

“Law is the intersection of language and power” (Shapiro, 1993: ix).

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**Law, Courts, & Politics**  
**PO SC 436, §1**  
**Clemson University**  
**Fall, 2009**  
**212 Brackett**  
**10:10-11:00 MWF**

**Joseph Stewart, Jr.**  
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**Hours: 9:10-10:10; 1:10-2:10, MWF**  
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Law is **not** just black letters written in long combinations in heavy books. Law is one of the mechanisms by which governmental authority is used to settle disputes and structure social arrangements in our political system. It is comparable to other social institutions—the family, religion, the market—that attempt to achieve these ends. It is in this political sense that we shall be looking at law this semester. We shall be surveying the actors who mobilize and the institutions which “administer” law throughout the U.S. federal system, the latter of which we refer to generally as “the courts.”

Whether this is the last course you take in law or the first in a long line of such courses—or something in between—it is an important one. Even if you have no specific interest in law, as a resident of the United States the odds are high that you will have contact with some part of the legal system, either as a plaintiff or a defendant in a civil suit, as an interested party who has been a victim of a crime, or as a juror. If your goal is to undertake further studies of the law, this course provides the prerequisite exposure to actors, both individual and collective, and the structures through which our legal system operates. One cannot gain a very deep understanding of either the substance or the importance of law in the U.S. political system without an understanding of who works within the system and how the institutions function.

At a minimal level, you should gain knowledge of the basic vocabulary, structure, and operations of the judicial system in the U.S. As an upper-level political science course, another goal is to equip you to answer important questions, both now and in the future.

#### TEXTS

Two texts are required for this class and have been ordered at the CU Bookstore. Reading assignments listed in the tentative schedule are drawn from these texts and material placed on electronic reserve on Blackboard.

Altschuler, Bruce E., Celia A. Sgroi, and Margaret R. Ryniker. 2010. **Understanding Law in a Changing Society**, 3<sup>rd</sup> ed., revised and updated. Boulder, CO: Paradigm Publishers.

Neubauer, David W., and Stephen S. Meinhold. 2010. **Judicial Process: Law, Courts, and Politics in the United States**, 5<sup>th</sup> ed. Boston, MA: Wadsworth, Cengage Learning.

#### PROCEDURES

Classes use multiple formats—lecture, general class discussion, DVDs, guest lecturers—but regardless of format, it is imperative that the assigned material be read **prior to** the class in which it is discussed. We can learn only by informed discussion and questioning; if we want to voice

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uninformed opinions we can start our own talk show and get paid for, rather than paying for, this experience.

#### COURSE REQUIREMENTS/GRADING

There are five components to the final grades in this class. Grades will be assigned based on the quality of performance in the following activities and weighted as noted. The nature of each assignment/requirement will be explained in more detail at the appropriate time, and handouts provided as appropriate. Everyone starts with 0 points on each assignment/requirement, and points are awarded whenever you fulfill the requirement or answer the question. If you ever have any doubts about what is expected, please ask.

On any assignment submitted for grading, **identify yourself only by your CUID**. I do not have this rule to depersonalize our interaction but to protect both of us from any biases in the grading process.

1. Class contributions. Expect to be called upon at any time to respond to questions about the readings/cases. Each opportunity to contribute in this manner is evaluated. Furthermore, periodically you may be asked to submit a written product, which will be evaluated and returned to you at the next class period. The sum of these evaluations is your contribution grade. Note that participation *per se* is not a contribution, but contribution is not possible without participation. Needless to say, neither participation nor contribution is possible without attendance. Contributions account for **15%** of the final grade.
2. Exam # 1. This exam covers readings/lectures/discussions completed during the first part of the course. The exact format and number of questions will be announced prior to the exam, but anticipate that a significant part of the exam will involve “free response” questions, i.e. questions you have traditionally thought of as “essay” questions. I use the term “free response,” because your answer may or may not take the form of an essay. Responses that answer the question will earn the greatest rewards. This exam determines **20%** of the final grade.
3. Exam # 2. This exam covers readings/lectures/discussions completed during the second part of the course. It is similar in format to the first exam, with any deviations being announced prior to the exam. It will be taken during the time CU has scheduled the “final” exam. This exam determines **20%** of the final grade.
4. Exam # 3. This exam covers readings/lectures/discussions completed during the third part of the course. It is similar in format to the first exam, with any deviations being announced prior to the exam. It will be taken during the time CU has scheduled the “final” exam. This exam determines **15%** of the final grade.
5. Research Paper. This exam determines **30%** of the final grade. This is the most important assignment within the course. The best grades will go to students who pose and offer an answer to interesting questions related to a topic within the broad range of topics covered in this course. There will be a separate handout and multiple class discussions of this project.

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Clemson University’s grading system is described on the Registrar’s web site:  
[www.registrar.clemson.edu](http://www.registrar.clemson.edu)

The only grades allowed are A, B, C, D, F, I, & W. I shall inform you with a “+” or “–” during the semester, but these more refined reports are not possible in the final reporting in the Clemson University grading system. If you ever have any doubt about where you stand in the course, ask. I shall tell you what I know.

### TENTATIVE SCHEDULE

Notice the emphasis on the word, “Tentative.” It is not accidental. Each semester I offer a plan, and each semester I diverge from it at some point. The following reflects my best guess on how much time we shall spend on each topic. I have yet to be totally accurate. All dates except official university holidays/deadlines and the final exam are subject to change.

Aug.	19	Introduction <i>The Game &amp; the Players</i>
	21-Sep. 4	What are Laws? Courts? Politics? NM, pp. xv-xxi; Chs. 1-4; Hays (on BlackBoard); ASR, pp. xiii-xix, 1-6
Sep.	1	Last Day to Drop without a “W”
	7	Judges: NM, Ch. 6; ASR, pp. 6-10
	9-16	Judicial Selection & Limits on Power (Internal & External) (v. Legislative Power) (inc. Precedent): ASR, 13-27, Chs.2; 4-5
	18	Lawyers, Litigants, IGs, Media
	21	EXAM #1
		<i>The Process</i>
	23-Oct. 7	Trial Courts: Civil & Criminal: NM, Chs. 8-11
Oct.	2	Research Day: No Class Meeting
	9	Trials & Juries: NM, Ch.12; Last Day to Drop Course without a Final Grade
	11	Research Day: No Class Meeting
	14	The Appellate Process: NM, Ch. 13
	16	The Supreme Court: Deciding to Decide: NM, Ch. 14
	19	Supreme Court Decision-making: NM, Ch. 15
	21	EXAM #2
		<i>The Substance</i>
	23	Due Process of Law: ASR, Ch. 3
	28-30	Property: ASR, Ch. 6
Nov.	2-6	Contracts: ASR, Ch. 7
	9-13	Torts: ASR, Ch. 8
	16-18	Family Law: ASR, Ch. 9
	20-23	Remedies: ASR, Ch. 10
	9	Last Day to Drop Course without a Final Grade
	30-Dec. 2	Flex Days
Dec.	4	Review; Course Evaluations; Research Paper Due
Dec.	8	3:00-5:30 EXAM #3

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#### ATTENDANCE POLICY

Mine

If I am ever late for class and have not notified you that I shall be missing class, someone should check at my office or with the Secretary in the main departmental office (232 Brackett).

Yours

My goal is for you to learn, both a certain corpus of knowledge and some skills for successful inquiry. I think regular attendance facilitates this learning, but it may not be necessary nor is it sufficient. Thus, I do not take attendance. You are, however, responsible for knowing what is going on in the class and for changes in the schedule.

#### THE CLEMSON UNIVERSITY OFFICIAL STATEMENT ON ACADEMIC INTEGRITY

As members of the Clemson University community, we have inherited Thomas Green Clemson’s vision of this institution as a “high seminary of learning.” Fundamental to this vision is a mutual commitment to truthfulness, honor, and responsibility, without which we cannot earn the trust and respect of others. Furthermore, we recognize that academic dishonesty detracts from the value of a Clemson degree. Therefore, we shall not tolerate lying, cheating, or stealing in any form.

When, in the opinion of a faculty member, there is evidence that a student has committed an act of academic dishonesty, the faculty member shall make a formal written charge of academic dishonesty, including a description of the misconduct, to the Associate Dean of Undergraduate Studies. At the same time, the faculty member may, but is not required to, inform each involved student privately of the nature of the alleged charge.

#### ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

Qualified students with disabilities needing appropriate academic adjustments should contact me as soon as possible to ensure your needs are met in a timely manner. “Qualified students” are those who present a Faculty Accommodation Letter from Student Disability Services when we meet. Student Disability Services is located in G-20 Redfern (656-6848). Accommodations are not retroactive. Handouts are available in alternative accessible formats upon request.

#### REFERENCES

Shapiro, Fred R. 1993. **The Oxford Dictionary of American Legal Quotations**. New York: Oxford University Press.