

POLS 4323: COURTS IN ACTION

Liberal Arts 204

Tues. & Thurs., 3:00pm to 4:20pm

Brent McCune
Office: Miners Hall 108
Phone: 915.747.8842
E-mail: bgmccune@utep.edu

CRN: 16485
Term: Fall 2023
Office Hours: By Appointment

COURSE DESCRIPTION

This class introduces students to the common law, which is judge-made law issued through court decisions. Through case readings, students will learn about substantive legal issues in different areas of the law. While not an exhaustive list, topics covered include: tort liability, homicide, exceptions to the warrant requirement, due process, freedom of speech, hostility toward religion, and originality in copyright law. Decisions from both state and federal courts will be reviewed. While this course focuses on court opinions, aspects of the dual-court system in the United States will be discussed.

UTEP EDGE

This course will help you develop the following UTEP Edge Advantages: (1) *critical thinking* through the analysis of difficult readings and complex arguments; (2) *communication* through the completion of the case briefs, case presentations, and court observations; (3) *problem-solving* through an understanding of how courts frame and resolve legal issues; and (4) *social responsibility* through an appreciation of how the law influences controversial social policies.

LEARNING OUTCOMES

This course has two primary objectives: (1) to provide an understanding of American courts, and (2) to help increase your critical reading and problem-solving skills.

At the end of this course you will be able to:

- *Understand* American courts;
- *Recognize* the legal issues and developments found in the common law;
- *Explain* the scope and limits of American courts;
- *Construct, Deconstruct, and Reconstruct* complex arguments; and
- *Appreciate* the multi-faceted legal and social complexities that come before the courts.

REQUIRED MATERIALS

These five casebooks are peer-reviewed and available at no cost under a Creative Commons License.

John Fabian Witt & Karen M. Tani, *Torts: Cases, Principles, and Institutions, Sixth Edition*, Published by CALI eLangdell Press. Available under a Creative Commons BY-NC-SA 4.0 License.

Alice Ristroph, *Criminal Law: An Integrated Approach*, Published by CALI eLangdell Press. Available under a Creative Commons (CC BY-NC-SA 4.0) License.

Ben Trachtenberg and Anne Alexander, *Criminal Procedure: A Free Law School Casebook*, Published by CALI eLangdell® Press, 2022. Available under a Creative Commons BY-NC-SA 4.0 License.

Ruthann Robson, *First Amendment: Cases, Controversies, and Contexts*, Published by CALI eLangdell Press. Available under a Creative Commons BY-NC-SA 4.0 License.

Jeanne C. Fromer & Christopher Jon Sprigman, *Copyright Law: Cases and Materials, v5.0*, Independently published. Available under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License.

Chapters and chapter excerpts from these casebooks, and any additional readings we may use, are made available on the Blackboard course site, which may be accessed at <https://my.utep.edu/>.

ASSESSMENTS AND GRADING

Your grade will be based upon the following assignments:

Assessment	Percent of Grade	Total Points
Attendance	10%	40
Case Briefs (x 2)	10%	40
Case Presentations (x 2)	10%	40
Court Observations (x 2)	20%	80
Unit Exams (4 in total)	50%	200
Total	100%	400

ATTENDANCE

Attendance will be taken each class. Students receive 1.33 points for each class session they attend. Missing class will adversely affect your final grade. Students are expected to be on time. Persistent tardiness and leaving class early are not acceptable. Two tardies and/or early exits will count as 1 absence; 4 tardies and/or early exits equal 2 absences, etc.

CASE BRIEFS (written)

Each student will complete two case briefs. The professor will make the case brief assignments, and a schedule of the case briefs will be created and posted on Blackboard. For purposes of this class, a “case brief” is an analytical summary of a judicial opinion. It contains the key components of the decision. The purpose of briefing a case is to help you better understand the case. Through the process of case briefing, you develop analytical and legal reasoning skills. A handout outlining what needs to be included in a case brief will be made available on Blackboard. A sample case brief will also be provided for your reference. You should refer to this sample case brief when you work on your case briefs. You will submit your case briefs on Blackboard.

CASE PRESENTATIONS (oral)

Each student is required to give two case presentations to the class. These presentations will correspond with your case briefs. In other words, students will present on the same cases they brief. The case presentations will introduce the case to the class and will be based on the “case briefs” that you submit on Blackboard. When a student gives a case presentation, she or he should be prepared to answer questions from fellow students and from the professor. Students will be scheduled to give their case presentations on the same days they are scheduled to submit their corresponding case briefs.

COURT OBSERVATIONS

Each student is required to participate in two court observations. These observations will provide insights into certain aspects of a trial, such as voir dire, preliminary hearings, direct or cross examination, opening statements, jury deliberations, sentencing hearings, oral arguments, etc. Each student is responsible for setting up these court observations. The observations may be in-person or online. They can even be observed from a pre-recorded video. That said, each student must first have permission from the professor before proceeding with the court observation. Each student will also write a brief reflection paper and submit it on Blackboard.

UNIT EXAMS

Each student will take four end-of-unit exams. These unit exams will be based on the readings. The exams will be comprised of multiple choice and True/False questions. The unit exams will be available on Blackboard during a multi-day window and must be completed on Blackboard. Note: once you start a unit exam, you must finish it within the prescribed time limit. More information about the unit exams will be provided as we progress through the course.

EXTRA CREDIT

There are no extra credit opportunities in this course.

QUALITY OF WORK

You are expected to produce quality work, which requires being prepared and encompasses both substance and presentation (style, organization, grammar, etc.). Poor presentation distracts from what it is you are trying to communicate. Producing quality work requires more than a minimum effort. In all cases, quality trumps quantity.

CLASSROOM RESPONSE SYSTEM

We will use a cloud-based student response software by iClicker to administer polls during class. There is no extra cost for using this software application. You are required to “check-in” to participate in the iClicker Cloud polls. You can participate with a smartphone, tablet, laptop, or desktop computer. It is your responsibility to set up your iClicker Student account in a timely fashion and to make sure your device is working properly. You will need to create an iClicker Student account if you do not already have one. You will also need to connect to the internet or to your mobile data plan while using iClicker Student.

COURSE COMMUNICATION

Important course information will primarily be communicated in class and through email. Note: your “miners.utep.edu” email address is the only email address I will use when communicating important information via email. Students who are absent from class are responsible for obtaining any important information they may have missed. Students are responsible for regularly checking their official UTEP email. It is not a valid excuse to say, “I did not receive the email.”

COURSE POLICIES

CLASSROOM ENVIRONMENT

I will strive to provide a classroom environment appropriate for academic instruction and discussion. For this to occur, make sure you read the assignments, as scheduled; silence cell phones; and arrive on time. We will welcome and encourage different ideas and viewpoints. Some topics are controversial and students should feel comfortable expressing their thoughts. We will respect what

others have to say – we do not have to agree with them – and avoid personal insult, interrupting, and rudeness. We will avoid becoming politically charged when discussing sensitive topics. We will be civil.

ACCOMMODATIONS

The University is committed to providing reasonable accommodations and auxiliary services to students with documented disabilities in order to provide them with equal opportunities to participate in programs, services, and activities in compliance with sections 503 and 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. Students requesting accommodations based on a disability must register with the [UTEP Center for Accommodations and Support Services](#) (CASS). Contact CASS at 915-747-5148 or email them at cass@utep.edu. Students can also apply for accommodations online via the [CASS portal](#).

COVID-19 ACCOMMODATIONS

Students are not permitted on campus when they have a positive COVID-19 test, exposure or symptoms. If you are not permitted on campus, you should contact me as soon as possible so we can arrange necessary and appropriate accommodations. We can further discuss what accommodations are needed should you miss assessment deadlines because you are sick with COVID-19. Your health takes priority.

WITHDRAWAL POLICY

To be withdrawn from the class, students must take appropriate actions on or before UTEP's deadlines. Automatic withdrawals will not be made by the instructor. A student may officially withdraw from this class with an automatic 'W' at any time **before November 3rd**. According to UTEP policy, no withdrawals will be allowed after this date. You will receive a failing grade if you simply stop coming to class and do not take appropriate actions to withdraw from the course.

SCHOLASTIC DISHONESTY

Scholastic Dishonesty will not be tolerated.

I am required by the Handbook of Operating Procedures for The University of Texas at El Paso to report “all alleged acts of scholastic dishonesty...to the Dean of Students for disposition.” (See Section III of the Handbook of Operating Procedures for UTEP (*Academic Policies and Faculty Personnel Matters* 4.14a.))

As stated in Section II of the Handbook of Operating Procedures for UTEP (*Student Conduct and Discipline* 1.2.3(a)): “Any student who commits an act of academic dishonesty is subject to discipline. Academic dishonesty includes but is not limited to cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person without giving sufficient credit, taking an examination for another person, or any act designed to give unfair advantage to a student or the attempt to commit such acts.”

Please refer to UTEP's Office of Student Conduct and Conflict Resolution's *Tips for Academic Integrity and Scholastic Dishonesty* at <https://www.utep.edu/student-affairs/osccr/student-conduct/academic-integrity.html>. You should read the *Avoiding Plagiarism* handout available on their site, which is also available on Blackboard.

COURSE SCHEDULE

The schedule below outlines what will be covered in this course. It will be followed to the extent possible in meeting the instructional goals and needs of the course, but I reserve the right to alter this schedule as needed. The required readings will be made available on Blackboard. You are required to complete the assigned readings for each week. Pay particular attention to when the unit exams are scheduled.

TORT LAW

Date	Readings and Assignments
Week 1 8/29, 8/31	<i>Intentional Torts</i> ✓ Witt & Tani, Ch. 2, Sec. A & B, pp. 36-69
Week 2 9/5, 9/7	September 4th: Labor Day Holiday - University Closed <i>Nuisance</i> ✓ Witt & Tani, Ch. 9, Sec. D, pp. 513-546
Week 3 9/12, 9/14	September 13th: Fall Census Day <i>Strict Liability</i> ✓ Witt & Tani, Ch. 9, Sec. E, Sub. Sec. 1-3, pp. 547-578
Unit 1 Exam	Exam will be taken on Blackboard ✓ Available after class on Sept. 14th Due before class on Sept. 19th

CRIMINAL LAW

Date	Readings and Assignments
Week 4 9/19, 9/21	<i>Robbery and Arson</i> ✓ Ristroph, Ch. 5, pp. 190-208
Week 5 9/26, 9/28	<i>Homicide</i> ✓ Ristroph, Ch. 6, pp. 229-258

CRIMINAL PROCEDURE

Date	Readings and Assignments
Week 6 10/3, 10/5	<i>Ports of Entry Exception to the Warrant Requirement</i> ✓ Trachtenberg & Alexander, Ch. 14, pp. 300-323
Week 7 10/10, 10/12	<i>Invocation of the Right to Silence & the Right to Counsel</i> ✓ Trachtenberg & Alexander, Ch. 27, pp. 588-609
Week 8 10/17, 10/19	<i>Identifications and Due Process</i> ✓ Trachtenberg & Alexander, Ch. 39, pp. 846-868
Unit 2 Exam	Exam will be taken on Blackboard ✓ Available after class on Oct. 19th Due before class on Oct. 24th

FIRST AMENDMENT LAW

Date	Readings and Assignments
Week 9 10/24, 10/26	<p><i>Introduction to the First Amendment</i></p> <ul style="list-style-type: none"> ✓ Robson, Ch. 1, pp. 1-8 <p><i>Defining Expression</i></p> <ul style="list-style-type: none"> ✓ Robson, Ch. 3, Sec. I, pp. 64-78
Week 10 10/31, 11/2	<p>November 3rd: Fall Drop/Withdrawal Deadline</p> <p><i>Student Speech</i></p> <ul style="list-style-type: none"> ✓ Robson, Ch. 5, Sec. III, pp. 233-254
Week 11 11/7, 11/9	<p><i>Displays of Religious Symbols</i></p> <ul style="list-style-type: none"> ✓ Robson, Ch. 13, Sec. II, pp. 759-794
Week 12 11/14, 11/16	<p><i>Hostility Toward Religion</i></p> <ul style="list-style-type: none"> ✓ Robson, Ch. 14, Sec. IV, pp. 859-896
Unit 3 Exam	<p>Exam will be taken on Blackboard</p> <ul style="list-style-type: none"> ✓ Available after class on Nov. 16th Due before class on Nov. 21st

COPYRIGHT LAW

Date	Readings and Assignments
Week 13 11/21, 11/23	<p>November 23rd-24th: Thanksgiving Holiday - University Closed</p> <p><i>Introduction to Copyright Law</i></p> <ul style="list-style-type: none"> ✓ Fromer & Sprigman, Ch. 1, pp. 1-16 <p><i>Originality: Classic Cases & Contemporary Cases</i></p> <ul style="list-style-type: none"> ✓ Fromer & Sprigman, Ch. 2, pp. 26-44
Week 14 11/28, 11/30	<p><i>Reproduction Right: Contemporary Cases</i></p> <ul style="list-style-type: none"> ✓ Fromer & Sprigman, Ch. 5, pp. 238-267
Week 15 12/5, 12/7	<p>December 8th: Dead Day</p> <p><i>Fair Use: Foundational Cases</i></p> <ul style="list-style-type: none"> ✓ Fromer & Sprigman, Ch. 6, pp. 391-420
Unit 4 Exam	<p>Final Exam: December 14th</p> <p>Exam will be taken on Blackboard</p> <ul style="list-style-type: none"> ✓ Available after class on Dec. 7th Due before class on Dec. 14th