LGST 101 LAW AND SOCIAL VALUE (HONORS), SPRING 2020
SYLLABUS

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Legal Studies and Business Ethics
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Section 301: TuTh 3–4pm (Honors), JMHH F36

Office hours: Tu 2–3pm 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) something else of your choice—perhaps 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.

HONORS CLASS
The Honors section 301 differs from sections 001 and 002 in three ways. (1) There is more to do. We go over material more quickly, and there are additional readings which tend to take a more theoretical focus i.e. they consider the philosophical and economic underpinnings of the legal rules and principles we will be studying. (2) There are fewer but longer assignments. The assignments in 001 and 002 focus on legal drafting. There is a bit of this in 301 too, but there are also traditional argumentative essays focusing on your theoretical understanding. (3) There is some choice. You will notice that the reading list below is merely suggestive after Spring Break. That is because we will decide together what to cover. I suggest that we take a look at anti-discrimination law, but I will give you some other options.

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 repeated written assignments. 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 philosophical and policy arguments about the law. Altogether you will write at most 23 pages for the class, but they will be tightly focused and well rehearsed 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
Attendance is a minimum requirement for a passing (C-) class participation grade. But illness and other things do happen. You may miss three classes for any reason, and without needing to
excuse yourself. After that every absence, regardless of whether you have an excuse or not, will have an impact on your participation grade and make it more likely that you do not receive a passing grade.

More importantly, your participation grade will be based on your participation in class discussion. I will cold call students, and the participation grade will be based on whether students can show that they have read and thought about the material. If you are unwilling to be called on during a particular class you may let me know in advance. This will count as an absence, and once your three absences have been exhausted it will affect your participation grade as if you were unable to answer questions.

**Grade composition (Honors):**

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Class participation</td>
<td>20%</td>
</tr>
<tr>
<td>Assignment 1 (1 page case summary, due 01/31)</td>
<td>15%</td>
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<tr>
<td>Assignment 2 (3-4 page tort memo, due 02/14)</td>
<td>15%</td>
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<td>Assignment 3 (5-6 page argument analysis, due 03/20)</td>
<td>20%</td>
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<td>Assignment 4 (10-12 page essay, due 04/29)</td>
<td>30%</td>
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**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. There will also be a study.net pack available.

Lecture slides will be posted on Canvas after the lecture. In addition, reading notes will often 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 every Wednesday, 2.30-3.30pm. 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’ll be participating in the Student-Faculty Meals program. Coming to lunch (or not) will have no effect on your grade, and I will have no agenda other than getting to know people. There is a sign up sheet on Canvas: please sign up! You may sign up as many times as you like; we’ll go lunch once three students sign up. A maximum of seven students may sign up for any one lunch.
NB: The reading list is very likely to change during the course of the semester. Make sure that you are receiving Canvas notifications in order to keep up with changes.

* indicates that a reading is recommended for background.

INTRODUCTION

Class 1 (Thursday 16 January)  Overview

No reading

Class 2 (Tuesday 21 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 (Thursday 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 (Tuesday 28 January)  The Reasonable Person

Vaughan v Menlove, 132. E.R. 490 (1837)

Winterbottom v Wright, 152 ER 402 (1842)
MacPherson v Buick Motor Co., 111 NE 1050 (N.Y. 1916)

* Goldberg and Zipursky, Torts, Chapters 3 & 4.
Class 5 (Thursday 30 January)  

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).

**ASSIGNMENT 1 DUE: FRIDAY 31 JANUARY**

Class 6 (Tuesday 4 February)  

The Palsgraf criterion

Palsgraf v Long Island R. Co., 248 N.Y. 339, 162 N.E. 99 (1928)


Class 7 (Thursday 6 February)  

“Causation”

Allbritton v Union Pump Company, 888 S.W.2d 833 (Tex.App. 1994)
*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 8 (Tuesday 11 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 9 (Thursday 13 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 14 FEBRUARY**
B. CONTRACTS

Class 10 (Tuesday 18 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 11 (Thursday 20 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 12 (Tuesday 25 February)  
**Unfairness**

*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 13 (Thursday 27 February)  
**Unfairness**

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

*Seana Shiffrin, ‘Paternalism, unconscionability doctrine, and accommodation’ 29 Philosophy & Public Affairs 205 (2000)*

Class 14 (Tuesday 3 March)  
**Boilerplate**

Class 15 (Thursday 5 March)  

**Catch and Kill**


*Spring Break 7–15 March*

C. **ANTI-DISCRIMINATION LAW**

Class 16 (Tuesday 17 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 17 (Thursday 19 March)  

**Protected Traits (1)**


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

**ASSIGNMENT 3 DUE: FRIDAY 20 MARCH**

Class 18 (Tuesday 24 March)  

**Protected Traits (2)**

NB Readings subject to change  
*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 19 (Thursday 26 March)  

**Disparate Treatment (1)**

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

*Texas Dept of Commerical Affairs v Burdine*, 450 U.S. 248 (1981)  
Class 20 (Tuesday 31 March)  
**Disparate Treatment (2)**  

*Wal-Mart Stores Inc. v Dukes*, 564 U.S. 338 (2011)

Class 21 (Thursday 2 April)  
**Protected Traits (3)**  

NB Readings subject to change  
*Etsitty v Utah Transit Authority* 502 F.3d 1215 (2007)  
*Whitaker v Kenosha Unified School District* 858 F.3d 1034 (2017)  
*Grimm v Gloucester County School Board* 302 F.3d 730 (2018)  
*Trump v Jane Doe 2*, No. 18-677 (2019)

Class 22 (Tuesday 7 April)  
**Disparate Impact**  


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

Class 23 (Thursday 9 April)  
**BFOQ**  

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

Class 24 (Tuesday 14 April)  
**Sexual Harassment**  

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

Class 25 (Thursday 16 April)  
**Accommodation**  

Class 26 (Tuesday 21 April)  
**Ban the Box**

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

Class 27 (Thursday 23 April)  
**Big Data**


Class 28 (Tuesday 28 April)  
**Recap**

**Assignment 4 Due: Wednesday 29 April**

END