

FEDERAL COURTS
Law 6302-23350
University of Florida Levin College of Law
Fall 2019
Professor Merritt McAlister
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Syllabus

1. Overview. This course examines the work of the federal courts and their unique and complex role in our constitutional system. We will focus our attention on the tension among three competing constitutional values: (1) the separation between the judiciary and the executive and the legislative branches of government; (2) the balance between federal and state power (especially the balance between federal and state court power); and (3) the protection and redressability of individual rights. We will address one fundamental question in both the abstract and the particular: What is the proper role of federal courts in our constitutional system of divided government?

2. Required and Optional Materials. Our casebook is JONATHAN R. SIEGEL, FEDERAL COURTS (2d ed. 2019).

You may use the first edition, but you are responsible for ensuring that you read any added material, which is described in the preface to the second edition: <http://www.jsiegel.net/casebook/preface/>. The casebook has a constitutional and statutory supplement available for free here: <http://www.jsiegel.net/publications/Supplement-2019-FINAL.pdf>.

In preparing for this course, I have drawn from Professor Erwin Chemerinsky's excellent treatise, FEDERAL JURISDICTION (7th ed.). You are not required to use the treatise, but you may find it a useful resource.

3. Class Meetings. Our class will meet on Mondays and Wednesdays from 10:30 am to 11:55 am in HH 382.

4. Office Hours. My office hours are 1:00 pm to 3:00 pm on Mondays. If I need to reschedule my office hours for any reason, I will make an announcement in class and/or leave a note on my door. Outside of office hours, I am happy to meet by appointment at other times; please e-mail me to arrange. I also maintain an open-door drop-in policy: if my door is open, I am available. I encourage you to talk with me about anything class- or law-school related. I also know a thing or two about clerkships, law-firm jobs, cooking, wine, and chocolate Labs.

5. Contact Information. My office is in Room 343 in Holland Hall, and my office telephone number is 352.273.0981. My e-mail address is mcalister@law.ufl.edu. E-mail is usually the best way to reach me, and please do not hesitate to contact me regularly throughout the semester.

6. Canvas. I will use Canvas to distribute any assigned material that is not in our casebook and make available any material I distribute in class, including PowerPoint presentations.

7. Course Objectives and Student Learning Outcomes. By the end of this course, you should be able to: (1) describe the constitutional and prudential limitations on the exercise of federal judicial power, including the role Congress plays in setting those limits; (2) explain how the Supreme Court reviews state-court decisions; (3) articulate the scope of and limits on state sovereign immunity; (4) describe how federal courts vindicate constitutional rights and the limits on those claims; and (5) explain the basic mechanisms for review of state-court convictions in federal court.

8. Class Assignments. At the end of this syllabus, you will find a Course Reading Map, which is a list of assignments by subject matter. The Reading Map itself may provide you with a useful organizational tool. I have noted in brackets the material of most importance in each assignment; these will be our points of focus in class, but you are responsible for all of the reading.

Each assignment corresponds roughly to one class period. We may discuss one assignment over two days (note there are 24 assignments and 26 class periods). I will confirm the next assignment at the end of class, but if you miss class, or I do not announce the assignment for any reason, you should prepare the next class assignment. I reserve the right to remove assignments from our planned reading map depending on how quickly we move through the material.

9. Class Preparation, Participation, and Experience. Consistent with the American Bar Association Standard 310, you should expect to spend at least **six hours** per week preparing for this three-hour course.

I have high expectations for the learning environment we create together. I use a “lectussion” teaching style, which means that I rely heavily on classroom discussion to explicate cases and concepts and apply those frameworks to new problems. I will supplement our discussion with a short introductory lecture each class to recap the major take-away points from the previous class and launch that day’s discussion.

I expect each of you to attend class prepared. Preparation includes completing the assigned reading, reviewing notes and/or reading material from the prior class, and thinking through assigned problems. In completing the assigned reading, please

focus your attention on the main cases and the hypothetical problems; you may skim the notes. **I expect you to come to class prepared to discuss how you might answer the discussion problems in the assigned reading.**

I have an on-call policy that may be more rigorous than other upper-level courses. To ensure meaningful participation from all class members and to help you build lawyering skills, I will cold-call students using a modified Socratic method. I use an on-line list randomizer to generate the cold-call list for each day's class. Although I re-run the list before every class, I will not cold-call the same student in two consecutive classes nor will I call on a student who has not indicated that she is prepared (*see* Section 10). I may call on one student to dialogue with me on one case or I may jump around from student to student. I will often take volunteers, especially as our discussion opens up to consider the implications of doctrine. Sometimes you will work together in groups to brainstorm responses to the problems included in our casebook.

Meaningful and thorough class preparation is essential to success in this course. Our material will be difficult yet deeply rewarding; my classroom expectations will ensure that we will work well together to absorb these materials and keep our focus on some of the most important and challenging questions in our constitutional system.

10. Class Attendance. I record both class attendance and preparation solely by the sign-in sheet. **By signing in, you confirm that you are prepared for class in accordance with section 9.** It is your responsibility to sign-in and/or initial the sheet before class begins. **You may not sign the attendance sheet if you arrive to class after I have begun teaching.** Be aware that it is a serious violation of the Academic Honesty policy to sign in for another person or to have others sign you in. I will make the sign-in sheet available at least 5 minutes before class is scheduled to begin.

If you fail to sign the sign-in sheet more than eight times during the semester, I will lower your final grade by at least one-third of a point (e.g., from a B to a B-).

You do not need to tell me why you are absent or unprepared. If, however, you expect to be absent from class more than seven times due to a family emergency or medical situation, please notify me. Observance of a University-recognized religious holiday does not count as an absence. Accordingly, please notify me of such absences in advance.

11. Electronic Devices. I use interactive electronic polling to increase engagement and receive student feedback: <http://mmcalister.participoll.com>. You may use either a cellphone or a computer to participate in polling. You may not use your cellphone

for any other purpose in this class. You may use a computer or tablet in class for classroom purposes if you wish.

I expect you to be professional and respectful of the classroom environment and not use electronic devices for any other purpose. I reserve the right to reconsider my electronic device policy to preserve the classroom environment.

12. Evaluation. Your final grade in this course has two components: the final exam and class participation. Ninety percent of your grade is the final exam. The final exam will be an open-book, open-note eight-hour take-home exam due by the end of the exam period. I will discuss the format of the exam in class.

The remaining ten percent of your grade will be based on a peer- and self-evaluation of your class participation and engagement. Because I believe there are many ways to contribute positively to a learning environment, and because I recognize that I may not always be aware of how those contributions are made and experienced by the class, you are in the best position to assess how you and your peers have contributed to our learning environment.

At the mid-point and end of the semester, I will ask you to assign anonymously to each of your classmates between 1 and 5 points based on their contributions to your educational experience. You will also assign points to yourself based on a self-assessment of your participation and contributions. Contributions to our learning environment include, but are not limited to, the quality of: our cold-call dialogues; in-class questions and volunteered answers; participation in group discussions; and participation in out-of-class discussions and/or study-groups. These scores may also take into account actions that are disruptive to our learning environment, including impermissible/distracting use of computers.

I will average the scores received for a total of ten possible points, which will be added to your raw score on the final exam. I will throw out any participation sheets that assign all students the same score. If you cannot assign a score to any classmate, you are to leave that score blank; a blank score will not be used in calculating the average. I reserve the right to add participation point(s) to the participation score of any class member if I believe that the class has underappreciated significantly the contributions of a class member. I will not reduce class participation points, recognizing that there are contributions that may occur outside of the classroom of which I am unaware. I may reduce your final grade pursuant to the class attendance and preparation policy in Section 10.

13. Grading. Your grade in this class will be based on the final exam and class participation, as described in Sections 9, 10, and 12, above. The Levin College of Law's mean and mandatory distributions are posted on the College's website and

this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B (Average)	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

14. Accommodations. Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

15. Student Course Evaluations. Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

16. Academic honesty. Academic honesty and integrity are fundamental values of the UF Law School community. You should be sure that you understand and comply with the UF Student Honor Code, available at <https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>, and the Law

School's application of it, available at <https://www.law.ufl.edu/life-at-uf-law/officeof-student-affairs/additional-information/honor-code-and-committee/honor-code>.

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I. Procedural Constraints on the Power of Article III Courts

A. Congressional Control over Federal Jurisdiction

1. “Jurisdiction Stripping”—U.S. Const. art. I, § 8, cl. 9; art. III; art. VI, cl. 2 [in online supplement]; Siegel, pp. 223–244 [skim *Sheldon v. Sill*; focus on *Klein, Boumediene* (233–34), & *Martin v. Hunter’s Lessee*]
2. Congressional Power to “Channel” Jurisdiction & Interpreting Jurisdiction-Stripping Statutes—Siegel, pp. 244–255 [*Yakus, Johnson, & Probs. 3-1 & 3-2*]

B. Justiciability and Requirements for Getting into Federal Court

3. Standing to Sue: Injury—Siegel, pp. 47–75 [*Morton, Richardson, & Probs. 2-7–2-9*]
4. Standing to Sue: Causation, Redressability, & Statutory Injuries—Siegel, pp. 75–100 [*Simon, Havens Realty, Lujan*; Probs. 2-10–2-13]
5. Standing to Sue: Probabilistic Injuries, Third-Party Standing & Injuries to Official Plaintiffs—Siegel, pp. 100–115, 142–150, 155 [*Lyons, Arizona State Legislature, Craig*; Probs. 2-14, 2-15, & 2-18–2-20]
6. Mootness/Ripeness—Siegel, pp. 155–167 [through Note c.], 173–74, 180–89 [*DeFunis, Abbott, Toilet Goods, & Probs. 2-21–2-23*]
7. The Political Question Doctrine—Siegel, pp. 202–222 [*Nixon, Morgan, & Probs. 2-27–2-29*]

C. Judicial Federalism

8. Supreme Court Review of State Court Decisions—Siegel, pp. 879–882, 905–909, 920–929 [*Fox Film, Michigan v. Long*; Probs. 10-7–10-9]
9. Abstention—Siegel, pp. 816–825, 837–847, 859–865 [*Pullman, Younger, Hicks, & Probs. 9-4, 9-5, & Abstention Problem handout on Canvas*]

II. Substantive Claims and Defenses in Federal Court

A. State Sovereign Immunity

10. The Nature of the Limit—Siegel, pp. 589–613 [*Chisholm, Hans*]
11. Congressional Abrogation of State Sovereign Immunity—Siegel, pp. 663–680 [*Seminole Tribe*]
12. Congressional Abrogation Continued—Siegel, pp. 681–703 [*Florida Prepaid, Alden v. Maine, Katz, & Probs. 7-1–7-4*]
13. Avoiding Sovereign Immunity—Siegel, pp. 637–662 [*Ex parte Young, Edelman*]

B. Suing State and Federal Officers

14. Actions Against State Officers: Section 1983 and its Scope—Siegel, pp. 732–747 [*Monroe; Probs. 8-3 & 8-4*]
15. Section 1983: Wrongs Covered and Proper Defendants—Siegel, pp. 747–770 [*Maine v. Thiboutot, Monell, & Probs. 8-5–8-12*]
16. *Bivens* Actions—Siegel, pp. 706–731 [*Bivens, Ziglar; Probs. 8-1 & 8.2*]
17. Official Immunity: Absolute and Qualified Immunity—Siegel, pp. 770–792 [*Stump, Harlow v. Fitzgerald, & Probs. 8-13–8-16*]

C. Implied Private Rights of Action

18. Rights of Action, Siegel—pp., 434–454 [*Cort, Sandoval, Prob. 4-11*]

E. Federal Common Law

19. Areas Where Federal Common Law Applies—Siegel, pp. 411–433 [*Kimbell Foods, Boyle, Prob. 4-10*]

F. Habeas Corpus

20. Habeas Corpus for Persons Held Pursuant to a Criminal Conviction: Basic Principles & Prerequisites—Siegel, pp. 976–992 [*Brown*]
21. Cognizable Habeas Corpus Claims—Siegel, pp. 992–1009 [*Stone, Herrera, & Probs. 11-3–11-6*]

22. Standard of Review for Habeas Corpus Claims—Siegel, pp.1024–43; 28 U.S.C. §§ 2244, 2254 (in online supplement) [*Terry Williams* & Prob. 11-10]
23. Procedural Default—Siegel, pp. 1043–1063 [*Wainwright*; Probs. 11-11–11-15]
24. Habeas Corpus for Persons Held Without Criminal Charge—Siegel, pp. 959–976 [*Hamdi* & Probs. 11-1 & 11-2]