

# CIVIL LAW (CVGL)

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## CVGL 0101. Civil Procedure. (4 to 5 Credits)

The study and critical evaluation of principles applicable to the litigation of civil cases. The course considers the structure of an individual law suit and provides an introduction to judicial systems, including both the relationship of state court systems to each other and the role of the Federal courts in our system of federalism. The course places particular emphasis upon the Federal Rules of Civil Procedure and on basic principles of jurisdiction including both personal jurisdiction and federal subject matter jurisdiction. Four-credit courses that meet for 150 minutes per week require three additional hours of class preparation per week on the part of the student in lieu of an additional hour of formal instruction.

**Attribute:** JD.

## CVGL 0211. Congressional Oversight Investigations. (1 Credit)

Course description: Identify the various sources of Congressional authority to conduct oversight investigations, and articulate powers that come from those constitutional, statutory, and caselaw authorities; Identify the tools Congress has to conduct fact-finding and oversight; Major investigations in US history; Conducting investigative hearings; Conflicts with the Executive; Resolutions

Materials: There is no assigned book for the class Readings will be assigned for each segment from a variety of sources, and links will be supplied where necessary.

Participation and Grading: Participation in discussions is expected, and at the conclusion of the course, each student will be given a particular oversight activity to formulate legal arguments for or against in furtherance of a client's goals.

Background info on Mark Tuohey: Professor Tuohey is Senior Counsel at BakerHostetler in Washington, D.C., where his practice involves complex civil and criminal investigations and trials, congressional investigations, and compliance matters. A former federal prosecutor (U.S. Attorney's Office-D.C.: DOJ Criminal Division), Mark has served on occasion as special prosecutor appointed by the government to conduct investigations into public policy issues, including policing, official corruption, and rule of law initiatives. In 1997-98, he was appointed special counsel to the DC Council, to conduct an investigation into the practice and procedures of the Metropolitan Police Department. In 1998-99, he served as an advisor to the Independent Commission on Policing in Northern Ireland (the Patten Commission). He served as Chief Counsel to Washington Mayor Muriel Bowser (2015-2018), where he oversaw the legal work of the Executive branch agencies. Recently, he served as Special Counsel to the Democrats in the House on the Biden Impeachment Inquiry. He previously served as President of the District of Columbia Bar, a Trustee of Fordham University, President of Fordham Law Alumni Association, and the 2013 Fordham Medal of Achievement.

**Attribute:** INLJ.

## CVGL 0260. Law of the City of New York. (2 Credits)

The Law of the City of New York: Law plays a central, if often unheeded, role in nearly every aspect of the life and governance of New York City. This course will delve into the many ways in which questions of authority, individual rights, and other legal concerns play out across a set of critical policy domains that define the City, including race, immigration, access to justice, education, public safety, land use, housing, and public health. The course will also explore themes in contemporary urban theory and their relevance to understanding law. Student grades in this seminar will be based on a series of short (3-5 page) research memoranda over the course of the semester as well as class participation.

**Attributes:** LLM, PIE.

## CVGL 0262. Conflict Management Systems Design. (2 Credits)

This seminar is an interactive workshop designed to introduce students to the theory, principles and practice of conflict management systems design with the goal of training students to assume this new and creative professional role. Lawyers are increasingly being called upon to act not simply as litigators or deal-makers, but also as process architects to create dispute resolution programs for institutions, organizations and governments. In addition, attorneys are being asked to design, tailor and manage systems to handle multiple disputes in an effective and efficient manner, such as those arising from mass torts, employment, natural disasters, land use, human rights, government programs and technology.

Students will be expected to read, write, discuss, critique and participate in simulated exercises. After an overview of conflict management theory and principles, students will, through readings and critique, study seven actual dispute systems (e-Bay, South Africa, Canadian Indigenous Residential Schools, a Community Relations Initiative, the National Institute of Health, Maryland's ADR Program and Cure Violence). Then through a series of hands-on role plays and exercises, students will have the opportunity to develop systems design skills. Students will work on teams during class time and develop practical consulting skills in their simulated roles as dispute systems designers, including making presentations to a hypothetical client. The policy and ethical implications of systems design work will be explored, as well as opportunities for synthesis of systems design skills into legal practice.

The class meets early in the semester for two weekends on Saturday and Sunday from 10AM – 5PM on each of the four days. Due to the intensive and interactive nature of the seminar, timely attendance at all class sessions is mandatory. Grades will be based on class participation and a 10-page final client memorandum analyzing a current dispute system or designing a new system, on a topic of the student's choice. Final deliverables for the Seminar will be due before Spring Break.

**Attributes:** EXP, LDE.

## CVGL 0291. Electronic Discovery and Information Governance. (2 Credits)

Long gone are the days when discovery meant endless hours wading through boxes of paper documents. In today's world litigation is all about electronically stored information, which includes email, but also text messages, social media, databases and any other kind of digital content, wherever and however stored, iPhone or Cloud, business or personal. This digital transformation and the explosion in the volume of data has led to major overhauls of the Federal Rules of Civil Procedure as recently as December 2015, as well as new Federal Rules of Evidence and volumes of case law. The course teaches you the law and practice of electronic discovery, a subject matter that is far more broad than its name suggests. Although the course focuses on discovery in the context of litigation, it also covers pre-litigation information governance and records management, the duty to preserve and the evidentiary admissibility of electronic information, among other things. Data privacy and security play key roles. Guest lecturers including judges, in house practitioners, technology experts and more have traditionally been featured throughout the course.

No prior knowledge or experience with technology or evidence law required.

**Attributes:** CORC, LDF, LIDR.

**CVGL 0299. Law of Democracy. (2 Credits)**

This course surveys the theory and law governing elections, politics, and access rights to democratic political institutions by examining a series of the most important cases in election law, and the political theories underpinning them. Topics covered include voter ID laws, redistricting, campaign finance reform, and laws governing who determines the rules of political parties. The class will focus on key Supreme Court cases in election law and looks at the shift of the ideas governing democracy over history. Grades will be based on a paper or a take home final examination (80%) and class participation (20%), which includes one or more in-class presentations. Laptops are permitted in class. Students who wish to write a 4,000-6,000 word term paper instead of a final examination may do so, but they must commit to the paper and confirm a paper topic by March 15th. Word limits on both sides are strict. The basic textbook is *The Law of Democracy: Legal Structure of the Political Process*, by Issacharoff, Karlan, and Pildes (IKP). Students should read Richard Hasan's Election Law Blog (<http://electionlawblog.org/>) for current events.

**Attribute:** LLM.

**CVGL 0321. Conflict of Interest, Corruption, and Bias. (2 Credits)**

A variety of circumstances can lead people and organizations to act contrary to their obligations or others' expectations. The actors can have conflicting financial interests, affiliations, or intellectual commitments. However, there has been little systematic or comparative analysis regarding appropriate legal rules in this area. Instead, there is a hodgepodge of different legal treatments, including outright prohibitions, mandated disclosures, and simple reliance on markets and reputation. This seminar will explore conflicts of interest as a distinctive problem for the law. Take-home exam with a paper option.

**Attribute:** INLJ.

**CVGL 0337. Disability Law: Long Term Illness. (2 Credits)**

This course examines the history, application, and current limitations of disability civil rights law in the United States, with a particular focus on the Americans with Disabilities Act ("ADA"). The ADA is a federal statute that prohibits discrimination against individuals with disabilities in many areas of life, including higher education, licensing, employment, telecommunications, and access to private and public services. The ADA was enacted by Congress more than 30 years ago and subsequently amended in 2008 after courts narrowed the broad scope of protection intended to be afforded by the statute. There have been a number of regulatory and case law developments since 2008 and the intersection of disability, socioeconomic status, gender, and race is clearer than ever before. This seminar is designed to encourage interactive discussion and develop the knowledge and practical skills that students will need to evaluate claims of disability discrimination.

**Attributes:** JD, LAWJ, LLM, LMCO.

**CVGL 0342. Federal Courts. (3 to 4 Credits)**

The course covers congressional regulation of federal jurisdiction, case or controversy issues including advisory opinions, standing, mootness, and ripeness, constitutional and statutory federal question jurisdiction, appeals from state courts to SCOTUS including the independent and adequate state grounds doctrine, federal sovereign immunity, state sovereign immunity, implied federal statutory and constitutional rights of action, section 1983, and official immunity. It does not cover diversity jurisdiction, the Erie doctrine, federal common law, Article I courts, federal habeas review, or abstention.

**Attributes:** LDF, LIDR, PIF.

**Prerequisites:** FCGL 0102 and CVGL 0101.

**CVGL 0343. Anti-Discrimination Law. (2 or 3 Credits)**

Antidiscrimination Law examines legal and policy responses to questions of inequality affecting a host of identities and protected classes, including race, ethnicity, sex, and disability. We will consider the statutory, regulatory, and constitutional law used to address discrimination in several contexts, such as housing, employment, public accommodations, education, criminal administration of justice, voting, etc. The course is interdisciplinary, examining case law, legal writings, as well as social science research, and multimedia sources. Classes will include lecture, group discussion, exercises, and presentations by attorneys practicing in relevant areas of anti-discrimination law. Student grades will be based upon classroom participation and a scheduled final exam.

**Attributes:** INLJ, LLM, LWR, PIE.

**CVGL 0402. Comparative Approaches to Conflict Resolution, Justice, and Peace Building. (2 Credits)**

The course will address conflict resolution from a legal and political perspective. The seminar will present a comparison of the Northern Irish and Israeli-Palestinian conflicts. Besides, it will discuss the grassroots causes of these conflicts and their impact on basic human rights. It will also examine the successes or failures of conflict resolution efforts. The seminar will further review the political and social movements which promote various approaches to peacebuilding and the steps necessary for reconciliation and transitional justice such as truth commissions, reparations, and more. The seminar will invite activists and scholars involved in conflict resolution as guest lectures. Students will be required to submit a weekly short essay/report and write a paper at the end of the semester.

**Attributes:** INLJ, LLM.

**CVGL 0405. Conflict of Laws. (2 or 3 Credits)**

A study of the principles and rules applicable when courts adjudicate transactions connected with more than one jurisdiction. Problems of choice of law, jurisdiction, and recognition of judgments are considered in light of traditional and modern analyses and the constitutional limitations.

**Attributes:** LDF, LIDR, LLM, LMCO.

**CVGL 0408. Discovery and Pre-Trial Practice. (1 to 2 Credits)**

This is an advanced civil procedure course that focuses on the pretrial process, from the client interview through pretrial motions, with an emphasis on discovery and its role in the pretrial process. As a skills class, students will have oral and written assignments through out the semester. In addition, in lieu of one class session, the students will observe proceedings in the United States District Court in Newark, NJ.

**Attributes:** JD, LAW, LDE.

**CVGL 0414. New York Practice. (3 Credits)**

This course will address recent developments in New York civil practice. It will focus on laws and rules in New York practice that have been identified as content topics for the new New York Law Examination portion of the recently adopted Uniform Bar Examination. Topics include: jurisdiction; the Commercial Division; statutes of limitation; pleadings; starting the suit and service; joinder, intervention and class actions; motion practice, including summary judgment; disclosure and e-discovery; settlement; contribution and indemnity; provisional remedies; special proceedings; appeals; and ethics and sanctions. Our course combines a lecture format with a lively give and take discussion examining both practical and policy aspects.

**Attributes:** LDF, LMCO.

**CVGL 0415. Firearms Law. (2 Credits)**

The course will examine the constitutional, political and sociological debate over gun rights, incorporating perspectives of race, gender, class, and regional culture.

**Attributes:** INLJ, JD, LAWJ, LLM, PIE.

**CVGL 0420. Complex Litigation. (3 Credits)**

A significant part of modern civil litigation practice involves complex cases with numerous parties and claims. Such cases arise in a wide range of substantive fields, including product liability, antitrust, civil rights, employment discrimination, environmental harm, and securities. As a procedural matter, some of these cases are adjudicated or settled as class actions, while others are handled through various forms of non-class aggregate litigation. This course examines the theory and practice of complex multiparty cases. Readings and discussions will focus on class actions and other advanced procedural topics including multidistrict litigation, mass settlements, and phased trials.

**Attributes:** JD, LDF.

**Prerequisite:** CVGL 0101.

**CVGL 0429. The Role of the Attorney General in Civil Litigation. (2 Credits)**

This course explores the State Attorney General's role as the chief legal officer of the State and the assertion of State interests through civil litigation by the Office of the Attorney General. The course is taught by two New York Assistant Attorneys General, one who specializes in defense of the State's health-related agencies, and another, who focuses on environmental litigation. By reading and analyzing well known cases on the constitutional, procedural and administrative dimensions of civil litigation involving the State, including more recent court decisions drawn from the pandemic era, students will acquire a sophisticated understanding of the daily work of the "State's lawyer" - in state and federal courts, and both as a plaintiff and a defendant. Students will be assessed with a short writing assignment that simulates a litigation matter that may be handled by the Office of Attorney General, and through a final examination.

**Attribute:** LLM.

**CVGL 0615. Appellate Advocacy and Civil Rights. (1 Credit)**

This is an appellate advocacy course that will focus on developing advocacy skills within the framework of four important civil rights cases. Throughout this country's history, the Supreme Court and other appellate courts have decided civil rights cases that have fundamentally impacted our lives – upholding, for example, the exclusion of Japanese-Americans (including U.S. citizens) from the West Coast; ordering the integration of our schools and changing the course of race relations; considering whether soldiers have a First Amendment right to protest a war they believe to be immoral; and barring discrimination in employment on the basis of sexual orientation. Appellate advocates and judges played a critical role in these developments. We will study four civil rights cases – *Korematsu v. United States*, 323 U.S. 214 (1944) (upholding military orders excluding individuals of Japanese descent, including American citizens, from the West Coast); *Meredith v. Fair*, 298 F.2d 696 and 305 F.2d 343, 361 (5th Cir. 1962) (holding that James Meredith was denied admission to the University of Mississippi because of his race and ordering his admission); *Cortright v. Resor*, 447 F.2d 245 (2d Cir. 1971) (rejecting First Amendment claim by a soldier alleging retaliation by the Army for opposing the Vietnam War); and *Zarda v. Altitude Express, Inc.*, 883 F.3d 100 (2d Cir. 2018) (holding that Title VII bars discrimination in employment based on sexual preference). We will review the briefs, arguments, and decisions in these cases and consider issues such as: persuasiveness; candor; judicial decision-making; the impact of external pressures (such as national security concerns and societal expectations); and the en banc process. Drawing on what we learn from our consideration of the four civil rights cases, we will focus on developing brief writing and oral argument skills. Students will write an appellate brief and present oral argument (in a Second Circuit courtroom at the Thurgood Marshall United States Courthouse). From time to time, we will also discuss cases being heard in the Second Circuit and listen to audio recordings of the arguments, with a discussion of the quality and effectiveness of the presentations. The class will be limited to 16 students.

**Attribute:** EXP.

**Prerequisite:** CVGL 0616 (may be taken concurrently).

**CVGL 0616. Appellate Advocacy and Civil Rights Experiential. (1 Credit)**

This is an appellate advocacy course that will focus on developing advocacy skills within the framework of four important civil rights cases. Throughout this country's history, the Supreme Court and other appellate courts have decided civil rights cases that have fundamentally impacted our lives – upholding, for example, the exclusion of Japanese-Americans (including U.S. citizens) from the West Coast; ordering the integration of our schools and changing the course of race relations; considering whether soldiers have a First Amendment right to protest a war they believe to be immoral; and barring discrimination in employment on the basis of sexual orientation. Appellate advocates and judges played a critical role in these developments. We will study four civil rights cases – *Korematsu v. United States*, 323 U.S. 214 (1944) (upholding military orders excluding individuals of Japanese descent, including American citizens, from the West Coast); *Meredith v. Fair*, 298 F.2d 696 and 305 F.2d 343, 361 (5th Cir. 1962) (holding that James Meredith was denied admission to the University of Mississippi because of his race and ordering his admission); *Cortright v. Resor*, 447 F.2d 245 (2d Cir. 1971) (rejecting First Amendment claim by a soldier alleging retaliation by the Army for opposing the Vietnam War); and *Zarda v. Altitude Express, Inc.*, 883 F.3d 100 (2d Cir. 2018) (holding that Title VII bars discrimination in employment based on sexual preference). We will review the briefs, arguments, and decisions in these cases and consider issues such as: persuasiveness; candor; judicial decision-making; the impact of external pressures (such as national security concerns and societal expectations); and the en banc process. Drawing on what we learn from our consideration of the four civil rights cases, we will focus on developing brief writing and oral argument skills. Students will write an appellate brief and present oral argument (in a Second Circuit courtroom at the Thurgood Marshall United States Courthouse). From time to time, we will also discuss cases being heard in the Second Circuit and listen to audio recordings of the arguments, with a discussion of the quality and effectiveness of the presentations. The class will be limited to 16 students.

**Attribute:** EXP.

**Prerequisite:** CVGL 0615 (may be taken concurrently).

**CVGL 0780. Congressional Investigations. (2 Credits)**

This course will focus on the scope and contours of Congress's oversight authority and how it has evolved over time. It will also examine the interplay between congressional investigations and the separation of powers between the Legislative, Judicial, and Executive branches of government and how such investigations can impact private actors. Topics covered will include, among others, committee jurisdiction and grants of authority, interaction with the Executive Branch and claims of Executive Privilege, judicial review of congressional oversight activities, the impact of congressional oversight on parallel investigations and proceedings, the applicability of constitutional and common law privileges, the congressional contempt power, and current trends in congressional investigations in light of a changing political dynamic in Washington (including the role of the minority party and specially-constituted investigative commissions). The world of congressional investigations is truly interdisciplinary—these high-stakes investigations often involve overlapping, and at times competing, considerations of law, legislation, lobbying, policy, politics, public relations, and media. Rarely does a congressional investigation occur in a vacuum; for an issue to attract a congressional committee's attention, it is often necessarily subject to parallel criminal and civil proceedings. Therefore, students will be challenged to assess the spectrum of risk a subject or witness might face, including criminal exposure, impact on parallel litigation, administrative or regulatory issues, media scrutiny, reputational and economic risk, and negative legislative results. Students will also consider the myriad objectives of a congressional investigation, including evaluating compliance with the law, supporting or opposing legislation, or advancing a particular political agenda. Grades will be determined based on class participation (15%) and a take-home final exam (85%).

**Attributes:** INLJ, LLM.

**CVGL 0929. Current Issues in Police Reform. (2 Credits)**