The Rhetoric of Law (Seminar)
Professor Emily Calhoun (Law) and Professor Nan Goodman (English)
Course Description

The seminar in the Rhetoric of Law will consider how Anglo-American law operates rhetorically, how it persuades, builds character, offers proof, approximates the truth, establishes legitimacy, and makes things happen. It will also explore the ethics of rhetoric and note the relationship of rhetoric to other bodies of legal scholarship (e.g., law and literature, legal pragmatism, law and culture). It will hone student advocacy skills, prepare students to anticipate and defend against the rhetorical stratagems of different legal actors, and enrich students’ sense of professional identity.

The seminar will be open to sixteen students, eight from the Law School and eight from the graduate program of the English Department. The participation of English graduate students and Professor Goodman offers an extraordinary opportunity for law students to gain new insights into how our legal system operates, how the meaning of our Constitution is redeemed and evolves over time through discursive practice, the power of language and associated ethical responsibilities, and the relationship of judicial and legal rhetoric to democratic legitimacy.

Grades will be assigned to law students by Professor Calhoun. Grades will be based on a first draft of a seminar paper (required), a final seminar paper, and class presentations and participation.

Seminar papers of law students will consist of a rhetorical analysis of an opinion issued by Justices (either majority, concurring, or dissenting) of the Supreme Court of the United States. Professor Calhoun will work with students to identify both an appropriate opinion for analysis and a manageable thesis.

To prepare students to engage in rhetorical analysis, seminar readings/discussion will investigate the origins of classical rhetoric in the works of Cicero, Aristotle, and Quintilian, and move forward through time to the works of some of the greatest rhetoricians of all time, for example, John Winthrop, Thomas Paine, Abraham Lincoln, and Frederick Douglass. In addition, we will address the role played in the construction of the law by revisionist history (e.g., Johnson v. M’Intosh), racial vision (e.g., Plessy v. Ferguson), citizenship (e.g., Calvin’s Case), and testimony (e.g., Victim Impact Statements). Other topics under consideration for discussion include, for example, the rhetoric of the spoken word (e.g., in judicial opinions delivered from the bench), silence as a rhetorical practice, the rhetoric of visual forms, and the rhetoric of hope in law.

Please note that the seminar will meet once weekly for 2 ½ hours.