**Prof. Michal Belknap Monday and Wednesday**

**10:50-12:05**

**AMERICAN LEGAL HISTORY SINCE THE CIVIL WAR**

The reading assignments for the course are from one textbook and a series of monographs that deal with incidents that highlight particular issues covered by the course. The textbook is

Kermit L. Hall and Peter Karsten, *The Magic Mirror* (2d ed; New York: Oxford University Press, 2009) Assignments from that book are identified by the designation [*Magic Mirror*]. The monographs are the following:

Michal R. Belknap, *The Vietnam War on Trial: The My Lai Massacre and the Court-Martial of Lieutenant Calley* [*Vietnam War*]

William James Hull-Hoffer, *Plessy v. Ferguson [Plessy]*

Paul Kens, Lochner v. New York: *Economic Regulation on Trial*  [*Lochner*]

Michael J. Klarman, Brown v. Board of Education *and the Civil Rights Movement*

[*Brown*]

In addition, I have put on my website assignments fromWilliam E. Leuchtenburg, *The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt* [*Supreme Court*] and David A. J. Richards, *The Sodomy Cases* [*Sodomy Cases*]*.* The Leuchtenberg book is a collection of essays by the most distinguished constitutional historian of the 1930s. It is still the best book on the revolutionary transformation of the Supreme Court and the Constitution that occurred during the age of Franklin Roosevelt. Not all of it is relevant to this course, however. Rather than force you to buy the whole book, I have put those parts that we will actually be reading on my class website David A.J. Richards, *The Sodomy Cases* [*Sodomy Cases*]is a good book about the Supreme Court and homosexuality that has become outdated because of recent developments in that area. Probably for that reason, it is no longer in print. The first 34 pages are still solid, though, and for that reason, I have put them on the website.

This class has two parts. The first section, which runs from May 2 through July 13, is a lecture-discussion class. It is designed to give you an overview of American legal and constitutional history from the Civil War to the present. You will be graded on your class participation during this part of the class. That means that the reading assignments are mandatory and that your grade will suffer if you either fail to attend class or have not done the reading assigned for that days class. This section of the class will count one-third of your grade in the course.

The second section of the course runs from July 15 to the end of the class. It will be devoted entirely to the preparation of a scholarly writing paper. You should already have chosen a topic and begun exploring it before July 15, but after that date you will be expected to do extensive research on your topic and to prepare an outline, a first draft, and the final version of your paper. I will be assisting you at each step along the way. You will be expected to meet with me once each week to discuss your progress and any problems you have encountered.

You may do your paper on any aspect of American legal history during the period 1865 to the present. I realize that not all topics compartmentalize neatly into Before the Civil War and After the Civil War, and you are free to work on one that does not. But your paper may not deal entirely with the Pre-Civil War period. I have done most of my own research and writing on the post-Civil War era, and so I can give you the most help on papers that deal with that period.

I want you to tell me by no later than May 16 what the topic of your paper is going to be. You will discover that this is often the most difficult part of doing a good research paper. Some students want to write on topics that are inappropriate, but a more common problem is selecting a topic that is much too large. We will probably need to discuss your topic some in order to narrow what you have in mind down into something that can actually be done in one trimester. Also, make sure the topic you select is one in which you have a real interest. You are going to be spending a good deal of your time on it for an entire trimester. If you are working on a topic in which you are really interested, your scholarly writing paper may well prove to be one of the most interesting and enjoyable things you do in law school. But if you do not take care to pick a topic in which you are really interested, this course is likely to become sheer drudgery.

I would like to see an outline of your paper by June 18. You must submit a first draft of your paper to me by August 5. The final version of all papers is due on August 15.

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| **Date** | **Topic** | **Reading Assignment** |
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| May 2 | Civil War | *Magic Mirror;* 1-7; *Plessy;* 1-19 |
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| May 4 | Reconstruction | *Magic Mirror;* 142-62; *Plessy;* 19-30 |
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| May 9 | Retreat from Reconstruction | *Plessy;* 30-37 |
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| May 11 | Minorities and the Law | *Magic Mirror;* 162-86; *Plessy,* 38-187 |
| May 16 | Law & the Economy | *Magic Mirror,* 187-214; *Lochner*; 1-43 |
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| May 18 | Regulation & Reaction | *Magic Mirror*, 214-30, 247-60 *Lochner,* 44-78 |
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| May 23 | Triumph of Substantive Due Process | *Lochner*, 79-127 |
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| May 25 | The *Lochner* Era | *Magic Mirror*; 260-67; *Lochner*; 128-65 |
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| May 30 | MEMORIAL DAY (No Class) |  |
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| June 1 | Emergence of the Model Legal | *Magic Mirror,* 231-46 |
|  | Profession |  |
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| June 6 | World War I | *Magic Mirror*; 268-89 |
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| June 8 | Radicalism and Reaction | *Magic Mirror,* 268-73 |
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| June 13 | The “Roaring ‘20s |  |
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| June 15 | Origins of the “Court Fight” | *Magic Mirror*; 290-305; *Supreme Court;* 26-162 |
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| June 20 | A New Deal in American Law | *Magic Mirror*; 305-09; *Supreme Court;* 213-58 |
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| June 22 | Hot and Cold Wars | *Magic Mirror*; 346-49 |
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| June 27 | Civil Rights | *Brown;* 1-212 |
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| June 29 | *Brown’s* Legacy: The Warren Court | *Magic Mirror,* 341-47; 349-74; *Brown,* 213-31 |
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| July 4 | FOURTH OF JULY HOLIDAY (No Class) |  |
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| July 6 | Culture War & Judicial Counter- Revolution | *Magic Mirror*, 374-78; Richards; *Sodomy Cases,* 1-34 |
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| July 11 | The Vietnam War | *Vietnam War* (all) |
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| July 13 | Vietnam; Iraq and Afghanistan | Review *Vietnam War;* 1-5; 191-215 |

During the period between the last scheduled class meeting and the end of the course on August 13 you will be required to meet with me for 30 minutes one day per week to discuss the progress of your paper. You will need to make an appointment for each of these meetings. The most convenient time for most of you is likely to be during and immediately after the scheduled class meeting time. Unfortunately, there are only 6 such slots available. Hence, two of you will have to schedule appointments during the office hours listed below. To make this process as fair as possible, I will schedule meetings on a first-come –first-served basis. If you have a strong preference for a particular time, I would encourage you to make your appointments as early as possible.

**Office Hours: Monday 1:30-3:30, Wednesday 3:30-5:00**