

JURISPRUDENCE

LAW 845

SPRING 2023

MARTIN LEVY

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## THE PROFESSOR

**NAME:** Martin Levy

**TELEPHONE:** 713.313.7368

**EMAIL:** mlevy@profmlevy.com; mlevy@tmslaw.tsu.edu

**LOCATION:** 221-B

**OFFICE HOURS:** MWF: 10-11  
(All other times by appointment only)

### NOTE FROM THE PROFESSOR:

Information concerning this course, including syllabus, changes in class meeting, and questions from students, etc., will be available on the internet at:

1. **TSU Blackboard**

## COURSE BOOKS & MATERIAL

### MATERIALS:

1. Christie and Martin's Jurisprudence, Text and Readings on the Philosophy of Law, 4th edition (2020), West. ISBN: 9782684674732
2. Handouts by Instructor

## **COURSE DESCRIPTION, LEARNING OBJECTIVES & STUDENT LEARNING OUTCOMES**

The course will examine a variety of historically influential responses to basic questions concerning the nature and legitimacy of law and the difference (if any) between law and morality. Readings will include works by legal positivist, natural law, and legal realists.

## **GRADING**

Sixty per-cent of the final grade will be based on a "take-home" examination/paper, which will fulfill law school seminar/paper requirements.

**FORTY PER-CENT OF THE FINAL GRADE WILL BE BASED ON BOTH THE QUALITY AND QUANTITY OF CLASS PARTICIPATION**

## **ACCOMMODATIONS**

Accommodation will be provided and administered as dictated by the Dean's office. If you require accommodation please provide approval and guidelines from the Dean's office.

## **PARTICIPATION, ATTENDANCE & PROFESSIONALISM**

Because verbal articulation of ones' ideas is an essential commodity in the practice of law, class participation is encouraged. With such in mind, as required per Student Rules. Attendance, preparation and participation are essential if we are to make this seminar "work"! Further to such, the Instructor may assign specific class sessions for students participation, which may be applied as up to 10% of the "Professor's" final grade.

**FORTY PER-CENT OF THE FINAL GRADE WILL BE BASED ON BOTH THE QUALITY AND QUANTITY OF CLASS PARTICIPATION**

## **POLICIES & PROCEDURES**

All policies and procedures relative to this course are articulated in the Law School Student Rules. All such rules will be complied with by both students and the Instructor.

# ACADEMIC CALENDAR

## SPRING SEMESTER 2023 (SEVENTY DAYS OF CLASSES)

School Opens Monday January 2, 2023  
First Day of Class Monday January 9, 2023  
Last Day to ADD/DROP Wednesday January 11, 2023  
M L K Holiday (No Classes) Monday January 16, 2023  
Purge of all unpaid course selections Monday February 2, 2023  
Mid Term Examinations Mon – Fri March 6 - 10, 2023  
Spring Break Mon – Fri March 13 – 17, 2023  
Good Friday (No Classes) Friday April 7, 2023  
Last Day to Drop a Class Monday April 10, 2023  
Last Day of Classes Wednesday April 26, 2023  
First Year Professors' Grades Due Wednesday April 26, 2023  
Reading Period (No Classes) Thur – Sun April 27 – April 30, 2023  
Final Examinations Mon- Fri May 1 – May 12, 2023  
Hooding Ceremony Friday May 12, 2023  
Commencement Exercises Saturday May 13, 2023

**Please note that the calendar events and/or dates are subject to change.**

# READING ASSIGNMENTS

## Session 1. **The Meaning and Relevancy of Jurisprudence**

- Course Introduction
- Read Declaration of Independence (H)

## Session 2. **The Power of the Word; The Unity of Philosophy**

For discussion:

- Jefferson, The Declaration of Independence
- Rousseau, *Du Social Contract; Discourse on the Origin of Inequality*.

## Session 3. **Beginnings of Legal Thought**

- Aristotle, T(T=Text) - 27-114

## Session 4. **Natural Law**

- Intro., T - 145-154
- St. Thomas Aquinas, T - 154-215
- Locke, T - 279-292, *Essays on the Law of Nature* (H)

## Session 5. **Legal Positivism**

- Intro., T - 495-497
- Hobbs, T - 497-563
- Locke, T - 293-337

## Session 6. **Legal Positivism: Analytical Positivism**

- Bentham, Austin and the Rise of Utilitarianism, T - 615-684
- Kelson, T - 685-708
- Hart, T - 709-746 and (H)

## Session 7. **Legal Realism**

- Intro., T - 747-769
- Holmes, T - 820-842
- Llewellyn, 862-892
- Frank, - 872-906, (H)

**Session 8. Legal Realism II: Sociology of Law**

- Ehrlich, “Living Law - Sociology of Law” (H)

**Session 9. Legal Reasoning**

- Intro., T - 901-973
- Levi, T - 994-1011, (H)
- Posner, T - 1033-1063

**Session 10. Law and Morals**

- Skolnick, *Enforcement of Morals*, (H)
- Devlin, *Mill on Liberty in Morals*, (H)
- Hart, *Legal Enforcement of Morality*, (H)

**Session 11. Obligation and Civil Disobedience**

- Thoreau, *On Civil Disobedience*, (H)
- Rawls, *Legal Obligation-the Duty of Fair Play*, (H)
- King, *Letter From A Birmingham Jail*, (H)

**Session 12. Natural Rights and the Revival of Moral Philosophy**

- Kant, T - 338-361
- Rawls, T - 361-384, (H)

**Session 13, 14. What's New in the Law and the Law Schools?**

**Critical Legal Studies: Is it Politically Correct?**

- Introduction., Turley, Kennedy T - 1075-1109

***Feminist Jurisprudence***

- Introduction, Fineman, Graglia, T – 1120 - 1132
- Bender, *Feminist Theory and Tort*, (H)
- MacKinnon, *Toward a Feminist Jurisprudence*, (H)

**Critical Race Theory**

- Introduction, T - 1132-1147
- Barnes, *Race Consciousness*, (H)

Session 15. **Applicative Theory**

- Fuller, *Speluncean Explorers* (H)