

Prof. Amanda Shanor

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**Class Meetings:** Tuesdays & Thursdays 1:30-3:00 (SH-DC 1203)

**Office Hours:** By appointment – feel free to email me to set up a meeting!

**TA:** Sierra Blazer, sblazer@pennlaw.upenn.edu

### Course Description and Objectives

This course explores some of the most important economic and political issues today, including:

- What should be the role of government in the market?
- Should there be limits on money in politics?
- What is the scope of the right to free speech—including in relation to securities offerings, at work, or in advertising? And how does the First Amendment affect Twitter, Facebook, or fake news?
- Can the government seize private property for the public good? Can it seize private property for a border wall or migrant detention camp?
- When can the government compel people to buy or sell things (like health insurance)—or prohibit them from buying or selling others (like marijuana)?
- When, if ever, is discrimination in employment, retail, or other economic settings permissible?
- Must the government provide welfare or act to reduce the now historically high levels of economic inequality?
- What does the Constitution say about businesses involvement in government surveillance or other national security related endeavors?
- What, if anything, prevents government corruption, self-dealing, or authoritarianism?

Legal rules govern the conduct of large classes of people and provide incentives for how they should act in the future—shaping institutions and influencing issues from economic opportunity to climate change to racial justice. Law allocates power and distributes resources.

This course is a critical exploration of the central concepts and current debates in a key dimension of that allocation of power and resources: American constitutional law.

## Materials

All readings can be found on the course's Canvas web site or via a straightforward web search. Tentative reading assignments are listed at the schedule at the end of the syllabus. I may change or add to the readings over the course of the semester—including in response to important legal developments. If so, I will let you know in class and post the updated assignment on Canvas. We may also have occasional visiting lecturers.

## Device Policy

Electronic devices will not be permitted in class. If an emergency requires that you have connectivity, please talk with me before class.

## Grading and Assignments

Your final grade in this course will be based on the following:

- Quizzes & reading responses (25%)
- Class participation (20%)
- Presentation (5%)
- Supreme Court brief (15%)
- Oral argument & moot court judging (10%)
- Final exam or research paper (25%)

### *Quizzes & Reading Responses (25%)*

**The most important thing you can and should do for this class is to do the readings and think critically about what you read. It is key that you complete the assigned readings *before* class on the day shown.**

At every class for which readings are assigned, there will be a 45% chance of having to take a short in class quiz that tests your knowledge of the day's readings. Whether or not you have a quiz will be determined by a random number generator.

These quizzes are designed to ensure that you have carefully read and considered the assigned readings. Most of the quizzes will require you to summarize or analyze one or more of the readings or explain a question they raised for you, but other quiz formats are possible. Each quiz will be graded on a scale ranging from 0 to 2. **Your lowest quiz score will be dropped.**

You will receive a score of zero if you are absent or late for a quiz. However, you can erase three quizzes from your record if, prior to the start of class, you submit a well-written summary and analysis of the reading(s) on the day you will miss. You should submit this summary via email to me (shanor@upenn.edu). The subject line of your email should be: "LGST 221: Reading Response."

Your reading response should be no longer than 500 words, with ~250 words of summary and ~250 words of thoughtful analysis. You should show that you have carefully read and understood the assigned readings and that you put time, thought, and effort into your reading response. Each reading response will be graded on the same scale as the quizzes, ranging from 0 to 2, and will replace the grade of the quiz you missed.

Sometimes life happens. Up to once in the semester, therefore, if you cannot finish the day's readings, you can email me at least one hour before the start of class, and I will not call on you or expect you to take a quiz if one occurs.

### ***Class Participation (20%)***

Law and business are communicative and collaborative endeavors. My central goal is for you not only to learn, explore, and consider the ideas covered in this class—but to learn how to think, critique, strategize, and problem solve in the ways characteristic of American law, policy, and scholarship. That is, to learn some of the ways of thinking, norms, and practices key to success in law—which are useful far beyond it as well.

The course will combine lectures, “cold calling” (the instructional method commonly used in American law schools), and group discussion. Your grade is based in part on your participation in each, according to the criteria below.

### ***Presentation (5%)***

Each student will do a brief (2-5 minute) presentation analyzing and/or critiquing the big ideas from the day's readings and posing questions for the group's discussion. Students should aim to raise core questions about the reading's assertions, logic and broader undertaking. Students should *not* restate the points or arguments made in the book or article, except to the extent necessary to their analysis and questions. The goal is to highlight and question the big ideas and facilitate group discussion. You all will choose when and on what you present.

### ***Supreme Court Brief (15%) and Oral Argument & Judging (10%)***

With a partner, students will write a 10-page brief on one side of a current legal issue, due October 8 at 5pm. Students will be paired with two other students arguing the opposing position. Each pair will present oral argument and rebuttal based on their brief (October 22 & 24). Students will also act as a judge in another case.

### ***Final Exam or Research Paper (25%)***

I will provide more information on the final exam as it approaches. It will include types of questions common to law school exams (including issue spotters, short answer, and essay questions). If you would prefer to write a final research paper (15 pages, due at the time of the final), please make an appointment to speak with me and develop a topic and plan.

### ***Grading Criteria***

All assignments and class participation will be graded on seven criteria:

- *Creativity and insight*: Your ideas are original, engaging, and evince compelling insight.
- *Analytical rigor*: Your ideas are presented in an analytically rigorous manner.
- *Depth and quality of analysis*: You demonstrate thorough reading / research, incisive thinking, and thoughtful consideration.
- *Integration with course content*: You use, apply, and extend concepts covered in the class.
- *Organization and structure*: You employ a logical, clear framework.
- *Legal norms*: You display an increasing ability to talk, think, and problem solve like a legal actor.
- *Style*: You write and verbally present using appropriate grammar, spelling, punctuation, and the like.

### ***Policies for Grades and Late Assignments***

Grades are final. There are no re-grades. This is to ensure fairness to all students. As in the business and legal worlds, work must be submitted on time. You are always welcome to hand in an assignment before its due date if you know that you will be busy as the due date approaches.

### **Feedback and Questions**

You are important to me! I want this course to be a valuable learning experience for you. I also welcome your feedback and questions any time during the semester. It is easiest to reach me by email or office hours, but I am always happy to set up an appointment.

### **Informal Get-Togethers & Field Trips**

Let's get coffee or a meal! My TA, Sierra Blazer, will also put together at least one social gathering for the class, place and time TBA.

If there is sufficient interest, I will organize field trips to the Third Circuit Court of Appeals and/or the U.S. Supreme Court.

## **Instructor Biosketch**

Amanda Shanor is an Assistant Professor at the Wharton School at the University of Pennsylvania, where her scholarship focuses on constitutional law, and in particular free speech and economic regulation.

Prior to joining the academy, Shanor was a practicing lawyer in the National Legal Department of the American Civil Liberties Union, where she worked on the organization's Supreme Court litigation. This included *Masterpiece Cakeshop*, a case involving a bakery that declined to sell a wedding cake to a gay couple. Shanor continues to litigate, including on major First Amendment, equality law, and separation of powers issues.

Shanor is a graduate of Yale Law School and Yale College, and a PhD candidate in law at Yale University. She served as a law clerk to Judges Cornelia T.L. Pillard and Judith W. Rogers on the D.C. Circuit, and Judge Robert W. Sweet in the Southern District of New York.

She has taught at both Yale and Georgetown law schools and has published in the *New York University Law Review*, the *Harvard Law Review Forum*, and the *Yale Law Journal Forum*, among others. She is a contributor to the blog *Take Care* and the co-author of a textbook on counterterrorism law.

Previously, while a fellow at Georgetown Law, Shanor litigated a number of constitutional and national security cases with Professor David Cole, including *Humanitarian Law Project v. Holder*, a First Amendment case argued before the Supreme Court. Before law school, Shanor worked in social movement organizing, immigrant workers rights, and corporate social responsibility.

## **TA Biosketch**

Sierra Blazer is a third-year law student at Penn Law. She studied Business and Spanish at Franklin & Marshall College as a first-generation college student. She has worked at the United States Attorney's Office in Washington, DC; the District Attorney's Office in Lancaster, PA; at a personal injury law firm in Philadelphia; and with a bankruptcy judge in Philadelphia. Most recently, she spent her summer in the Corporate Restructuring practice at Kirkland & Ellis in New York, where she plans to return after graduation. She was born in South Jersey and grew up in Rhode Island. She has two dogs and is a dedicated Philadelphia sports fan.

## CLASS SCHEDULE 1.0

1. Introduction
2. Fields of Law & Legal Thinking
3. The Constitution
4. American Legal Institutions
5. Ownership, Land, & Slavery
6. Constitutional Theory I
7. The Right to Contract & Legal Realism
8. The New Deal
9. Defenders & Critics
10. What Rights Are Most Important?
11. Equal Protection I
12. Equal Protection II
13. No Class Meeting – Supreme Court Brief Due @ 5pm (Oct. 8)
14. Anti-Discrimination Law
15. Religion & Economic Life
16. Oral Arguments I (Oct. 22)
17. Oral Arguments II (Oct. 24)
18. National Security I
19. National Security II
20. The Commerce Clause (aka health care, broccoli, & marijuana)
21. Takings
22. Access to Courts
23. Campaign Finance & Money in Politics I
24. Campaign Finance & Money in Politics II
25. Commercial Speech
26. Emoluments, Corruption, & Authoritarianism
27. Constitutional Theory II
28. Conclusion, Overflow, & Review