

Special Elective Course Opportunities – Spring 2009

We are fortunate this year to have a number of new or otherwise special elective course offerings that greatly enrich the menu from which to choose.

Here come the judges!

We are honored to have four judges teaching for us in Spring 2009: Chief Judge James Carr of the U.S. District Court for the Northern District of Ohio, retired Ohio Appellate Judge Richard Markus, and our own graduates, Judge John Adams of the U.S. District Court in Akron, and retired Judge K. William Bailey of the Juvenile Division of the Wayne County Court of Common Pleas.

Judge Carr – Highly respected, with a long career from legal services to the faculty of the University of Toledo School of Law to appointment as a federal magistrate and ultimately a federal district judge, Judge Carr had presided over hundreds of civil rights cases while on the bench. He is also one of the few judges to serve on the highly sensitive Foreign Intelligence Surveillance Court. He will be teaching

Civil Rights Practicum

This course will instruct students in the fundamental legal doctrines, procedures and litigation practices encountered in civil rights lawsuits in federal courts. Combining conventional statutory and case materials with trial practice exercises, the course will encompass a broad range of issues and cases involving alleged constitutional torts by federal government or state or local actors. The principal focus will be on claims arising under the First Amendment (freedoms of speech, association or religion), Fourth Amendment (unlawful search or arrest, excessive force in executing an arrest), Fifth Amendment (takings clause), Eighth Amendment (cruel and unusual punishment, including institutional conditions, mistreatment by custodial officers, and deliberate indifference to dangerous conditions and/or medical needs), and Fourteenth Amendment (substantive and procedural due process and equal protection). Trial practice exercises, to which about one-half of the classroom hours and preparation will be devoted, will include drafting of complaints, pretrial discovery options and modes, argument on motions and examination of witnesses, introduction of exhibits and opening and argument.

Judge Markus - Judge Markus has served in the U.S. Department of Justice, major private law firms, and several judicial positions in an extraordinary career spanning more than five decades. He has written widely in many areas and has been extremely active in the full range of activities that have come to be known as Alternative Dispute resolution. He will be teaching

Alternative Dispute Resolution

ADR is a rapidly growing part of every law practice. The course provides a comprehensive academic study of multiple forms of mediation, arbitration, and private judging, together with skill training for those oral and written advocacy situations. The class will consider reasons why parties choose, ADR instead of court litigation, their choices to satisfy those preferences, the applicable procedural rules, and their enforcement. Each student will prepare a short advocacy document and a longer research paper. There will be no written examination.

Judge Adams – A highly respected graduate of this law school, Judge Adams rose from judicial clerk to practice in the public and private sectors to election to the Court of Common Pleas and appointment to the federal bench in 2003. He continues to teach

Federal Court Practice (Spring)

This course examines, from the point of view of a federal judge, the full range of issues involved in practice in the federal courts. It will cover the nuts and bolts of handling federal litigation, from establishing jurisdiction and venue, through the pre-trial phase, to trial and the appellate process.

Judge Bailey – A graduate of the College of Wooster and the University of Akron School of Law, Judge Bailey was recognized as Adjunct Faculty Member of the Year in 2008. He will be teaching

Juvenile Law (Spring)

This course concentrates only on those aspects of criminal law as they relate particularly to delinquency. Those aspects are competency, infancy defense, confessions of juveniles, searches, as well as the procedural issues of Serious Youthful Offenders and transfer of juvenile for trial as adults.

Most of the course time, however, deals with abused, neglected and dependent children. My goal is to prepare students to advocate for children in the juvenile court system. This prepares students for what will most probably be their first responsibilities in juvenile court – that of Guardian ad Litem - as well as background needed for prosecution of cases and defense.

We do not use a textbook, but rather assigned Ohio cases and statutes. The exam is a take-home exercise designed to see how well students can discern issues and provide meaningful argument and analysis.

Enrichment in Intellectual Property

We will have three new courses in Intellectual Property next spring. Intellectual Property Theory/Jurisprudence will be taught by our own Professor Oddi. Patent Claim Construction – Law and Evidence will be taught by Professor Robert Kahrl, an internationally known practitioner who is retiring after seventeen years leading the Intellectual Property section of the Jones Day law firm. International Intellectual Property law will be taught by Professor Craig Nard, who is the Tom J.E. and Bette Lou Walker Professor of Law and Founding Director of the Center for Law, Technology & the Arts at Case Western Reserve University School of Law.

Intellectual Property Theory/Jurisprudence – Professor Oddi

This seminar will explore intellectual property from historical, conceptual, and jurisprudential perspectives. In particular, the individual titles of intellectual property protection—patent, copyright, trademark—will be investigated from these perspectives, with particular emphasis on the theories underlying their creation, acquisition, and enforcement. The unique, intangible character of intellectual property will be contrasted with the familiar, tangible rights of real and personal property. The various forms of intellectual property protection will also be contrasted and compared with one another with a view toward understanding the overall system that has developed for the protection of creative works. A variety of jurisprudential theories will be introduced to assist in evaluating whether a proper balance has been achieved between the desirability of society's having access to intellectual creations and the necessity of society's providing adequate incentives for their creation.

The text book to be used is: Robert P. Merges & Jane C. Ginsburg, *Foundations of Intellectual Property* (2004). This is a Foundation Press paperback that includes a large number of excerpts ranging from John Locke and Thomas Jefferson to Richard Posner and many of the leading scholars in the intellectual property field. There are no prerequisites to this seminar. A background or any previous courses in intellectual property is not required. The focus of the seminar will be the underlying theories of intellectual property and not substantive intellectual property law. The course is particularly recommended for J.D. and LL.M. students who desire a theoretical background for their studies in this area.

Students will be required to write a typical seminar paper, or perhaps a series of shorter papers, on an approved topic. Three credit-hours.

Patent Claim Construction - Law and Evidence – Professor Kahrl

This course will teach how to interpret the claims of a patent, applying the case-law rules of construction developed by the Federal Circuit. Students will learn how to draft opinion letters concerning patent scope and validity, how to craft briefs on claim construction issues addressed to the court, and how to present claim construction evidence and arguments at claim construction hearings, summary judgment arguments, and licensing negotiations. This course will emphasize the practitioner's approach to determining the relative strength of various interpretations of a patent, assessing the risk in adopting a particular construction, and determining whether the risk is appropriate to the client's situation. NOTE: This course is not intended to teach claim drafting, though its content would be useful to a person who will draft claims. This course teaches how to interpret claims after the patent has issued.

International Intellectual Property Law

This course considers the evolving system by which international intellectual property laws are structured, with an emphasis on the role of intellectual property in development and the effect of international intellectual property on developing countries. Of special interest is the process that drives and shapes international intellectual property law, the dynamics of that process, and the interplay between national interests, international institutions, and concepts of global efficiency and justice. Particular topics include the effects of the TRIPS treaty of the WTO on development and the freedom of developing countries to shape their intellectual property systems under TRIPS; controversies about patent protection, public health, and access to essential medicines; the protection of agriculture and genetic resources; and the protection of traditional knowledge and culture. There is no final exam. Rather, students will be required to write a paper (20-25 pages) and present their paper to the class (about 20 minutes in length).