

## Course Notes: Spring 2013

### Enrollment Caps

Advanced Crim – Sentencing	15
Advanced Crim. – Habeas	30
Advanced Legal Research	25
Children’s Law Clinic	8
Constitutional Litigation Clinic	8 (limited to students who enrolled in fall)
Contract Drafting	20
Criminal Litigation	16
Death Penalty Seminar	15
Deposition Strategies	24
Elder Law	20
Entertainment Law	20
Environmental Law Seminar	24
EU, WTO, and Int’l Trade	16
Facts, Storytelling, and Persuasion	16
Indigent Defense Clinic	4
International Law	20
Interview, Counsel, & Negotiate	16
Jurisprudence	20
Kentucky Innocence Project	8 (limited to students who enrolled in fall)
Law Practice Management	40
Legal Drafting – Legislation	16
Legal Drafting – Litigation	20
Mediation	24
National Security Law	20
Not-for-Profit Organizations	20
Pre-trial Litigation	16
Small Business Clinic	8
Supreme Court Seminar	9
Trial Advocacy (Day)	12
Trial Advocacy (Night)	15
Voir Dire Strategies	20
Workers’ Compensation	25

### Prerequisites

Adv. Crim – Sentencing	Criminal Law
Adv. Criminal Law – Habeas	Criminal Law
Advanced Legal A.S.	Must be in final semester (or an August graduate)
Advanced Tax	Tax – Basic Tax Concepts

Children's Law Clinic	Professional Responsibility (either previously took it or are taking it concurrently with Clinic); 30+ credit hours; 60+ credit hours if you want a limited license to appear in court
Contract Drafting	BLS - Writing and Contracts
Criminal Litigation	Criminal Law, Evidence, and Crim. Pro.
Death Penalty Seminar	Criminal Law
Deposition Strategies	Evidence and Civil Procedure
Externships	Please see Professor Kinsley
Indigent Def. Clinic	Evidence and Crim. Pro.
KIP	Crim. Law, Crim. Pro., and Evidence
Legal Drafting – Lit.	BLS-Writing, Civ. Pro. I and II
Mediation	Students should be in their third or fourth year, with some exposure to litigation
Patent Prosecution	Patent Law
Securities Regulation	Co-reqs: Corporations or Agency; or permission from instructor
Small Business Clinic	Professional Responsibility (pre-req); Corporations or Agency (co-req)
Tax – Bus. Orgs	Tax – Basic Tax Concepts
Trial Advocacy (day)	Evidence
Trial Advocacy (night)	Evidence and Civil Procedure
Workers' Comp.	Must be a 2L, 3L, or 4L who has successfully completed Torts

### **AWR- Research**

Advanced Legal Research  
Death Penalty Seminar  
Elder Law  
Employee Benefits Litigation  
Environmental Law Seminar  
Insurance Law  
International Law  
Jurisprudence  
National Security Law  
Race and the Law (15 limit)

### **AWR-Drafting**

Advanced Crim. - Habeas  
Contract Drafting  
Criminal Litigation  
Employment Discrimination  
Entertainment Law (depending on enrollment)  
Environmental Law Seminar (can only satisfy one AWR in this course)  
EU, WTO, and Int'l Trade

Interview, Counsel, & Negotiate  
Legal drafting – Legislation  
Legal Drafting – Litigation  
Mediation  
Supreme Court Seminar  
Tax – Advanced Tax  
Tax – Business Organizations and Business Planning  
Trial Advocacy (night)

### **Pass/Fail**

Advanced Legal Analysis Strategies  
Competition Teams  
Externships (not clinics)  
KIP  
Law Review

### **Skills Courses**

Advanced Legal Research  
Clinics/KIP  
Competition Teams  
Contract Drafting  
Criminal Litigation  
Deposition Strategies  
Interviewing, Counseling, and Negotiating  
Legal Drafting – Legislation  
Legal Drafting - Litigation  
Mediation  
National Security Law  
Patent Prosecution  
Pre-trial Litigation  
Trial Advocacy  
Voir Dire Strategies

## **Miscellaneous Notes**

**Advanced Criminal Law – Habeas:** This course will provide students with an understanding of federal habeas corpus practice, which is often an inmate’s last opportunity to overturn a conviction or avoid execution. Habeas corpus is often considered the most complex aspect of criminal law. Federal courts deal with habeas petitions regularly. Yet, law students do not routinely learn federal habeas law. This Court will bridge that gap and therefore make students more attractive candidates for prestigious federal judicial clerkships. Students will learn the requirements to proceed in federal habeas and the procedures to follow in filing and litigating a habeas petition from filing to conclusion. They will also learn the doctrines of exhaustion and procedural default, the limitations on granting habeas relief, what to do when habeas relief is denied, and stay of execution litigation in death penalty cases. In a nutshell, students will learn every aspect of federal habeas corpus with the goal that by the conclusion of the course, students will have a basic knowledge of how to litigate a federal habeas petition from filing to final appellate review and have enough federal habeas knowledge to assist federal district court judges decide federal habeas petitions. This knowledge will be gained not just through statutory and case law, but also through practical experience. Students will review habeas pleadings filed in actual death penalty cases and then have the opportunity to draft various pleadings that would be filed in federal habeas cases, either in actual death penalty cases or in a hypothetical case – depending on the status of the professor’s capital habeas cases. By doing so, students will have the option to use this class to satisfy the AWR – Drafting requirement.

**Advanced Legal Analysis Strategies:** Only students graduating in May or August 2013 may take this course.

**Children’s Law Clinic:** Clinic students must be available for Friday clinic class and some Monday/Wednesday mornings at 8:30 for court appearances. Clinic application will be posted on Symplicity. Please see Professor Halbrook with questions.

**Clinics:** Please see the faculty member in charge of the particular clinic in which you are interested.

**Coal and Mineral Law:** This course will focus on mineral and mining Rights, including coal and other “hard minerals.” There will also be a part of the course material devoted to oil and gas rights with an emphasis on the mid-western states, including Kentucky, West Virginia, Indiana, Illinois, and Ohio.

**Deposition Strategies:** This course will have a TWEN page set up for the class where the students can review real world materials, the class outlines, syllabus, examples from other students in the past, sample real world outlines, and a video deposition in the real world taken by a graduate of the class.

**Elder Law:** There will be guest speakers. On days on which guest speakers are scheduled, absences will count twice when computing possible grade penalties.

**Employee Benefits Litigation:** This course examines the evolving area of employee benefits litigation. Students will study litigation involving claims for benefits as well as claims for breaches of the fiduciary duty of those who administer the plans. Cases involving the risks employees face when purchasing employer stock from their employer, discretion accorded the employer in making decisions regarding claims for benefits, the elimination of retiree health benefits, the limitation of damages for medical claims, as well as other topics, will all be studied.

**Entertainment Law:** This is an online course. Students will study and apply the reading materials through a series research, drafting, and negotiating exercises. While there are no live sessions, students are expected to stay current on all reading assignments, participate actively each week, complete CALI and drafting exercises, and work closely with their partners on collaborative projects. There is also a final exam.

**Advanced Criminal Law – Sentencing:** This course will have various individuals with criminal sentencing backgrounds as guest speakers. At this point, the professor does not know whether the exam will be a take-home exam or a regularly-scheduled exam. Examsoft will be available if the exam is not a take-home exam.

**Field Placement / Externships:** See Professor Kinsley regarding these.

**Indigent Defense Clinic:** This is a year-long course beginning in the fall semester. An interview is required.

**Mediation:** This is a hands-on, skills course with lots of role-playing. Students need to participate actively in class.

**Remedies (Day):** The type of evaluation (exam, assignments, mid-term, etc.) for this course will depend on the number of students enrolled in the course.

**Small Business and Non-Profit Law Clinic:** The Small Business & Nonprofit Law Clinic provides students the opportunity to develop the legal skills utilized by business and transactional lawyers by dealing with real clients and issues. Student clinicians work under the supervision of the clinic director and in collaboration with practitioners from the Northern Kentucky and Cincinnati legal community. Students must submit application with resume to Professor Wagner to be considered for participation in Clinic. Students will be selected for participation in the Clinic based on application/resume and interview with the Clinic Director.

**National Security Law:** This course requires significant research and group work. Students work in teams to solve current legal issues involving national security. There is neither a casebook nor an exam, but a paper is due at the end of the course.

**Sports Law:** This course involves the overall study of the sports industry world-wide, with specific emphasis on the collective bargaining issues in the NFL and NBA; college coach contracts; player contracts; regulation of sports agents; issues relative to the NCAA and major college sports; international rules and contracts for basketball players; sports marketing contracts; and miscellaneous other issues that will give the student a broad, general knowledge of the sports industry. Students will have to complete a take-home exam and a paper for the course.

**Trial Advocacy (night):** Students who have taken Pre-trial litigation with Thomas/Wirthlin will be given preference for cap purposes. This course is a hands-on skills course. Students will be making presentations each week, including opening statements, direct and cross examinations, voir dire, and closing arguments. Students will try a bench trial and a jury trial during the course of the semester.

**Deposition Strategies:** This course will meet on the following dates and times:

January 26	9:00am - Noon
February 2	9:00am - Noon
February 9	9:00am - Noon
February 16	9:00am - Noon
February 23	9:00am – Noon

**Voir Dire Strategies:** This course will meet on the following dates and times:

January 26	1:15pm-4:15pm
February 2	1:15pm-4:15pm
February 9	1:15pm-4:15pm
February 16	1:15pm-4:15pm
February 23	1:15pm-4:15pm

**Employee Benefits Litigation:** This course will meet on the following dates and times:

March 23	9:00am – Noon
April 6	9:00am – Noon
April 13	9:00am – Noon
April 20	9:00am – Noon <i>and</i> 1pm-4pm (double session)

**\*\*\*Final Exam**      **April 27 (10:00am)**

**Death Penalty Seminar:** This seminar will explore the statutory and constitutional rules regarding implementation of the death penalty in the United States. The course will begin with a brief discussion of arguments by proponents and opponents of the death penalty. We will then address the development of Eighth and Fourteenth Amendment restrictions on the use of capital punishment, including categorical exemptions from the death penalty for the insane, the mentally retarded, juveniles, certain felony-murderers, and those who do not commit homicide. We will examine the unique hallmarks of a capital trial including the selection of a “death qualified” jury, the use of aggravating and mitigating evidence in the punishment phase of the trial, and issues created by the use of victim impact evidence. The prominent issue of race and its relation to the death penalty will also be addressed. Traditional class discussion will be supplemented with: guest speakers; in-class exercises in

which students take on the roles of prosecutors, defense attorneys, judges, and state legislators; and, if possible, a moot court of a death penalty case currently pending before the U.S. Supreme Court, in which students will role-play the attorneys and the Justices. Students will write a research paper of at least 6000 words, including footnotes, on an instructor-approved topic and present the results of their research in class.

**Advanced Legal Analysis Strategies:** This course builds on the analytical and writing skills taught across the law school curriculum to enhance a student's ability to prepare for, take, and pass the bar exam. While the most intense preparation for the bar occurs during the weeks immediately prior to the examination, this course will prepare students for that period of study and practice. Therefore, the course is open only to students in their final semester of law school. Students will be introduced to the format and components of the Kentucky and Ohio bar exams, to the magnitude of the task of bar study, and to skills necessary for bar passage. Selected substantive topics must be reviewed, mainly the six subjects tested on both the multiple choice and essay portions of the bar exam. Primarily students will learn study methods, answer practice essay and multiple choice questions, and receive feedback on written answers. Self-assessment techniques and group learning are emphasized and encouraged. Because so much material must be covered, a fair amount of out-of-class preparation is necessary. Despite the pass/fail grading, the course is rigorous and requires students to read, think, discuss, write, and answer many questions. **This course is not designed to replace commercial bar preparation courses, which all students are strongly encouraged to take.**

**Children's Law Clinic:** The NKU Chase Children's Law Center Clinic represents children primarily in delinquency, child custody and visitation, and school matters. Students typically work on 2-3 cases and at least one policy project during the course of a semester, under the supervision of the clinic faculty. The Clinic also includes a weekly seminar (Fridays from 10-11:30), which addresses substantive law, advocacy skills, and ethical issues in the representation of children. While the subject matter of the Clinic's cases focuses on children's issues, students develop skills transferrable to any practice setting. Enrollment in the clinic is limited to 8 students. Priority is given to students eligible for a student practice license and permission is required for enrollment. Participation in the Clinic requires a significant time commitment (150-200 hours) and some flexibility in the student's schedule. All students will be expected to attend and conduct court appearances throughout the semester (frequently Wednesday mornings and Tuesday/Thursday afternoons), and to be available to attend to other client business during some regular business hours. Students who have concerns about their ability to maintain a flexible schedule should speak with Clinic faculty before applying. Additional information is listed on the Clinic application.

**Workers' Compensation:** In this course, students can expect to learn the laws concerning employees who suffer workplace injuries in Ohio and Kentucky. This class will take a practical approach, with a strong emphasis on learning the administrative and court process and how to complete various workers' compensation forms and motions. The goal of this course is to enable each student to be ready to represent clients in this practice area after completing the course.

**Jurisprudence:** Jurisprudence is a legal philosophy seminar. It studies general questions such as the nature of law, the relation between law and morality, and how judges should go about deciding individual cases, as well as more specific and controversial topics in areas as diverse as constitutional

law and torts. Instead of using a casebook, we will read several important original works of Anglo-American legal philosophy written since 1960. The book cost and total pages assigned will be comparable to a course with a casebook. Jurisprudence is a seminar, so there is a course paper (which can satisfy the AWR-Research component), but there is no final exam. Papers may be written on any topic or author we cover in class or any area reasonably related to course topics and authors. There are no prerequisites for this course and no background in philosophy is necessary. Since Jurisprudence is not a bar course, some students wonder what practical use this course can be to them as future lawyers. I answer that question in this way--it is the only course that you can take in law school that can help you acquire a very important legal skill, that of making legal arguments when all the usual grounds of argument (precedent, statute, tradition, etc.) are on the other side.

**International Law:** International law is a three-credit course for upper class students. This course will introduce the student to public international law, including the creation and enforcement of treaties, the role of custom, the efficacy of international institutions (e.g., courts and non-governmental organizations), the legality of using force, and the act of state doctrine. Class meetings will include lecture, discussion and group exercise (Students will solve problems as purported members of the United States National Security Council and the United Nations Security Council; and resolve legal disputes between nations as purported justices of the International Court of Justice.). Each class will involve ample use of technology, e.g., PowerPoint presentations and film clip viewings.

**Criminal Litigation:** This intensive course is offered to students who are interested in taking an in-depth look into the criminal justice process from arrest to post-trial relief. Students taking this class will have an opportunity to develop their oral and written advocacy skills. The course will cover various aspects of the post-investigative stage of the criminal process, commonly referred to as "bail to jail." It examines what occurs *after* the criminal investigation has been completed, and an arrest has occurred. The individual is no longer a mere suspect, but now a defendant.

Presently, the plan for the class is to cover such diverse areas as pre-trial release (bail), pretrial motions, preliminary hearings, trial objections, sentencing, and post-conviction challenges. Students will be expected to both *learn* important concepts in criminal law, procedure and evidence and *apply* that law by arguing, and—on occasion, drafting—motions based upon fact patterns which raise related issues. This class provides a unique opportunity, because it combines substantive law with the opportunity to advocate in a *skills* setting.

Please note that this course may be used to satisfy the AWR drafting requirement.

Prerequisites for this course are the completion of Criminal Law, Criminal Procedure and Evidence.

\*\*\* Professor Mungo is an experienced and well-respected criminal defense attorney who practices in both Kentucky and Ohio. A 1998 Chase graduate, Professor Mungo has also been an Assistant Commonwealth Attorney as well as in private practice with the firm of Wood, Herron & Evans. He has taught other courses here, including legal writing, advance appellate advocacy and trial strategy.

### **European Union, WTO, and International Trade:**

**Goal of the Course** - The course will focus on the conduct and regulation of trade between the EU and U.S. The EU is the U.S.'s largest trading partner, China notwithstanding. The course will also focus on the World Trade Organization which had its origins in the GATT in 1947 and evolved into a type of



international court whose rulings all members have agreed to obey. The Boeing/Airbus and Chiquita International disputes are examples of recent disputes in the WTO. Finally, students will learn how to draft a sophisticated international trade agreement.

**Class Format** – This class will be conducted entirely online. Each week at anytime you may view assigned materials, post your answers to questions, and post your comments on the class TWEN site. During the week questions from the professor about the reading assignment will lead to virtual discussion among students and the professor. Some of the discussion will center around student presentations on assigned topics.

**Textbook** – There will be no textbook or casebook to purchase. Instead, all assignments will be posted on the TWEN site. Most assignments will be from the websites of the European Union, World Trade Organization and U.S. International Trade Representative.

**Grade** – Students will participate in TWEN site discussions based on class assignments and individual student assignments (brief posted commentaries on an assigned topic). Participation will constitute fifty percent of the grade. During the final weeks of the class students will write a draft, then complete a final copy of a comprehensive distribution agreement between a U.S. manufacturer and a European distributor. Successful completion of the drafting exercise will constitute the remaining fifty percent of the grade.

**Experience of Professor** – For more than twenty years I have conducted research on the European Union and the World Trade Organization in Brussels, Strasbourg, Luxembourg, and Geneva. In 1994 I published the book for international practitioners, “Handling Business Opportunities in the European Union.” I have taught International Trade Law or European Union Law at Chase, William Mitchell College of Law, and the University of Salzburg. In 2004 I was fortunate to win appointment as Fulbright Distinguished Professor of International Trade Law at the University of Salzburg College of Law. I continue to teach there in the Summer.

Inquiries are welcome (to Professor Billings)!