

Dr. Matthew Lister

Legal Studies & Business Ethics Department
652 Jon M. Huntsman Hall
e-mail: mlister@wharton.upenn.edu
(Please note that email is the best way to get in touch with me. Calling my office phone is very unlikely to work.)

Class Meetings Tuesdays & Thursdays, 10:30 – 11:50, Room JMHH F55
Office Hours **Thur. 12:00-1:00 pm**

Course Description:

This course is an introduction to the elements and institutions of the American legal system. Its subject matter is broad. The first half of the course surveys the common law tradition, with an emphasis on the law of contract, while the second half wades into the complexities of public law in the modern administrative state. This wide-ranging approach seeks as far as possible to demystify law and to help students become comfortable digesting information about a wide array of legal problems and legal developments. Despite the course's topical breadth, however, our readings (and my ambition) are ultimately oriented around a single objective: to develop in students the capacities for inquiry, for skepticism, and for problem-solving that are uniquely associated with the Anglo-American legal tradition.

Required Texts:

Course Pack [available from study.net]; additional readings placed on Canvas

Exams and Grading:

Grading will be based on the results of midterm (35%) and final (50%) exams, the format of which will be discussed in class, as well as on class participation (15%). (Please note that, while there is no formal attendance requirement, if you do not attend, you cannot participate, so poor attendance will lead to a bad participation grade. Participation is graded at least as much on quality as quantity. Merely being very vocal will not lead to a good participation grade, and a good grade does not require speaking all of the time.)

1

Class Format and Policies:

This course will involve some lecture, some group discussion, and some “Socratic” questioning. At times, I will call on students without deference to volunteerism. Therefore, students are expected to have read the assigned materials and to be ready to discuss them critically.

It is not always feasible to complete readings before class. I will not call on a student who emails me to this effect at least an hour before class (max four times during the semester). Please do not pretend to have read what you haven't.

While you may use computers to take notes, shopping, texting, and gaming negatively affect group dynamics, and are not allowed. Use of smartphones during class is not allowed. If an emergency requires that you be able to receive a message during class time, please confer with me before class. There is some significant evidence that students retain more information when taking notes by hand rather than on a computer. It is up to you to decide how you are best able to take notes, but you might seriously consider not using a computer.

More generally, students are expected to behave professionally. A secondary goal of this course is to develop social intuitions about how to create a strong reputation within a business organization. For example, everyone likes someone who is courteous, punctual, engaged, and positive; everyone dislikes the opposite.

Readings:

Tentative reading assignments are listed below. If there is to be a change, I will let you know in class and post the updated assignment on Canvas. All readings will be found either in the course pack or on the class Canvas site.

1. Aug. 30 — introduction; reading judicial opinions

Readings Kerr, *How to Read a Legal Opinion*
Talley v. Mathis

2. Sept. 1— what is law?

Readings Shavell, *Law Versus Morality*
Hart, *The Concept of Law* (2d ed.) (chapters 2 & 5)

3. Sept. 6 — rules of recognition in the american legal system

Readings United States Constitution (amended) [available online]
Pennsylvania Constitution (1776) [available online]

4. Sept. 8 — introduction to property

Readings *Popov v. Hayashi*
Merrill, *Property and the Right to Exclude*

5. Sept. 13— patents

Readings 35 U.S.C. § 101–03
Bilski v. Kappos [majority opinion]

6. Sept. 15 — torts i – intentional torts

Readings *Vosburg v. Putney*
Desnick v. ABC, Inc.

7. Sept. 20 — torts ii – negligence

Readings *Williams v. Hays*
Martin v. Herzog
Baltimore & Ohio R.R. v. Goodman

8. Sept. 22 — rules versus standards

Readings Scalia, *The Rule of Law as a Law of Rules*
Schauer, *Thinking Like a Lawyer* (chapter 10)
Kaplow, *Rules Versus Standards* (excerpt)

9. Sept. 27— contracts i: the enforceability of promises

Readings Cohen, *The Basis of Contract*
Raffles v. Wichelhaus
Hamer v. Sidway
Cobaugh v. Klick-Lewis, Inc.

10. Sept. 29 — contracts ii: void and voidable obligations

Readings *Alaska Packers Association v. Domenico*
Sherwood v. Walker
Williams v. Walker-Thomas Furniture Co.

11. Oct. 4 — contracts iii: expectation, reliance, and liquidated damages

Readings *Acme Mills & Elevator Co. v. Johnson*
Chicago Coliseum Club v. Dempsey
City of Rye v. Public Service Mutual Insurance Co.
(No class Oct. 6 – Fall Break)

12. Oct. 11 — contracts iv: specific performance

Readings *Curtice Brothers Co. v. Catts*
Kronman, *Specific Performance*

13. Oct. 13 — contracts v: quasi-contractual remedies

Readings *Britton v. Turner*

14. Oct. 18 — midterm exam

15. Oct. 20 — civil procedure

Readings Smith & Roberson, *Business Law* (chapter 3)

16. Oct. 25 — statutory interpretation: linguistic indeterminacy

Readings Riverside statute [to be available on Canvas]
Oliver Wendall Holmes, *The Path of the Law*
Hart, *The Concept of Law* Chapt. 7

17. Oct. 27 — problems in statutory interpretation

Readings *Church of the Holy Trinity v. United States*
Easterbrook, *Textualism and the Dead Hand*

18. Nov. 1 — administrative law: introduction and non-delegation

Readings U.S. Constitution, Art. I, § 1
A.L.A. Shechter Poultry Co. v. United States
Posner & Vermeule, *Interring the Nondelegation Doctrine*

19. Nov. 3 — administrative law: modes of administration

Readings Funk, *Introduction to Administrative Law*
Additional Readings TBD

20. Nov. 8 — administrative law and the courts

Readings *Chevron v. NRDC*

21. Nov. 10 — statutes, administrative law, and courts in action: insider trading
Readings Securities Act of 1933, § 10(b) [available online]
SEC Rule 10b-5 [available online]

Chiarella v. United States

Dirks v. SEC

22. Nov. 15 — statutes, administrative law, and courts in action: social security
Readings Social Security Act, § 223

CFR § 416.905

CFR § 416.920

Minnick v. Colvin

23. Nov. 17— constitutional law i: federal power and judicial review

Readings U.S. Constitution, Art. I, § 8; Art. III

Marbury v. Madison

Raich v. United States

Lopez v. United States

24. Nov. 22 — constitutional law ii: state power

Readings U.S. Constitution, Art. I, § 10; Art. IV, § 1–2

Gibbons v. Ogden

City of Philadelphia v. New Jersey

(No class Nov. 24 – Thanksgiving)

25. Nov. 29 — constitutional law iii: speech rights

Readings U.S. Constitution, Amend. I

Schenck v. United States

Brandenburg v. Ohio

Texas v. Johnson

26. Dec. 1 — constitutional law iv: incorporation

Readings *Barron v. Baltimore*

U.S. Constitution, Amend. XIV

Gitlow v. New York

McDonald v. City of Chicago

27. Dec. 6 — international law

Readings Hart, *The Concept of Law*, 2ed, Chapter 10

28. Dec. 8 — review session

Readings Everything assigned to date

Final Exam. Dec. ____