Instructor: Assistant Professor Julian Jonker
Legal Studies and Business Ethics
JMHH 669
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Section 003: MW 8.30am, JMHH F45

Office hours: W 10-11am or by appointment, JMHH669

This course is an introduction to law and ethical debate about law. It places emphasis on understanding how lawyers reason, and the values to which their arguments appeal.

We will explore three important areas of the law: (a) tort law, (b) contract law, and (c) anti-discrimination law. These areas will provide good case studies of how the law must mediate between our native moral judgments and the pressures of a complex economy and technological change.

ASSESSMENT
The pedagogical aim of the course is to train your ability to understand and make arguments about the law. For that reason the main form of assessment is by written assignment and verbal presentation. There will be no exams. There are several assignments, but they are all relatively short.

The assignments will be a mix of genres: one will ask you to summarize a case; one will ask you to solve a hypothetical legal problem; two will ask you to summarize and discuss policy arguments about the law. Altogether you will write at most 22 pages for the class, and some of this will be collaborative; but they must be concise and compelling pages.

Students’ grades will be based on competence, rather than on performance relative to the class. In past experience my students’ grades tend toward a normal distribution around a B+, but the future is not always like the past.

CLASS PARTICIPATION
The participation grade is based partly on attendance, but mostly on cold calling. Some students are anxious about the cold calling, but we start gently and in the past nearly everyone has come to see it as a fair form of assessment and an important skill to develop.

MATERIALS
Prepare each reading before the class for which it is scheduled. It may be helpful to return to the reading after class to consolidate your understanding. Readings have been posted on the Canvas course site by Library Course Reserves.

Lecture slides will be posted on Canvas after the lecture. Recordings of the lectures will also be posted. In addition, very brief reading notes will sometimes be posted on Canvas in advance of the lecture—these will tell you what to focus on and provide context where necessary.
**CONSULTATION**
I will hold office hours in person every Wednesday, 10-11am. You may attend these to discuss whatever you like. You should also feel free to make an appointment outside this time by sending me an email with three times at which you are available. I’m happy to meet in person or on zoom.

<table>
<thead>
<tr>
<th>Grade composition:</th>
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<tbody>
<tr>
<td>Class participation</td>
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<tr>
<td>Assignment 1</td>
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<tr>
<td>(1 page case summary, due 01/27)</td>
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<td>Assignment 2</td>
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<td>(4-6 page tort memo, due 02/17)</td>
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<td>Assignment 3</td>
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<td>(10-15 page moot brief, due 03/24 or 03/31)</td>
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<tr>
<td>Moot</td>
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<td>(presentation, 4/06 - 4/26)</td>
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INTRODUCTION

Class 1 (Wednesday 11 January)  Overview

No reading

Class 2 (Wednesday 18 January)  The common law (1)

Feneff v New York Cent. & H.R.R. 89 N.E. 436 (1909)
Lombardo v D.F. Frangioso 269 N.E.2d 836 (1971)
Diaz v Eli Lilly & Co. 302 N.E.2d 555 (1973)


Class 3 (Monday 23 January)  The common law (2)

Nelson v Richwagen 95 N.E.2d 545
Ferriter v Daniel O’Connell’s Sons, Inc. 413 N.E.2d (690)

A. TORTS

Class 4 (Wednesday 25 January)  Introduction


*Goldberg and Zipursky, Torts, Chapters 3 & 4.

Assignment 1 Due: Friday 27 January
Class 5 (Monday 30 January)  
**The Reasonable Person**

- *Vaughan v Menlove*, 132. E.R. 490 (1837)
- *Winterbottom v Wright*, 152 ER 402 (1842)

Class 6 (Wednesday 1 February)  
**Reasonableness and Efficiency**

- *Adams v Bullock*, 125 N.E. 93 (N.Y. 1919)
- *United States v Carroll Towing Co.*, 159 F.2d 169 (2d Cir. 1947)

  *Richard Posner, *Economic Analysis of Law*, Chapter 6 (ss. 6.5-6.8 and 6.14 required; the rest is optional).

Class 7 (Monday 6 February)  
**The Palsgraf criterion**


Class 8 (Wednesday 8 February)  
**“Causation”**

- *Re Polemis & Furness, Withy & Co Ltd* [1921] 3 KB 560
- *Overseas Tankship (UK) Ltd v Morts Dock and Engineering Co Ltd (Wagon Mound No. 1)* [1961] 1 All ER 404
- *Hughes v Lord Advocate* [1963] 1 All ER 705
- *Sindell v Abbott Laboratories*, 26 Cal.3d 588 (Cal. 1980)

Class 9 (Monday 13 February)  
**Liability without Fault**

- *Fiocco v Carver*, 243 N.Y. 219 (1922)
- *Taber v Maine*, 67 F.3d 1029 (2d. Cir., 1995)

- *Klein v Pyrodyne Corp.*, 810 P.2d 917 (Wash. 1991)
Class 10 (Wednesday 15 February)  

Products Liability

*Escola v Coca Cola Bottling Co. of Fresno*, 150 P.2d 437 (Cal. 1944)
*Greenman v Yuba Products, Inc.*, 377 P.2d 897 (Cal. 1963)

**ASSIGNMENT 2 DUE: FRIDAY 17 FEBRUARY**

B. CONTRACTS

Class 11 (Monday 20 February)  

Mutual Assent

*Lucy v Zehmer*, 84 S.E.2d 516 (Va. 1954)
*Specht v Netscape Communications*, 306 F.3d 17 (Ky. 2002)

*Owen v Tunison*, 158 A. 926 (Me. 1932)
*Fairmount Glass Works v Crunden-Martin Woodenware Co.*, 51 S.W. 196 (Ky. 1899)

Class 12 (Wednesday 22 February)  

Consideration

*Hamer v Sidway*, 27 N.E. 256 (N.Y. 1891)
*Alaska Packers’ Association v Domenico*, 117 F. 99 (1902)
*De Cicco v Schweizer*, 117 N.E. 807 (1917)

*Lon Fuller, ‘Consideration and form’ 41 Columbia Law Review 799 (1941).*

Class 13 (Monday 27 February)  

Unfairness (1)

*Austin Instrument, Inc. v Loral Corp.*, 29 N.Y.2d 124 (1971)
*Vokes v Arthur Murray, Inc.*, 212 So.2d 906 (1968)

*Laidlaw & Co. v Organ*, 15 U.S. 178
*Swinton v Whitinsville Savings Bank*, 42 N.E.2d 808 (Mass. 1942)

Class 14 (Wednesday 1 March)  

Unfairness (2)

*Williams v Walker-Thomas Furniture Co.*, 350 F.2d 445 (1965)
*Jones v Star Credit Corp.*, 298 N.Y.S.2d 264 (1969)

*David A. Hoffman and Erik Lampmann, ‘Hushing contracts,’ 97 University of Washington Law Review 165 (2019)*
Spring Break 4—12 March

C. ANTI-DISCRIMINATION LAW

Class 15 (Monday 13 March)  
14th Amendment

Plessy v Ferguson, 163 U.S. 537 (1896)
Brown v Board of Education of Topeka, 347 U.S. 483 (1954)
*US v Carolene Products Co., 304 U.S. 144 (1938)

Class 16 (Wednesday 15 March)  
Protected Traits (1)

syllabus of Metro Broadcasting, Inc. v FCC, 497 U.S. 547 (1990)

*Regents of the University of California v Bakke, 438 U.S. 265 (1978)
*Korematsu v U.S., 323 U.S. 214 (1944)

Class 17 (Monday 20 March)  
Protected Traits (2)

Bostock v Clayton County, Georgia 590 U.S. ___ (2020)

*EEOC v R.G. & G.R. Harris Funeral Homes (2018)
*Zarda v Altitude Express, Inc. 883 F.3d 100 (2018)
*Evans v Georgia Hospital, 850 F.3d 1248 (2017)

Class 18 (Wednesday 22 March)  
Disparate Treatment

McDonnell Douglas Corp. v Green, 411 U.S. 792 (1972)
Price Waterhouse v Hopkins, 490 U.S. 228 (1989)

*Texas Dept of Commecial Affairs v Burdine, 450 U.S. 248 (1981)
*Wal-Mart Stores Inc. v Dukes, 564 U.S. 338 (2011)

Plaintiffs’ Complaints Due: Friday 24 March
Class 19 (Monday 27 March)  
**Disparate Impact**

Ward’s Cove Packing Co. v Atonio, 490 U.S. 642 (1989)

*Texas Dept of Housing v ICP, 135 S.Ct. 2507 (2015)*

Class 20 (Wednesday 29 March)  
**BFOQ**

Dothard v Rawlinson, 433 U.S. 321 (1977)

**DEFENDANTS’ ANSWERS DUE: FRIDAY 31 MARCH**

Class 21 (Monday 3 April)  
**Sexual Harassment**

syllabus of Vance v Ball State University, 570 U.S. 421 (2013)

Class 22 (Wednesday 5 April)  
**Ban the Box**

El v SEPTA, 479 F.3d 232 (2007)


Class 23 (Monday 10 April)  
**Moots 1**

Class 24 (Wednesday 12 April)  
**Moots 2**

Class 25 (Monday 17 April)  
**Moots 3**

Class 26 (Wednesday 19 April)  
**Moots 4**

Class 27 (Monday 24 April)  
**Moots 5**

Class 28 (Wednesday 26 April)  
**Moots 6**

END