusive of single-spaced footnotes or bibliography) – on a topic covered by or related to topics discussed in the Part One of the course and discussed with the professor in advance.**

Part Four: Legal Interpretation and Constitutional Law

19. Introduction to Legal Interpretation: Justice Antonin Scalia's View [Mar. 30]

Scalia, pp. vii-47.

20. Moral and Historical Critiques of Scalia's View [Apr. 1]

Scalia, pp. 49-149.

21. An Overview of U.S. Constitutional Law [Apr. 6]

Tribe, part one and appendix, text of U.S. Constitution, pp. xiii-21, 233-60.

22. An Overview of Constitutional Law (cont'd) [Apr. 8]

Tribe, parts two and three, pp. 25-105.

23. An Overview of Constitutional Law (cont'd) [Apr. 13]

Tribe, parts four and five, pp. 109-211.

24. **Student Team Presentations/Arguments I** [Apr. 15]

Legal topics to be discussed with professor in advance. Briefs may be submitted to support arguments with cases or references.

25. **Student Team Presentations/Arguments II** [Apr. 20]

26. **Student Team Presentations/Arguments III** [Apr. 22]

27. **Student Team Presentations/Arguments IV** [Apr. 27]