

Institutions of American Law — Summer 2018 — syllabus (June 11 version)

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Classes: 7-9 p.m., Mon.-Fri., weeks of July 23 and July 30, in Room TBA. I will hold open office hours in our classroom right after class every evening. (Please do not feel any obligation or pressure to hang around for office hours. Being there will not affect your grade, and you will not hurt the instructor's feelings or your standing in the class by staying up or not.) There is also a series of excursions (the "treasure hunt"), the essentials of which will take about 8 hours to complete, though students who want to do more work are free to. On Saturday, July 28, I will be available in Room TBA to consult (in person and online) with students who work on the treasure hunt that day. So, you will be spending a good deal of time on this course: 28 official classroom and class activity hours (10 classes at 2 hours each, plus 8 hours on the treasure hunt), plus whatever it takes to read the assigned texts and prepare for quizzes and class participation, plus the time to get to and from the school, plus whatever extra time you invest in the treasure hunt. Between us, I am sure we can make it worth the investment, and have some fun as well.

Sketch and purpose of the course: Here is a short version of what this course is and is not. This course is: a series of interesting and challenging (and, I hope, entertaining) plunges into just a few of the numerous and various aspects of a life in the law. Each class will have some common themes, including attention to the simultaneously distinctive and interconnected fundamental practice areas of the modern lawyer — transactions, regulation, litigation, and counseling (if you're not sure what those words mean, don't worry about it, you will know by the end of the course) — and the roles of the lawyer both as a provider of services to clients and the public and as a participant in enterprise and governance. This course is not: (1) an orientation program, (2) a "how to succeed in law school" seminar, or (3) remedial therapy for people who aren't ready for law school. For #1 and #2 you will get plenty of help from our faculty and administration at the start of the school year (and throughout your career here). And #3 would be a waste of time because we know you are already ready to succeed here — that's why you were admitted.

Learning outcomes: By the end of this course you should have a sense — part practical, part theoretical, part romantic — of how a life in the law fits together. More specifically, this course will help you to: (a) develop some useful points of reference for your own understanding of modern law and lawyering, and a sense of trends in the development of legal institutions and law practice; (b) practice the relentless intellectual initiative, healthy skepticism, and generous civility that should be part of every lawyer's professional habits of mind; and, finally and not least importantly, (c) enjoy one of the most enriching of lawyerly activities — reading about law and then probing its meaning and function with engaged colleagues.

Reading: The readings for each class session are about 20 pages long (give or take a few pages) — enough, I hope, to draw you into the subjects of the day without being enough to overwhelm you. All course materials — including a "Textbook" containing all the required reading — will be available at www.rossdavies.org by July 9. Feel free to print them out or read them on an electronic gadget. Either way, bring them to class, along with your notes and research. Failure to bring your current reading, notes, and research to class will affect your grade. It is important that all of us have hands-on access to our work during class. If you have any trouble with the website or the documents you find (or don't find) there, please do tell me.

Class sessions: Each class will begin with a short multiple-choice quiz (6 or 8 or 10 questions), starting at 7:00 p.m. and ending at 7:05 or 7:10 p.m. Only students who are in their seats at 7:00 p.m. will take the quiz. (Yes, punctuality is important in the law — sometimes as a matter of compliance, and pretty nearly always as a matter of reputation and politeness. No one is always on time, but all of us can be almost always on time, and none of us should expect others to bear the cost of our tardiness.) The quizzes are designed simply to determine whether you have, in fact, done the reading, paid attention, and thought about it. For someone who has made those investments the quizzes are nothing to fear, but for someone who has not they will be, well, painful. We will spend about 30 minutes talking about the reading, using quiz questions as starting points, with the me doing most but not all of the talking. Then for about 20 minutes (maybe more, maybe much more) one or more of our guest speakers (all of whom are reputable experts in their respective fields) will comment on and field questions about their own careers, the institutions in which they work or worked, and the roles of lawyers in those institutions. Then we will take a 10-minute break. We will devote the rest of the class to more discussion of the reading and your research, with you doing most but not all of the talking. First half of the course: After an overview opening class session ("Citizens," in which we will work through several topics relating to individuals as actors in governance and as actors subject to law), there will be several sessions focusing mostly on institutions of governance (with the rather self-explanatory titles "Legislatures," "Executives," "Courts," and "Regulators"). Midway: An all-day opportunity to get started on, or make progress on, or complete the "treasure hunt" that is designed, mostly, to acquaint you with the substantive, jurisdictional, and geographical range of legal institutions in our area. Second half of the course: Several sessions focusing mostly on institutions served by lawyers ("Enterprises" and "Associations") and institutions organized by and for lawyers ("Law Firms, Bars & Public Service," and "Law Schools"), with a wrap-up session at the end.

Assignments: Please (1) do the assigned reading and come to class prepared to be quizzed on it and to discuss it, and (2) do no more than 20 minutes of outside research to support your contributions to the discussion. Make no mistake, the assigned readings are short but that does not mean they are easy, and doing that reading is only the first part of your mission. The second part is to engage in some investigation of the context and quality of the reading material. So, as you read, note points where you want to know more or feel a bit skeptical. Then follow up — do some research to satisfy your curiosity. If you come up with something good, please be ready to tell us about it in class (and feel free to email or Facebook discoveries and thoughts to your classmates

and me if that seems appropriate). Please do not overdo it — you need not come up with anything big or groundbreaking. Short, interesting additions that will help all of us understand what we’re reading is what we need. Do not worry if 20 minutes of digging turns up nothing. Nothing is a perfectly acceptable result. Just be ready to describe how you went about it. This part of the coursework is as much about developing habits (reading with an eye for things that ought to be looked into further, flagging those things, and then doing the looking) and techniques (searching, sorting, and analyzing) as it is about substance. Do not underdo it either — you do need to be prepared to talk based on what you did or did not find, though it is unlikely you will be called upon to do so in every class session. Remarks unsupported by reference to passages in the reading or specific research work will be rejected — cut off as politely as possible. Think about it this way: This is a meeting of professionals where we share our expertise and research, not a book club where we spout reactions, opinions, and casual thoughts. If you have something to say, direct us to the relevant passage in the reading or summarize your relevant research effort. Assignments are, of course, subject to change based on the pace of the course and the whim of the instructor.

July 23: Citizens

July 24: Courts

July 25: Executives

July 26: Regulators

July 27: Legislatures

July 28: All day session (we will talk about the “treasure hunt” on the first day of class, but you can get started any time)

July 29: Enterprises

July 30: Associations

July 31: Law Firms, Bars & Public Service

August 1: Law Schools

August 2: wrap-up

Grades: This is a pass-fail course. Quizzes count for 50% of the grade: They are described in the “Class sessions” section above. There are no make-up quizzes: miss (or arrive late for) a class in which a quiz is administered, miss that quiz. Taking all the quizzes is good because for students who take all quizzes the lowest score is excluded from final grade calculations. Participation counts for 30% of the grade: Let’s be clear about this up front: The evaluation of participation is subjective, which means that if you do not like your participation grade there will be no basis for challenging it. Having said that, you are unlikely to get a bad grade if you come to class prepared to make useful contributions, do in fact make them, and respectfully listen to and comment on the contributions of others. Obviously, you will not be able to be a good participant if you are absent. The “treasure hunt” counts for 20% of the grade: It is described below, and on the class Facebook page. Attendance: You are responsible for attending the number of class sessions required by our school’s regulations (they are available on our law school’s website, and you are responsible for knowing and following them) to be eligible for course credit.

Friendly advice:

- Read, take notes, and think about the assigned material before class, and be prepared to listen and speak. Stay an assignment or two ahead of schedule, just in case.
- Look up words you do not know. Important or interesting words are good quiz candidates. *Black’s Law Dictionary* (10th edition, 2014) is great. It’s available as a book and as an app.
- You may use silent electronics in class. But bear in mind three things: (1) there is some evidence that pointing your face toward a speaker improves your ability to hear, understand, and remember what the speaker says (also, the instructor believes this to be true, believes that even if it isn’t true it is at least polite, believes that politeness is part of good lawyering, and knows beyond the faintest shadow of a doubt that behaving as though you are trying to listen and be polite is a big factor in the grading of participation in this course), (2) there is some evidence that taking notes using a pen, pencil, or other stylus is better than using a keyboard, at least if you want to understand and retain what you are taking notes about (which, if it is true, might come in handy for quizzes and in-class exercises and the like), and, finally, ironically, and amusingly, (3) there is some evidence of an inverse relationship between a person’s belief that they can multitask and their ability to multitask.
- Note and follow in-class instruction. If you miss a class (or miss something said in a class you do attend) you must get notes from a classmate. Make arrangements in advance as a precaution against unanticipated absences (and missed somethings). There is a strong tradition in law of sharing notes with colleagues in need. Be a part of it.

Treasure Hunt: Some Law and Legal Institutions in the DC Area

1. Grades: This project counts for 20% of your grade in this course, and 8 hours of class time. There are 6 topics (A–F), each with three levels (1–3). You must complete all 6 level 1 tasks. Completing level 2 and level 3 tasks will earn you bonus points (see also paragraph #7 below).

2. Topics and levels: They are listed in the table below. To complete a task, you must post two things — (1) the specified photo in the appropriate album (there is an album for each topic) and (2) a caption with your name and the topic/level associated with your photo — in the “Institutions of American Law (Summer 2018)” Facebook group. Also, please feel free to add any appropriate comments that might be useful or entertaining for your classmates and me (for example, tips — a description of how you went about completing the task, warnings about problems you encountered, things you would do differently were you to do

it again, etc. — and anecdotes — facts you learned, people you met, events you observed, etc.). I have posted a complete set of model photographs, with basic captions. You should take a look before you start, because your objective is for your photos to match mine as closely as is reasonably possible (and for your captions to be much more useful and entertaining).

3. Facebook uploading instructions: If you do not have Facebook account, set one up now. It’s easy, and you will need it to post your photos and captions. Request to join “Institutions of American Law (Summer 2018)” at www.facebook.com/groups/1779393672126025/. Once you are on Facebook and a member of our group, you will be able to upload your photos and captions to the appropriate topic album within the group. To do that: (1) go to the “Institutions of American Law (Summer 2018)” Facebook group; (2) click on “Photos,” then “Albums,” then the appropriate “topic album”; and (3) upload your photos and captions that belong in that topic album. There are sample photos and captions in each topic album.

4. Collaboration: It is OK. Indeed, working with other people is good. Feel free to do all or part of the hunt in the company of classmates. There are no tasks that require partners (you can do everything on your own), but there are also no tasks that preclude partners (you can do anything together). Just make sure that everyone and everything associated with the task is unmistakable in your photos, and that captions are complete. The only constraint is that all posts must be nice. Civility is the watchword.

5. Deadline: Saturday, August 4. Advice: Plan ahead, do not put anything off until the last minute, and do not imagine that there will be make-up opportunities if you don’t get this work done. Deadlines matter in the law more than they do in some other contexts. Don’t believe me? Try googling “deadline is jurisdictional” and then poking around in the numerous judicial opinions (including some from the U.S. Supreme Court) rejecting appeals filed after deadlines have passed. You might also read *China Agritech v. Resh*, which was decided by the Supreme Court today. Please consider this exercise an opportunity to practice being a good lawyer by taking steps to avoid missing a deadline. **If you want to get a head start, feel free!** You can join our Facebook group now and get started right away, if you like. If you need help, email Justin Aromas-Janosik (jaromasj@gmu.edu).

6. Questions, and Saturday session: If you have questions, feel free to ask them on our Facebook page. Justin or I will answer as quickly as we can. In addition, I will be in our classroom from 8 a.m. to 4 p.m. on Saturday, July 28, with an open conference call (Google or Skype or something else TBA) running. Anyone who wants to may stop by or call in with questions.

7. Treasure: A treasure hunt is only a fair treasure hunt if there is treasure to be had at the end of the hunt. There is. When you have completed all 18 tasks, please let me know.

Topics (A–F) / Levels (1–3)	Level 1 tasks (required)	Level 2 tasks (bonus)	Level 3 tasks (bigger bonus)
Topic A: Congress	photo of you in front of the Cannon House Office Building	photo of you in front of the Russell Senate Office Building	photo of you in front of the headquarters of the Government Accountability Office
Topic B: Federal Agencies	photo of you in front of a horse statue at the Federal Trade Commission	photo of you in front of the U.S. Attorney’s Office for the District of Columbia	photo of you in front of the Patent and Trademark Office
Topic C: State Courts	photo of you in front of the Arlington General District Court, 17th Judicial District of Virginia	photo of you in front of the Arlington County Detention Facility	photo of you in front of the Fairfax Circuit Court
Topic D: Federal Courts	photo of you in front of the Superior Court of the District of Columbia	photo of you in front of the U.S. District Court for the District of Columbia	photo of you in front of the U.S. Court of Appeals for the Federal Circuit
Topic E: Library of Congress	photo of your Library of Congress reader card (hint: you can get a card quickly and easily in the building where the Papers of Harry A. Blackmun are kept)	photo of your reader card with an “Opinion log sheet” (from the Papers of Harry A. Blackmun) that no one else in our class has photographed (don’t worry — there are hundreds of Opinion log sheets to choose from in boxes 118, 133, 149, 171, 193, 211, 235, 256, 278, 299, 319, 339, 364, 389, 411, 433, 460, 487, 511, 540, 563, 582, 606, 630 of the Blackmun Papers)	photo of your reader card with the first page of the official opinion of the Supreme Court (published in the “United States Reports”) in the case on the Opinion log sheet you photographed for level 2 of this topic (hint: the “US Reports” are available in the law library in the building where the Blackmun Papers are, and at our law school)
Topic F: Law Firms	photo of you in front of the building housing Covington & Burling LLP	photo of you in front of the building housing Brown Gould Kiely LLP	photo of you with the model ship in the lobby of the building housing Bean, Kinney & Korman PC

Intellectual property: The instructor owns all course content, regardless of form. You may share copies with classmates during the course, but other than that you must keep all of it in any format to yourself forever.

I have read, do understand, and will follow the rules of this course. I know that following them is part of class participation.

Name (print): _____ Signature (scribble): _____ Date: ___/___/___