

**Federal Courts**  
**Prof. S. Rush**  
**Fall 2018**

## **Syllabus and Assignment Sheet**

**1. Materials.** LOW, JEFFRIES AND BRADLEY, FEDERAL COURTS AND THE LAW OF FEDERAL-STATE RELATIONS (9th ed.). If you want to use the 8<sup>th</sup> edition, that's fine with me. It should be fairly easy to adjust the pages because I put the main cases in the assignment. If a case is not in the 8<sup>th</sup> edition, you can research and download it. In putting the syllabus and classes together, I relied on the text and on Erwin Chemerinsky's treatise on Federal Jurisdiction (7th ed.). You will notice as you read it that I like Prof. Chemerinsky's organization and follow it pretty closely.

**2. Course Objectives.** This course is designed to help you become an outstanding lawyer/scholar! It is essentially an advanced constitutional law class. We will cover four major areas in federal court practice: congressional control of jurisdiction, justiciability (primarily standing), sovereign immunity, and §1983. The course asks one overarching question: In your opinion, what essential functions do (should) federal courts play in our system of government? In each of the areas, we will explore possible answers to this overarching question. At the end of the course, you should be able to do the following:

- describe the current law in each of the areas,
- describe different possible answers to the overarching question,
- articulate and defend your opinions about the strengths and weaknesses of different answers in each of the areas

For example, one essential function (and we will explore many) of federal courts, particularly the Supreme Court, is to protect separation of powers. As we go through the four areas of study, the classes are designed to help you think about whether the development of the law in a particular area helps or hinders federal courts in performing this function. You also want to think about how the law could and should develop to help federal courts perform their essential functions.

I promise the materials are relevant to modern law practice and the course will help you develop your critical analytical skills. In the process of learning the materials and sharpening your skills, I hope it also will be a fun class.

**3. Coverage.** The assignment sheet is attached. I will give the assignment on Thursday for the following week. Generally, we will cover about 20 pages per class. However, I like to present the materials in a way that organizes them in the context of an analytical paradigm. This means that a particular assignment might be long but it will cover several classes. Generally, per ABA requirements, it is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour of class.

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**4. Class Participation.** The most interesting classes are those in which lots of different people participate. Class is supposed to be an exciting place and the materials will invite questions of all kinds. I look forward to exploring the possible answers with you. So join in and make this class one that you look forward to because you play a significant role in it!

**5. Final Exam.** The exam is a take home, open-book, six hour essay exam that will be administered on Examsoft by the administration. As you know, class ends on Oct. 4 and I'll have more details about the exam at our first meeting. You are allowed to use your textbook and notes, but you must do it alone. This means you cannot receive any help on your exam. The Honor Code applies to the exam. Please be sure that you understand the UF Student Honor Code available at <http://www.dso.udl.edu/students.php>.

**6. Grades.** Grading is done strictly anonymously and in compliance with law school policy available at <http://www.law.ufl.edu/students/policies.shtml#9>. The exam counts for 100% of your grade.

**7. Attendance.** I am required to verify your attendance in class. Accordingly, I will pass around an attendance sheet for you to initial. Also, if you are late, please enter through the back door and sit in the back. The law school's policy on attendance can be found at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#3>.

**8. Laptops.** You are welcome to use your laptop for class related activities. If you are going to use your laptop for purposes unrelated to class, please respect your classmates and sit in a seat where they will not be distracted. I reserve the right to limit the use of laptops to preserve an environment of respect in the classroom.

**9. Office Hours.** My office is 319-B and my office number is 273-0948 and my e-mail address is [Rush@law.ufl.edu](mailto:Rush@law.ufl.edu). I am available to talk with you any time I'm in my office and will be sure to be available to meet with you Wednesday and Thursday from 1:30-3:00. If these times are not good for you, we can meet at your convenience. If on any particular day they are not good for me, I'll leave a note on the door.

**10. Accommodations.** The University of Florida's policy on accommodating students with disabilities to ensure they are provided equal educational access is as follows:

“Students with disabilities requesting accommodations should first register with the Disability Resource Center (325-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs when requesting accommodations. Students with Disabilities should follow this procedure as early as possible in the semester.”  
Please let me or Dean Inman in Student Affairs know if you have any questions.

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**11. U Matter, We Care.**

“Your well-being is important to the University of Florida. The U Matter, We Care initiative is committed to creating a culture of care on our campus by encouraging members of our community to look out for one another and to reach out for help if a member of our community is in need. If you or a friend is in distress, please contact [umatter@ufl.edu](mailto:umatter@ufl.edu) so that the U Matter, We care Team can reach out to the student in distress. A Nighttime and weekend crisis counselor is available by phone at 352-392-1575. The U Matter, We Care Team can help connect students to the many other helping resources available including, but not limited to, Victim Advocates, Housing staff, and the Counseling and Wellness Center. Please remember that asking for help is a sign of strength. In case of emergency, call 9-1-1.” Student Senate Resolution 2015.

**12. Online Course Evaluations.**

“Students are expected to provide feedback on the quality of instruction in this course by completing online valuations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.”

**Assignment Sheet**

All assignments are to the required text, Low, Jeffries & Bradley (9th ed.). Please note that this outline does not give one assignment for each day of class. On some days we will cover more than one assignment, but more often, one assignment will take us a few days to complete. We'll know at the end of the week how much we will cover the following week.

**I. Introduction: The Role of Federal Courts**, pp. 263-277 [*Marbury v. Madison*]

**II. Congressional Power to Limit Federal Court Jurisdiction** [Please note that it is best to read this Section all at once if you have time.]

- A. The Lower Federal Courts, pp. 487-492; 497-503 [*Sheldon, Webster*]
- B. The Supreme Court, pp. 492-497; 504-515 [*Ex part McCardle, Hamdan, Boumediene, Felker, Cyr*]

**III. Justiciability: Limitations on Federal Court Review**

- A. Standing Requirements: Injury, Causation, and Redressability, pp. 278-295 [*Allen*]; pp. 297-305 [*Clapper; Warth, Duke Power*]
- B. The Ban on Generalized Grievances and Taxpayer Standing Suits, pp. 295-296 [*Schlesinger*]; pp. 326-345 [*Hein*]
- C. "Citizen Suit" Provisions, pp. 307-325 [*Lujan, Laidlaw, Akins, Spokeo*]

**IV. Federal Court Relief Against Federal, State, and Local Governments and Officials**

- A. Suing State Governments: The Eleventh Amendment
  - 1. Nature of the limit, pp. 1095-1100; 1105-1110 [*Chisholm, Hans*]
  - 2. Exceptions: Ways Around the 11<sup>th</sup> Amendment
    - a. State officers, pp. 1100-1105 [*Ex parte Young*]; pp. 1111-1123 [*Edelman*]; 1126 [*Will*]; 1129-1130 [*Hall*]; 1131-1133 [*Pennhurst*]
    - b. Consent pp. 1140 (note 1)
    - c. Congressional Abrogation
      - i. Generally, pp. 1140-1144 [*Fitzpatrick*]
      - ii. *Seminole Tribe*, pp. 1144-1164
      - iii. *Alden v. Maine*, pp. 1164-1171
      - iv. *College Savings Bank*, pp. 1171-1173
      - v. *Fed. Maritime Comm. and Katz*, pp. 1173-1177
      - vi. *Flores*, pp. 1189-1191
      - vii. *College Savings and Florida Prepaid*, pp. 1192-1193
      - viii. *Kimel, Garrett, Coleman*, pp. 1193-1205
      - ix. *Hibbs and Lane*, pp. 1205-1214

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**Assignment Sheet (2)**

**IV. Federal Court Relief Against Federal, State, and Local Governments and Officials**

- B. Section 1983 Actions: Suing Local Governments and State and Local Officials
1. Meaning of “Under Color of State Law,” pp. 1335-1350 [*Monroe*]
  2. Purposes of Section 1983, pp. 1291-1296
  3. Who is a “person?”
    - a. Municipalities, pp. 1300-1314 [*Monell*]
    - b. Individuals, pp. 1256-1290 [*Scheur, Wood, Harlow, Anderson, Crawford, Brosseau, Hope, Pearson, Reichle, Camreta*]
    - c. State governments, pp. 1314 [*Will*]
  4. For What wrongs?
    - a. Federal laws [if we have time], pp. 1412-1424 [*Maine v. Thiboutot*]; 1429-1432 [*Gonzaga, Palos Verdes*]
    - b. Constitution, pp. 1390-1395 [*Parratt and its progeny*]; 1395-1412 [*Zinermon*]