

Federal Jurisdiction Syllabus
Fall 2009

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Class: 10:10-11:05 Tuesday, Wednesday, Thursday, and Friday, Room 65

Office Hours: 11:05-12:10 Wednesday, 9:00-10:00 Thursday and Friday, and by appointment.

Course Description: This course will explore the role of the federal courts in our governmental system. Throughout the course, we will examine the source of judicial power, the scope of and limitations on federal jurisdiction, the relationship between federal courts and the two other branches of the federal government, and the reach of appellate review. The course will necessarily require us to wrestle with two important concepts: notions of judicial federalism (the relationship between state and federal courts) and separation of powers.

Course Materials: Our casebook is Arthur D. Hellman, Lauren K. Robel, and David Stras, *Federal Courts: Cases and Materials on Judicial Federalism and the Lawyering Process* (2d. ed. 2009) (Lexis-Nexis). You should also purchase the two supplements to the casebook, one of which contains key statutory provisions (*i.e.*, the 2009 Judicial Code Supplement) and the other updated cases, problems, and notes (*i.e.*, the 2009 Supplement). The outline below shows the pages we will cover in the casebook and the supplements and the order in which we will cover them. I will try and put the next day's reading assignment on TWEN, but the default rule is to stay about 25 pages ahead of where we ended the previous class. I also reserve the right to assign additional materials, especially if we move through the material more quickly than anticipated.

As a word of advice, please spend some time on the problems in the casebook because, even though we will not cover all of them in detail in class, they will be similar to the types of questions and problems that will appear on the final examination.

For a secondary source, I highly recommend Erwin Chemerinsky's *Federal Jurisdiction* (5th ed. 2007) (Aspen Publishers). The book contains a straightforward explanation of many of the concepts discussed in class. Indeed, I referenced it often as a law clerk.

Examination: The grade in this class will be determined by an **8-hour open book "take-home" essay examination**. The examination will cover all assigned readings, with a substantial emphasis on the material specifically discussed in class. The final examination is scheduled for **December 15, 2009**. I will post a sample examination from a previous semester on TWEN, but the questions on the final examination will be very similar to the problems in the casebook.

Class Participation: You must do all assigned readings and be prepared to contribute in class. Students will be called on by panels (*e.g.*, I will explain the procedure in class), but I encourage you to comment, ask questions, and participate anytime. The material in this class is very difficult, so being prepared every day will be indispensable to your success in this course.

I do reserve the right to adjust any grade upward by up to two incremental grades (*e.g.*, B+ to A) for exceptional class participation, and to adjust any grade downward by that same amount for excessive absences or tardiness, and/or poor class participation. Please be respectful to your

classmates and *arrive on time* for class. You will be counted absent for the day if you do not arrive in time for the beginning of class.

TWEN: You are required to sign up on the TWEN page for this course. I will use this page to make announcements about upcoming classes and possibly to make supplementary assignments. I will also answer questions on the TWEN page if they are posted in the “discussion” section. Please check TWEN on a regular basis.

Scheduling: We will meet for 55 minutes of class on four days per week, which I realize is somewhat unconventional for a three-credit hour course. This schedule was selected to accommodate institutional and personal needs, and it will permit us to cancel classes if necessary without the need to make them up. I already know, for example, that class will need to be cancelled on October 15 & 16 for a conference, and October 6 for a presentation I have in Nashville. Other cancellations may, in fact, be necessary during the semester. In the event that we find ourselves with extra class periods at the end of the semester, I will just cancel those remaining classes or hold a review session on one or more of those days.

Course Outline and Reading Assignments: (A refers to appendix A at the back of the casebook, and S refers to the 2009 Supplement)

I.	<u>Introduction to the Federal Court System (Weeks 1 & 2)</u>	<u>Assignment</u>
A.	The Constitution (particularly Articles I and III)	A1-A7
B.	Development of the Judicial System and Judicial Appointments <i>Republican Party of Minn. v. White</i>	3-24
C.	The Role of Federal Courts <i>Marbury v. Madison</i>	24-32
D.	The Constitutional Limits of Article III Jurisdiction <i>Cohens v. Virginia</i> <i>Osborn v. Bank of the United States</i> <i>Textile Workers Union v. Lincoln Mills</i> <i>Verlinden B.V. v. Central Bank of Nigeria</i> <i>Mesa v. California</i> Problem: Suits against Diplomats’ Insurers Problem: Nuclear Incidents and Liability Claims	33-70
II.	<u>Justiciability (Weeks 2, 3, 4, & 5)</u>	
A.	Introduction to Justiciability	71-72
B.	Standing <i>Allen v. Wright</i> <i>Hein v. Freedom from Religion Foundation, Inc.</i> <i>Lujan v. Defenders of Wildlife</i> <i>Massachusetts v. EPA</i> <i>Summers v. Earth Island Institute</i>	72-132

Problems on Standing

- C Prudential and Third Party Standing 132-49
Singleton v. Wulff
Kowalski v. Turner
- D. Ripeness 149-162
Doe v. Bush
Poe v. Ullman
Problem: A Preenforcement Challenge to Voter
Registration Laws
- E. Mootness 162-178
Friends of the Earth v. Laidlaw
Problem: Injunctive Relief Under the ADA
United States Parole Comm'n v. Geraghty
Problem: A Settlement with Contingent Problem
- E. The Political Question Doctrine 178-92
Nixon v. United States
Problem: A Suit against a Terrorist Organization

III. Subject Matter Jurisdiction (Weeks 5, 6, 7, 8 & 9)

- A. Challenges to Jurisdiction 527-542
Mansfield, Coldwater & Lake Michigan Ry.
Co. v. Swan
Problem: A Copyright Infringement Action
Problem: The “Enrolled Bill Rule”
Problem: A Doomed Claim and *Steel Co.* Rule
- B. The Well-Pleaded Complaint Rule 543-547
Louisville & Nashville Railroad Co. v. Mottley
Problem: A Medical-Device Product Liability Suit
- C. State Causes of Action With a Federal Ingredient 547-577
American Well Works v. Layne & Bowler
Smith v. Kansas City Title & Trust
Merrell Dow Pharmaceuticals Co. v. Thompson
Christianson v. Colt Indus. Operating Corp.
Grable & Sons Metal Products v. Darue Engineering
Problem: Fiduciary Duty & Antitrust Law
Problem: Another *Smith* Case
- D. Complete Preemption and Artful Pleading 577-603
Beneficial National Bank v. Anderson
Problem: Property Damages in an Interstate Move
Caterpillar v. Williams
Problem: Disability, Outrage and Section 301 Preemption
Felix v. Lucent Technologies

Problem: ERISA and Medical Negligence
Rivet v. Regions Bank of Louisiana
Problem: Discharge of a Salesman

- E. Jurisdiction over Declaratory Judgment Actions 603-13
Franchise Tax Board v. Construction Laborers Vacation Trust for Southern California
Problem: A Medical Provider's Lien
Problem: Adopting a Highway
- F. Supplemental Jurisdiction 613-29
United Mine Workers v. Gibbs
City of Chicago v. International College of Surgeons
Lyon v. Whisman
Problem: A Disappointed Ex-Employee
- G. Diversity, Corporations, and Other Organizations 631-648
Carden v. Arkoma Assocs.
Problem: A Suit Against a Professional Corporation
Teal Energy USA v. GT, Inc.
- H. Diversity and the Amount in Controversy 648-657, 697-711
Ericsson GE Mobile Communications v. Motorola Communications & Electronics
Problem: A Pipeline Across Blackacre
Sanchez v. Monumental Life Ins. Co.
Rogers v. Wal-Mart Stores, Inc.
- I. Joinder and Supplemental Jurisdiction in Diversity 657-674
Exxon Mobil Corp. v. Allapattah Corp.
- J. Complete Diversity 711-720
Filla v. Norfolk & Southern Ry. Co.
Problem: A "Stream of Commerce" Dismissal
- K. Implied Subject-Matter Exclusions from Federal Jurisdiction 770-777
Marshall v. Marshall
Problem: A Quarrel over Probate Property

IV. **Congressional Control over Federal Jurisdiction (Weeks 10, 11, & 12)**

- A. Jurisdiction-Stripping and the Supreme Court 1187-1205
Ex Parte McCordle
United States v. Klein
Problem: The "Constitutional Restoration Act"
- B. Jurisdiction-Stripping and the Lower Federal Courts 1205-1217
Sheldon v. Sill
Webster v. Doe
Problem: Removing Jurisdiction over

Abortion-Related Cases
Problems: The “Pledge Protection Act”

- C. Congressional Power over Judicial Decision-Making 1219-1246
United States v. Klein
Plaut v. Spendthrift Corp.
Miller v. French
Problem: Immunity for Telecommunications Companies Under FISA
Problem: Save Mount Rushmore
Problem: The “Constitutional Restoration Act”

- D. Article I Courts 1249-1284
Northern Pipeline Const. Co. v. Marathon Pipeline Co.
Commodity Futures Trading Comm’n v. Schor
Problem: Mandatory Arbitration in Bankruptcy

V. Appellate Review in the Federal Courts (Weeks 12 & 13)

- A. Review of “Final Decisions” of the District Courts 803-813
Cunningham v. Hamilton County, OH
Digital Equipment Corp. v. Desktop Direct
- B. Review of Interlocutory Orders of the District Courts 813-835
In re Lorillard Tobacco Co.
Cole v. United States District for Ohio
Problem: Finality, Mandamus and the Political Question Doctrine

VI. Supreme Court Review of State Court Decisions (Weeks 12 & 13) (if we have time)

- A. Foundations of the Jurisdiction 231-48
Martin v. Hunter’s Lessee
Murdock v. City of Memphis
Problem: Discretionary Review in a State’s Highest Court
- B. The Basic Doctrine 248-54
Fox Film Corp. v. Muller
Delaware v. Prouse
- C. Adequacy of State “Substantive” Grounds 254-263
Indiana ex rel. Anderson v. Brand
Problem: Property on a Tidal Canal
Problem: *Anderson* on Remand
- D. State Procedural Grounds 263-286
James v. Kentucky
Problem: “Inadequate” Assistance of Counsel
Problem: A “Lynch Mob Atmosphere?”

Lee v. Kemna

- E. Ambiguous Decisions and the Rule of *Michigan v. Long* 287-304
Michigan v. Long
Problems: Pandering and the First Amendment
Pennsylvania v. Labron
Brigham City, UT v. Stuart

VII. Review for Final Examination (Week 13)