***Pleading the Modern Civil Rights Case***

Syllabus

**Instructors**

Marcia Morales Howard, United States District Judge

Patricia D. Barksdale, United States Magistrate Judge

**Dates**

January 10–14, 2022

**Time**

10:00 a.m. to noon

1:00 to 2:00 p.m.

**Instructor Email Information**

[insert]

**Instructor Phone Numbers**

Judge Howard, (904) 301-6750

Judge Barksdale, (904) 549-1950

**Office Location**

[insert]

**Office Hours**

2:30 to 3:30 p.m.

**Required Reading**

Daily assignments (cases and procedural rules) and Martin A. Schwartz, *Section 1983 Litigation*, 3d ed. (2014), available for free [here](https://www.fjc.gov/sites/default/files/2014/Section-1983-Litigation-3D-FJC-Schwartz-2014.pdf). Although many cases are listed, students need not thoroughly read them like they would read cases for a traditional law school class. Instead, students need only efficiently read the majority opinions in the cases to glean the holding to apply it to in-class discussions and assignments.

**Suggested Reading**

Concurring and dissenting opinions in the assigned cases.

**Description**

This highly interactive compressed course will apply 42 U.S.C. § 1983 to a “real life” scenario. We will meet a “client,” brainstorm causes of action and affirmative defenses, and separate into groups to draft a pleading. In the process, we will learn about federal civil rights laws in modern practice, how those laws have been interpreted by federal courts, the many issues civil rights litigants face at the outset of litigation, and, most important, how to effectively plead the modern civil rights case.

**Learning Outcomes**

After completing this course, a student should be able to identify federal civil rights laws, apply them to a real-life scenario, spot common and less-common issues, understand the importance of pleadings in any civil case, and draft a pleading in a civil rights case.

**Course Requirements**

This course is open to any law student who has taken constitutional law and civil procedure classes.

**Schedule**

We will meet twice a day, with a break for lunch.

**Course Format**

We will break into groups for discussions and drafting (led by a judge or lawyer). We will ask for volunteers and call on students at random.

**Evaluation and Grading**

The grade will be determined by combining in-class participation (25%) and performance on the final exam (75%).

**Final Exam**

The final exam will be an in-class exam in a short-answer format.

**Attendance**

Attendance will be taken at each class. Because of the compressed nature of the course, a student who fails to attend any day without an excused absence will be dropped from the course. The law school policy on attendance is [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies#:~:text=co%2Dcurricular%20activities.-,Attendance,regular%20and%20punctual%20class%20attendance.&text=UF%20Law%20policy%20permits%20dismissal,of%2012%20credits%20per%20semester.).

Students registered for in-person learning must attend in person unless they receive advance approval from the instructors to participate virtually. Students who violate this policy will be considered absent.

**Exam Delays and Accommodations**

The law school policies on exam delays and accommodations are [here](http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form). A student requesting an accommodation for a disability must register with the Disability Resource Center [here](http://www.dso.ufl.edu/drc/). Once registered, the student will receive an accommodation letter. The student must present the letter to the Assistant Dean for Student Affairs Brian Mitchell.

**Grading Policy**

This course follows the Levin College of Law’s grading policies found [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies). This chart describes the letter grade/grade point equivalent in place:

|  |  |
| --- | --- |
| Letter Grade | Point Equivalent |
| A | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.00 |

**Evaluation**

Students are expected to provide respectful feedback on the quality of instruction by completing course evaluations through GatorEvals. Guidance on how to give feedback is [here](https://gatorevals.aa.ufl.edu/students/). Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or through [ufl.bluera.com/ufl/](file:///C:\Users\nance\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\70WP0DTB\ufl.bluera.com\ufl\). Summaries of course evaluation results will be available [here](https://gatorevals.aa.ufl.edu/public-results/).

**Pandemic**

Many students will have in-person instruction to accomplish the learning objectives of this course. In response to the pandemic, these policies and requirements apply to maintain your learning environment and to enhance the safety of our interactions. Because circumstances are hard to predict, the policies and requirements may change as the course start date draws nearer.

Students may wear masks at any point while on campus, including during class or office hours. The UF Student Health Center will continue to offer vaccines to students at no charge. This course has been assigned a physical classroom with enough room to maintain six feet between each person. Please use a designated seat and maintain spacing between students. Please do not move a desk. Sanitizing supplies are available in the classroom to wipe down your desk before sitting down and at the end of the class. Please practice physical distancing to the extent possible when entering and exiting the classroom.

If you are experiencing COVID symptoms described [here](https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html), do not come to campus or, if you are already on campus, immediately leave campus. Use the UF Health screening system and follow the instructions about when you can return to campus found [here](https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/).

With an excused absence, course materials will be provided to you and you will be given a reasonable amount of time to make up work. Attendance policies are [here](https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/).

**Recordings**

Students can record class lectures **only** (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. Any other purpose is prohibited. A student cannot publish a recorded lecture without the instructor’s written consent.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject (including instructor-led discussions that form part of the presentation) and delivered by an instructor hired or appointed by the University of Florida, or by a guest instructor, as part of a University of Florida course. A class lecture excludes lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving only student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without the instructor’s permission is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person or persons, including to another student in the same class. A recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, a media platform, including social media or a book, magazine, newspaper, leaflet, or third-party note/tutoring service. A student who publishes a recording without written consent may be sued by a person injured by the publication and disciplined under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

**Workload and Preparation**

In compliance with ABA Standard 310, to earn credit for the course, a student must receive 15 hours of classroom or direct faculty instruction (including time taking the exam) and complete at least 30 hours of out-of-course work. Students should expect to spend at least two hours outside of class reading and preparing for each hour of class.

**Demeanor**

Please do not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Please turn off your cell phone during class. We may lower a final grade if a student engage in behavior that disrupts the learning environment of classmates.

**Academic Honesty**

UF students are bound by The Honor Pledge:

*We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.”*

The Honor Code, found [here](https://sccr.dso.ufl.edu/process/student-conduct-code/), specifies behaviors in violation of this code and the possible sanctions. You must report any condition that facilitates academic misconduct. If you have questions, please consult with the instructor.

**Health and Wellness**

These resources are available to help you.

*U Matter, We Care*. If you or someone you know is in distress, contact [umatter@ufl.edu,](mailto:umatter@ufl.edu) (352) 392-1575, or the [website](https://umatter.ufl.edu/) and a team member will contact the student in distress.

*Counseling and Wellness Center*. Call (352) 392-1575 or visit the [website](https://counseling.ufl.edu/) for information on crisis and non-crisis services.

*University Police Department*: Call (352) 392-1111 (or 911 for emergencies) or visit the [website](https://police.ufl.edu/) for police assistance.

*UF Health Shands Emergency Room:* Call (352) 733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608, for immediate medical care. Visit the [website](https://ufhealth.org/emergency-room-trauma-center) for more information.

**Basic Needs Assistance**

Any student lacking a safe place to live or having difficulty accessing food is encouraged to contact the Office of Student Affairs. If comfortable doing so, a student may also notify us so we can direct the student to further resources.

**Disclaimer**

This syllabus represents our current plans and objectives. Plans may need to change to enhance the course learning opportunity.

**Schedule (Detailed)**

**Monday, 10:00–11:40, 1:00–1:50 p.m.**

In this class, we will interview the “client,” review documents and other evidence provided by the client, and break up into groups to decide what rights may have been violated and what claims we may have. After the break, we will discuss what the groups determined. Before class, please read these materials.

Book

Schwartz, *Section 1983 Litigation*, pages 1–3, 29–80

Cases

*Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972) (deprivation of property)

*County of Sacramento v. Lewis*, 523 U.S. 833 (1998) (substantive due process)

*Estelle v. Gamble*, 429 U.S. 97 (1976) (deliberate indifference)

*Kingsley v. Hendrickson*, 576 U.S. 389 (2015) (excessive force)

*Nieves v. Bartlett*, 139 S. Ct. 1715 (2019) (protected speech)

*Manuel v. City of Joliet, Ill.*, 137 S. Ct. 911 (2017) (arrest)

*Torres v. Madrid*, 141 S. Ct. 989 (2021) (seizure)

*Village of Willowbrook v. Olech*, 528 U.S. 562 (2000) (equal protection)

*Gonzaga University v. Doe*, 536 U.S. 273 (2002) (statute)

**Tuesday, 10:00–11:40, 1:00–1:50 p.m.**

In this class, we will break up into our groups to decide who we should sue. After the break, we will discuss what the groups determined. Before class, please read these materials.

Book

Schwartz, *Section 1983 Litigation*, pages 81–87, 94–115, 123–27

Cases

*Polk County v. Dodson*, 454 U.S. 312 (1981) (color of law)

*Monell v. Dep’t of Soc. Servs. of NYC*, 436 U.S. 658 (1978) (persons)

*Will v. Mich. Dep’t of State Police*, 491 U.S. 58 (1989) (persons)

*Flagg Bros. v. Brooks*, 436 U.S. 149 (1978) (state action)

*McMillian v. Monroe Cty.*, 520 U.S. 781 (1997) (policy)

*Haver v. Melo*, 502 U.S. 21 (1991) (official capacity)

*Kentucky v. Graham*, 473 U.S. 159 (1985) (personal capacity)

*Piazza v. Jefferson Cty.*, 923 F.3d 947 (11th Cir. 2019) (supervisor)

*Dennis v. Sparks*, 449 U.S. 24 (1980) (color of law; conspiracy)

*Connick v. Thompson*, 563 U.S. 51 (2011) (failure to train)

*Dean v. Warren*, No. 19-14674, 2021 WL 3927802 (11th Cir. Sept. 2, 2021) (§ 1985)

*Hernandez v. Mesa*, 140 S. Ct. 735 (2020) (*Bivens)*

**Wednesday, 10:00–11:40, 1:00–1:50 p.m.**

In this class, we will break up into our groups to decide what relief we can obtain. After the break, we will discuss what the groups determined. Before class, please read these materials.

Book

Schwartz, *Section 1983 Litigation*, pages 124, 187–201

Law

*Civil Rights Attorney’s Fees Awards Act of 1976*

Cases

*Ex Parte Young*, 209 U.S. 123 (1908) (prospective injunctive relief)

*Carey v. Piphus*, 435 U.S. 247 (1978) (compensatory and nominal damages)

*Memphis Comm. Sch. Dist. v. Stachura*, 477 U.S. 299 (1986) (value of right)

*Smith v. Wade*, 461 U.S. 30 (1983) (punitive damages)

*City of Newport v. Fact Concerts, Inc.* (punitive damages against city)

*Buckhannon Bd. & Care Home v. W. Va. Dept. of HHR*, 532 U.S. 598 (2001) (fees)

**Thursday, 10:00–11:40, 1:00–1:50 p.m.**

In this class, we will break up into our groups to draft the complaint. After the break, we will share and critique drafts. Before class, please read these materials.

Book

Schwartz, *Section 1983 Litigation*, pages 13–25

Rules

Federal Rules of Civil Procedure 1, 8–12

Cases

*Ashcroft v. Iqbal*, 556 U.S. 662 (2009) (pleading)

*Weiland v. Palm Beach Cnty. Sheriff’s Off.*, 792 F.3d 1313 (11th Cir. 2015) (shotgun)

*City of Los Angeles v. Lyons*, 461 U.S. 95 (1983) (standing)

*Dean v. Warren*, No. 19-14674, 2021 WL 3927802 (11th Cir. Sept. 2, 2021) (plausibility)

**Friday, 10:00–11:40, 1:00–1:50 p.m.**

In this class, we will break up into groups to brainstorm responses to the complaint. After the break, we will discuss how each group decided to respond to the complaint. At the end of the class, we will meet with the client again and advise him how to proceed.

Book

Schwartz, *Section 1983 Litigation*, pages 21–24, 180–82, 123–85

Cases

*Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280 (2005) (*Rooker-Feldman*)

*Green v. Jefferson Cty. Comm’n*, 563 F.3d 1243 (11th Cir. 2009) (*Younger*)

*England v. La. State Bd. of Med. Exams.*, 375 U.S. 411 (1964) (*Pullman*)

*Ambrosia Coal & Constr. Co. v. Pages Morales*, 368 F.3d 1320 (2004) (*Colorado River*)

*Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706 (*Burford*)

*Heck v. Humphrey*, 512 U.S. 477 (1994) (*Heck*)

*F.D.I.C. v. Meyer*, 510 U.S. 471 (1994) (sovereign immunity)

*Stump v. Sparkman,* 435 U.S. 349 (1978) (judicial immunity)

*Pearson v. Callahan*, 555 U.S. 223 (2009) (qualified immunity)

*Wallace v. Kato*, 549 U.S. 384 (2007) (statute of limitations)

*Varner v. Shepard*, No. 19-12048, 2021 WL 3870055 (11th Cir. Aug. 31, 2021) (exhaustion)

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