

FEDERAL COURTS SYLLABUS
Law 226-001, Spring Semester 2023
Mondays 9:00 a.m. to 11:55 a.m.

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This course examines the nature and role of United States federal courts and explores the degree to which the Constitution, statutes, the courts themselves, and other authorities place limits on what federal courts can do.

Learning Outcomes

Students will demonstrate knowledge of the basic arguments for and against federal courts exercising decision-making authority in any given case.

Students will demonstrate knowledge of specific language and structures in the United States Constitution which bear upon the ability of federal courts to exercise decision-making authority in general and in any particular case.

Students will be able to cite precedent and use analogies from each of six different general doctrines relating to the powers of federal courts in support of arguments about a federal court's ability to exercise decision-making authority in any given case.

Students will demonstrate the ability to argue orally and in writing in favor of a particular position with regard to the power of federal courts to exercise decision-making authority in any given case.

Schedule

The Class Schedule and Agenda below sets forth the topics we anticipate covering and the order in which we currently anticipate covering them, along with the associated reading. Experience teaches that our plans will change to accommodate the speed at which we are able to work through this material and the intervention of the outside world, including our litigation schedules. We will do our best to advise you ahead of time of any changes we foresee.

Materials

We will use Fallon, Manning, Meltzer & Shapiro, Hart & Wechsler's The Federal Courts and the Federal System, (Seventh Ed. 2015) **and the corresponding supplement**. We will likely add to these materials as needed with cases, statutes and the like. Be advised that the reading for this course is significant, though rewarding and (we think) relevant to litigation practice.

Communications

Because we both are active litigators in our other lives, we anticipate that many of our class-wide communications outside of the classroom will be through email. We are available to meet with you in person, by zoom or by phone before and after class and by appointment; please contact us by email to arrange any such appointment.

Conduct of the Class

This course is conducted in seminar-style. As noted, we will be lecturing at times and will cover much of the key material in those lectures, but we will not cover all of the material in class and, unless we indicate otherwise, students are still expected to be familiar with those portions of the readings that were not discussed by us. More important, it is our hope and expectation that each student will contribute meaningfully to class discussions and activities.

For most classes, we will have approximately two students who are responsible for being the student leaders of the discussion. John and James will direct, participate in and oversee the discussion. Student leaders, however, will be responsible for being “on point” for all or some part of the materials under discussion. This means being particularly knowledgeable about all or some pre-announced part of the readings for that day; on occasion it also may include being responsible for a brief presentation on a pre-assigned issue.

What we are hoping to achieve with this process is to ensure that we have at least two members of the class who have focused on the material for class more intensely than otherwise would typically occur, and that you will gain some modest experience “on your feet” in class which will help when you practice law. **Our use of the student discussion-leader protocol does not suggest we intend to relieve everyone else from reading the material for each class.**

Grading

Your performance as a student discussion leader, combined with your overall participation in class throughout the rest of the semester (*i.e.*, the classes when you are not a discussion leader) will account for 35 percent of your final grade. We will also have a final exam. Your score on that exam will account for the remaining 65 percent of your final grade.

CLASS SCHEDULE AND AGENDA

Class 1: January 23

Introduction to the Class

U.S. Constitution

pp. xcv-cx (read Art. III carefully, scan the rest)

Background and History of Federal Courts

pp. 1-47

Federal Justiciability

pp. 59 - 81; 103 - 127

Class 2: January 30

Federal Justiciability

pp. 195-199; 237-257

Class 3: February 6

Federal Question Jurisdiction

-- Constitutional Scope

pp. 779-806

-- Statutory Scope

pp. 806-837; 28 U.S.C. § 1331

-- Declaratory Judgments

pp. 837-849

Class 4: February 13

Diversity Jurisdiction

-- The Basics of Diversity; Complete Diversity

pp. 1413-1426; 28 U.S.C. § 1332; 28 U.S.C. § 1335; 1367, 1369

-- Corporations and Associations
pp. 1430-1436

-- Jurisdictional Amount
pp. 1436-1447

Supplemental Jurisdiction

-- Fed Question
pp. 861-872

-- Diversity
pp. 1447-1461; 28 U.S.C. § 1367

Class 5: February 20

Effecting Broad Relief

-- Class Actions, Mass Actions, PAGA, Nationwide Injunctions
Reading TBA

Class 6: February 27

Challenging Official Action

-- Suits against the US or Federal Officers
pp. 877-904

-- Suits against States
pp. 905-922

Class 7: March 6

Challenging Official Action

-- Suits against States (con't) and State Officers
pp.922-981

March 13 -- NO CLASS -- Spring Break

Class 8: March 20

Challenging Official Action

- Civil Rights Actions (§1983 and *Bivens*)
pp. 987-1015; 762-777; 42 U.S.C. § 1983
- Official Immunities
pp. 1030-1055

Class 9: March 27

Congressional Control

- of Federal Jurisdiction
pp. 295-314; 323-329
- of State Court Jurisdiction
pp. 412-449

Class 10: April 3

Limitations of Federal Jurisdiction

- Injunctions
pp. 1068-1093
- Abstention
pp. 1101-1127

Class 11: April 10

Limitations of Federal Jurisdiction

- Equitable Restraint
pp. 1127-1158; 1171-1192

Supreme Court Jurisdiction

-- Original Jurisdiction
28 U.S.C. § 1251; pp. 267-286

Class 12: April 17

Supreme Court Jurisdiction

-- Review of State Cases
pp. 461-509; 524-533; 546-558
28 U.S.C. §§ 1257, 1651

Class 13: April 24

Collateral Review -- Habeas and Executive Detention
pp. 1193-1264; 28 U.S.C. §§ 2241, 2254-55