THE COURSE: This is a foundational course which presupposes the student has completed the first year of law school in the United States. It will focus on the idea of a “legal family” or “legal tradition,” and explain, despite the diversity of laws encountered today, it is possible to concentrate on the presentation of certain models which can be considered typical and representative of the two major legal families which make up Western law, namely; the Romano-Germanic Legal Tradition and the Common Law Legal Tradition. This survey course will be a study of roots and routes. To the extent time permits we will also look at the Law of the European Union.


CLASS ATTENDANCE: Attendance is mandatory. Students are expected to arrive to class on time. **Roll will be taken by passing around an attendance sheet. It is the student’s responsibility to sign the attendance sheet.** Signing the attendance sheet for a classmate or having a classmate sign the attendance sheet for you will result in an administrative “F.” The class meets Monday through Friday from 9:00 a.m. to 10:50 a.m. The norm is the student will be permitted two excused absences.

PROFESSIONALISM IN CLASS: Students are bound by their respective University Student Code of Conducts, and their respective College of Law Honor Code. Students are expected to conduct themselves in a manner that does not bring disrespect upon their respective law school and the Legal Profession they hope to join.

CLASS PARTICIPATION: Students are expected to have read the assigned material and to be prepared to participate in class discussions.

EXAM: There will be an open-book, take-home exam. The content of the exam will be discussed the first day of class. In addition to demonstrating a basic knowledge of the material (both topics discussed in class and the assigned readings in the text) the student is encouraged to be creative.
OUTLINE

1. Introduction and Overview
   • Purpose and Value of Comparative Law
   • Source of law
   • Structures of Law
   • Notion of “Family of Laws”
     1. Diversity
     2. Variable and Constant elements
     3. Criterion for classification
     4. The two major Western Legal Families
        ▪ Romano-Germanic Legal Tradition
        ▪ Common Law Legal Tradition

2. Romano-Germanic Legal Family
   • History - Culture and Distribution
     1. Roman Law
     2. Canon Law
     3. Commercial Law
     4. Ius Commune and Universities
     5. Codification
        ▪ France
        ▪ German
   • Structure of the Law
     ▶ Divisions and Concepts
     ▶ Legal Rule
   • Sources of Law
     ▶ Legislation
     ▶ Custom
     ▶ Decided cases
     ▶ Legal Writing
     ▶ Super-eminent Principles

3. Common Law Legal Tradition
   • English Law
     ▶ History of English Law
        ▪ Anglo-Saxon Period
        ▪ Formation of Common Law
        ▪ Growth of Equity
     ▶ Structure of English Law
        ▪ Legal Division and Concepts
- Common Law and Equity
- Trusts
- Importance of Adjective Law
  - Concept of Legal Rule

- Sources of English Law
  - Decision of the Courts
    - English Judicial Organization
    - Rule of Precedent
  - Statute Law
  - Custom
  - Legal Writings and Reason

- Law of the United States
  - History American Law
  - Structure of American Law
    - Federal and State Law
    - Other Structural Differences
  - Decision of the Courts
  - Statute Law

4. Legal Structure in Romano-Germanic Legal Tradition  
   - Parliamentary Government
   - Separation of Powers
   - Constitutions
   - Judicial Review
   - Public Law Courts
   - Ordinary Courts

5. Legal Actors in the Romano-Germanic Legal Tradition
   - Legal Education
   - Legal Professions
   - Private Practice
   - Government Lawyers
   - Judiciary
     - Legal Scholars

6. Private Law  
   - Law of Persons
   - Law of things
     - Law of Property
     - Law of Obligation

7. Civil Procedure, Criminal Procedure, Public Law  
   - Civil Procedure
- Criminal Procedure
- Public Law
  - Constitutional Law
  - Administrative Law

8. Supernatural European Law and Institutions  
   Text pp 140-183
   - European Union
     - Founding and Expansion
     - Institutions of the European Union
     - Scope Subject Matter of European Union Law
     - Sources of European Union Law
     - Relationships of European Union Law with Member States
       - Supremacy
       - European Union Law and National Constitution
   - European Union Human Rights System
     - Introduction
     - Rights Protected Under the Convention
     - European Social Character
     - European Court of Human Rights
     - Relationship of the Convention and Domestic Legal System