Introduction:

This course will introduce you to the institutions, methods, and practices at the core of the American common-law legal system. During the first half of the course we will focus on the Judicial Branch of the Government. We will examine the structure and boundaries of judicial power; the procedural mechanisms through which that power is exercised; and the ways in which common-law courts make (or decline to make) law. We will pay close attention to the political and social contexts in which the cases that we study arise, and we will consider how changing contexts affect the judicial decision-making process. During the second half of the course, we will turn our attention to the Legislative Branch of the Government, with special attention to problems of statutory construction. We will examine the tools—both legal and linguistic—that common-law courts employ when called upon to determine the proper interpretation of a statute.

Required Materials:

Jane C. Ginsburg, Legal Methods (4th edition, revised 2014) [“Ginsburg”]. This book is available in the law school bookstore. Please note that this is the newest edition of this book. If you buy a used book that is an earlier edition, the page numbers will be different, and some new material will be missing from the older edition.

Course Materials: The syllabus refers to all reading assignments that are not in the Ginsburg book as Course Materials. All documents in Course Materials are available on the TWEN site for this course. The reading assignment for the first class is in the Course Materials, and we will email you that reading assignment the week before the first class. We will then explain, during the first class, how to gain access to the TWEN site.
Grading:

The final exam will be an open book, take-home exam. The exams will be graded using grades of Honors/Pass/Fail. We generally award between 20% and 35% of the class a grade of Honors, depending on the quality of the exams.

Class Schedule:

Classes will meet in McDonough 207 on Fridays starting at 10:05 a.m.

Office Appointments:

You can email either of us to make an appointment.

Classroom Rules of the Road:

You are responsible for all the materials in the assigned readings. Please do all the reading for each class before coming to class, and be prepared to discuss the readings during class. You should arrive for class promptly at 10:05 and you should turn off your cell phone during class. The classes will be recorded using Georgetown’s recording equipment. All class recordings will be available to you at any time if you wish to review the class. Please do not record classes on your laptop or phone.

SYLLABUS

**Class 1 (Sept. 4): The Litigation Process in U.S. Courts**

**Assigned reading:** Course Materials: “Class 1: The Litigation Process in U.S. Courts.”

**Class 2 (Sept. 11): The Litigation Process in U.S. Courts (Continued)**

**Assigned reading:** Course Materials: “Class 2: The Litigation Process in U.S. Courts (Continued).”
Class 3 (Sept. 18): Common-Law Decision-Making: How Courts Make or Decline to Make Law

Assigned reading: Ginsburg pp. 77-88.

Note: The first case you will read, Baker v. Libbie, is a very old (1912) opinion by the Supreme Court of Massachusetts. It is written in a non-contemporary English style, and frankly it is not as well organized as a modern judicial opinion would be. Do not worry if you do not understand everything the court says; we will try to clear this up in class. When you read the opinion, note that the Executor is asking the court to enjoin the auction house from doing two different things. What are they? If you read carefully, you will see that the court enjoins the auction house from doing one thing, but not the other. Why? How is this outcome connected to the respective property rights possessed by the author and by the recipients of the letters?


Assigned reading: Ginsburg pp. 88-104; Course Materials: Opinion of the New York Court of Appeals in Schuyler v. Curtis. Please read the opinion in Schuyler v. Curtis before reading the two cases assigned for this class in the Ginsburg book.


OCTOBER 9: NO CLASS

Class 6 (Oct. 16): How Precedent Works Over Time: Evolution of a Claim (Continued)

Assigned reading: Ginsburg pp. 155-166.
Class 7 (Oct. 23): How Precedent Works Over Time: Overruling Prior Opinions


Class 8 (Oct. 30): Codifying the Common Law

Assigned reading: Course Materials: Tarasoff v. University of California; Brady v Hooper (District Court and Circuit Opinions); Ginsburg pp. 217-218; 224-225.

Class 9 (Nov. 6): Canons of Statutory Construction

Assigned reading: Ginsburg pp. 229-252. Course Materials: Ewing v Goldstein; REMARKS ON THE THEORY OF APPELLATE DECISION & THE RULES OR CANNONS ABOUT HOW STATUTES ARE TO BE CONSTRUED.

Class 10 (Nov. 13): Textualism

Assigned reading: Ginsburg pp. 306-348. (Use the statutes on pages 306-311 as references as you read the cases.) Course Materials: PARSE THE SENTENCE FIRST: CURBING THE URGE TO RESORT TO THE DICTIONARY WHEN INTERPRETING LEGAL TEXTS.

Class 11 (Nov. 20): More Textualism

NOVEMBER 27: NO CLASS (THANKSGIVING HOLIDAY)

**Class 12 (Dec. 4): Constitutional Interpretation**

**Assigned reading:** Course Materials: *Heller v. United States*; Linguists’ Amicus Brief.