

2012

J-Term Faculty and Course Descriptions



Law 546H Legal Theory- “Money & the U.S. Constitution”

Monday 1/9, Wednesday 1/11, Friday 1/13, Tuesday 1/17; Thursday 1/19 9:00a-11:00a

Christine Desan

Harvard Law School

Frank Boas Visiting Harvard Professor

Course Description

This course will explore a set of constitutional controversies over the shape of money and credit, and consider what impact the outcomes of those controversies had. Money and credit are public institutions that are created by law. As the financial crisis revealed, the way they are configured matters enormously. The authority of the Federal Reserve, for example, apparently includes the ability to make monetary policy decisions that move hundreds of billions of dollars. Our coverage will include the following or similar episodes. 1) The debate over constitutionality of the Band of United States, 2) The litigation over the Greenbacks and paper money more generally, 3) U.S. v. Perry and the American devaluation of the dollar during the Depression, and 4) The authority of the Federal Reserve as an independent agency.

Biography

Christine Desan has been Professor of Law at Harvard Law School since 1998. Her areas of interest include Civil Procedure, Constitutional History, Legal History, and Legal Theory. Desan graduated in 1981 from Princeton University majoring in Religion. She earned her J.D./M.A.L.D. in 1987 from Yale Law School and the Fletcher School of Law and Diplomacy. After graduation, she worked in the U.S. Office of the Solicitor General.

Desan is also the co-leader with Professor Sven Beckert of Harvard’s Workshop on the Political Economy of Modern Capitalism. Desan’s research centers on money and the market as a pairing of form and substance that organizes the political economy of modern liberalism. Her articles include ‘Coin Reconsidered: The Political Alchemy of Commodity Money,’ *Theoretical Inquiries in Law* 287 (January, 2010), and “Beyond Commodification: Contract and the Credit-Based World of Modern Capitalism,” in *Transformation of American Law II: Essays for Morton Horwitz* (2010). She is currently completing a book called *Making Money: Coin, Credit, and the Coming of Capitalism in the Anglo-American World*.



Law 546G Public Law- “The Confirmation of Federal Judges: Law & Policy”

Monday 1/9, Tuesday 1/10, Wednesday 1/11,
Thursday 1/12, Friday 1/15 3:30p-5:30p

Honorable Edward Chen

Judge, USDC San Francisco

Course Description

This course will examine the nomination and confirmation process and focus on a range of issues that arise from that process, including criteria used to evaluate nominees, the scope of inquiry into a nominee’s views, confirmation strategy, the role of the media, and questions raised about law and jurisprudence in the confirmation process (e.g. what effect should diversity and personal experiences play a role in judging). This course will be taught by U.S. District Judge Edward Chen of the Northern District of California with participation from Professor Eric Yamamoto and civil rights attorney Dale Minami (lead counsel in the Korematsu *coram nobis* case, and active in the judicial screening and selection process).

Biography

Edward Milton Chen is a Judge on the United States District Court for the Northern District of California. On May 10, 2011, the United States Senate confirmed Chen in a 56–42 vote. He received his judicial commission on May 12, 2011, after a lengthy confirmation battle. Born and raised in Oakland, California, Chen earned a bachelor’s degree in 1975 from the University of California, Berkeley and a law degree from Boalt Hall School of Law in 1979. After graduating law school, Chen served judicial clerkships for United States District Judge Charles Renfrew from June 1979 until April 1980 and United States Circuit Judge James R. Browning from June 1981 until June 1982.

From 1982 until 1985, Chen served as an associate at the San Francisco law firm of Coblenz, Cahen, McCabe & Breyer. In September 1985, Chen became a staff attorney for the American Civil Liberties Union, specializing in language discrimination cases. He held that post until April 2001 when the judges on the United States District Court for the Northern District of California named Chen to an eight-year term as a federal magistrate judge. Chen served as a federal magistrate judge from 2001 until 2011.



Law 546C Rule of Law- “Gone But Not Forgotten: Topics in American Legal History”

Tuesday 1/10, Thursday 1/12, Friday 1/13,
Tuesday 1/17, Thursday 1/19 11:10a-1:10p

Lawrence Friedman

Stanford Law School

Course Description

This course will look at some selected topics in American legal history. The basic aim is to explore the relationship between American law and society at various points of time. What is special and distinctive about our legal system, and how did it get that way? What contribution did the legal system make to the development of the American economy, for example? Other topics that will be explored include race relations, the law of marriage and divorce, and criminal justice.

Biography

An internationally renowned, prize-winning legal historian, Lawrence M. Friedman has for a generation been the leading expositor of the history of American law to a global audience of lawyers and lay people alike—and a leading figure in the law and society movement. He is particularly well known for treating legal history as a branch of general social history. From his award-winning *History of American Law*, first published in 1973, to his *American Law in the 20th Century*, published in 2003, his canonical works have become classic textbooks in legal and undergraduate education.

Professor Friedman is a prolific author on crime and punishment, and his numerous books have been translated into multiple languages. He is the recipient of six honorary law degrees and is a fellow in the American Academy of Arts and Sciences. Before joining the Stanford Law School faculty in 1968, he was a professor of law at the University of Wisconsin Law School and at Saint Louis University School of Law.

Professor Friedman has an appointment (by courtesy) with the Stanford University Department of History and the Department of Political Science.



Law 546E Diversity- “Same Sex Marriage on Trial”

Tuesday 1/10, Wednesday 1/11, Tuesday 1/17, Wednesday 1/18, Thursday 1/19 5:40p-7:40p

Kenji Yoshino

NYU Law School

Course Description

This course will examine the legal issues surrounding same-sex marriage in *Perry v. Schwarzenegger* (now *Perry v. Brown*), a case challenging California’s ban on same-sex marriage on federal constitutional grounds. This case, which many think will go to the U.S. Supreme Court, has been widely compared to the 1925 Scopes trial because of the unusual breadth of the issues it addresses. The twelve-day trial transcript reveals a “battle of the experts” over the historical purposes of marriage, the effect of same-sex marriages on children, the degree of political power held by the LGB community, the control individuals have over their sexual orientation, and so forth. The course will explore the substantive issues raised by same-sex marriage, and will also consider the efficacy of the trial as a truth-finding mechanism with respect to such social issues. The instructor is currently writing a book on this subject; the readings for the course will include draft chapters of the manuscript.

Biography

Kenji Yoshino is the Chief Justice Earl Warren Professor of Constitutional Law at the NYU School of Law. Prior to moving to NYU, he was the inaugural Guido Calabresi Professor of Law and Deputy Dean of Intellectual Life at Yale Law School, where he taught from 1998 to 2008. He received his undergraduate degree from Harvard College, took a Rhodes Scholarship to Oxford University, and earned his law degree at Yale Law School. A specialist in constitutional law, antidiscrimination law, and law and literature, Yoshino has published in major academic journals, such as *The Columbia Law Review*, *The Harvard Law Review*, *The Stanford Law Review*, and *The Yale Law Journal*. He has also written extensively in other popular venues, such as *The L.A. Times*, *The New York Times*, and *The Washington Post*. His award-winning book, *Covering: The Hidden Assault on Our Civil Rights* (Random House 2006) has been chosen as the “first-year book” by Pomona College, University of North Carolina, University of Richmond, and Virginia Commonwealth University. His second book *A Thousand Times More Fair: What Shakespeare’s Plays Teach Us About Justice* (Harper Collins 2011) was published last spring. Yoshino was elected an Overseer of Harvard University in 2011.



Law 546I Legal Practice- “Women and the Law Stories”

Monday 1/9, Wednesday 1/11, Friday 1/13
Wednesday 1/18, Thursday 1/19 1:20p-3:20p

Elizabeth Schneider

Brooklyn Law School

Wallace S. Fujiyama Visiting Professor

Course Description

This course will explore current issues of gender and law, through the lens of stories of major cases in the field. We will examine the intersections of gender, race, ethnicity, class, and sexual orientation through these stories and analyze the role of law, culture, and social movements in seeking legal change. The text will be Elizabeth M. Schneider and Stephanie M. Wildman, *Women and the Law Stories* (Foundation Press, 2011), and excerpts of the cases being discussed.

Biography

Elizabeth Schneider is Rose L. Hoffer Professor of Law at Brooklyn Law School. She is a national and international expert in the fields of federal civil litigation, procedure, gender law, and domestic violence. She is the author of the prize-winning book, *Battered Women and Feminist Lawmaking* (Yale University Press, 2000), and co-author of several other books in this area. She has also written numerous articles and book chapters on civil rights, civil procedure, women’s rights, and domestic violence. She is a frequent commentator for print and broadcast media.

She has lectured around the world and participated in trainings of lawyers and judges on gender in countries such as China, Vietnam, and South Africa. She was a consultant for the Secretary-General’s Report on All Forms of Violence Against Women, which was submitted to the General Assembly of the United Nations in Fall 2006. Professor Schneider has also been a Visiting Professor at Harvard and Columbia Law Schools.

Professor Schneider is the Director of the Edward V. Sparer Public Interest Law Fellowship Program at Brooklyn Law School, which she founded and has led for more than twenty-five years. She joined the Brooklyn Law School faculty in 1983, after clerking for the late United States District Judge Constance Baker Motley, serving as Staff Attorney with the Center for Constitutional Rights, and Staff Attorney with the Rutgers Law School-Newark Constitutional Litigation Clinic. She received her undergraduate degree from Bryn Mawr College, a M.Sc. in Political Sociology from the London School of Economics, and a J.D. from New York University School of Law, where she was an Arthur Garfield Hays Civil Liberties Fellow.