Course Description

This course will examine the role of the federal courts in the American governmental structure—discussing both their relationship to the other branches of the federal governmental, and their relationship to institutions of state government. Topics to be covered in this course include justiciability (standing, ripeness, mootness, and political questions); the power of Congress to define the jurisdiction of the federal courts (and its power to create non-Article III courts); the subject matter jurisdiction of the federal courts; the appellate jurisdiction of the U.S. Supreme Court and the federal Courts of Appeal; judicial abstention; the anti-injunction act; vertical choice of law; federal common law; and state sovereign immunity. The fact that University of Washington is on a quarter system prevents us from discussing thoroughly all the subjects that are covered in other schools’ basic courses on federal courts. Crucial subjects such as 42 U.S.C. § 1983 and Bivens actions will be discussed only in the briefest manner. Habeas corpus will barely be discussed at all. Students are urged to take other upper level classes that address these subjects.

Required Texts

- U.S. Constitution
- Erwin Chemerinsky, Federal Jurisdiction (5th ed. 2003) (Hereafter “Chemerinsky”)
- "Reflections on the Hart and Wechsler Paradigm,” 47 Vand. L. Rev. 953
- Other materials made available on the class web site or on reserve.

Recommended Texts

- Other materials made available on the class web site or on reserve.

Class Participation

The casebook for this course is notorious for focusing on difficult cases, and for presenting them in a difficult manner. It is important that people not only do the reading, but that they attend class and come prepared to discuss the cases. I will cold call, as a matter of convenience, I will do most of my cold-calling in alphabetical order by last name. (Ms. Stewart is quite likely to be called on shortly after Mr. Smith). I reserve the right to cold call anyone at any time and, indeed, will regularly exercise this right.
Exam & Grading

The final exam will be an exam. Your final grade for the course will be determined by your score on this exam, subject to a possible (though unusual) upward adjustment for a student whose exam grade straddles the line between two letter grades and whose contributions to class discussion were substantial.

This course is subject to the mandatory curve now in effect for most courses at the law school. Please note that although the curve does not require a professor to assign grades below “B,” it does permit them to do so. If, unfortunately, such a grade is appropriate, it will be assigned.

Attendance

To succeed in this course, it is extremely important that you attend class on a regular basis. In accordance with the law school attendance policy, I reserve the right to drop any student who attends fewer than 80 percent of the class sessions.

Office Hours and Voluntary Review Sessions

I hold regular office hours and urge students to come. These will usually be in my office. Occasionally, however, I may hold group office hours in the café downstairs or in the Burke café—in which case, I will announce the venue in advance and/or leave a note explaining where they are being held. Because there is so much material, and because the material is cumulative, it has been my policy to have several voluntary review sessions during the year where I will simply answer questions posed by the students. Attendance is entirely optional. These will be arranged on an ongoing basis.

Cancelled Classes

Sadly, due to the annual conflict between the AALS conference and the start of classes, we will miss one class at the beginning of the quarter. Make-up classes will be arranged.

Disability-Related Needs

To request academic accommodations due to a disability, please contact Disabled Student Services, 448 Schmitz, 206-543-8924 (V/TTY). If you have a letter from Disabled Student Services, please present the letter to me so that we can discuss the accommodations you might need in this class.

Use of Lecture Material

Lectures are provided for instructional purposes only and remain the intellectual property of the instructor. All other uses are prohibited. Lecture material is covered by copyright (Title 17, United States Code). The point of class is to attend and participate. Lectures may not be audio- or video-recorded without the instructor’s prior written consent—and this consent which will almost never be given.
Syllabus/Reading List (subject to modification)

We need to move through class quickly. I expect that prior to the beginning of class you will have done the following:

- Read carefully: U.S. Constitution, Articles I – II, focusing on the following: Article I, § 2, cl. 5; Art. I, § 3, cl. 6-7; Art. I, § 8, cl. 9; Art. II, § 2, cl. 2-3;
- Read Carefully: U.S. Constitution, Article III (read it at least twice);
- Read Carefully Text: 1-28

I. Introduction

A. Development & Structure of the Federal Judicial System

Class 1: Introduction

Class 2: Development & Structure of the Federal Judicial System
(Text, 1-28; Supp, 1).

Class 3: What is the role of a judiciary?: Questions answered and questions raised by Marbury v. Madison. (Text, 55-64 up to paragraph (2); 67-73).

Class 4: What is the role of a Judiciary? The rule against advisory opinions (78-85).

II. Justiciability Doctrines: What is a Justiciable Case or Controversy?

Class 5: Standing (Text, 113-138(para 5); Supp 8-10]

Class 6: Standing, ‘ctd (Text 138-141; 143-155, Supp 12-13, 157-160

Class 7: Mootness (Text 199-207);

Class 8: Ripeness (Text 217-226; Supp. 26)

Class 9: Political question doctrine: (Re-read Text pp. 9-12; Text 244-259 (do not read note #6); Supp. 30-32.

Class 10: Political question doctrine ‘ctd (Text 262-67, Corrie v. Caterpillar, available online)

Class 11: Justiciability discussions in recent cases

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1 Subjects discussed in Chemerinsky, 1-40
2 Subjects discussed in Chemerinsky, 41-172
III. Subject Matter Jurisdiction of the Federal Courts

A. Congressional Control of Federal Court Jurisdiction over Cases and Controversies

Class 12: Congressional Power to Limit Fed. Jurisdiction (Text 319-352; Supp. 38-42)

Class 13: Same (Text 352-61; Supp 41-42).

Class 14: Power to Create Non-Article III Courts (Text pp. 377-395)

Class 15: Military Tribunals (Text 402-403; Supp 45-72)

Class 16: Review Day

B. Jurisdiction of the Federal District Courts

Class 17: Constitutional Boundaries of Original Jurisdiction for the lower federal courts (Text pp. 832-855, 416-418; Supp 104-105)

Class 18: Current Scope of Original Jurisdiction #1: Federal Question Jurisdiction (Text pp. 856-870; Supp., pp. 105-107, 107-123; Text 886-891)

Class 19: Current Scope of Original Jurisdiction #2: Federal Question Jurisdiction (cont’d) (Text pp. 891-907).

Class 20: Diversity jurisdiction & Supplemental Jurisdiction (Pfander, Principles of Federal Jurisdiction 105-23 (on reserve))

C. Appellate Jurisdiction

Class 21: Supreme Court Review of State Courts (Text pp. 466-494, 523-527).


Class 23: Supreme Court Review of State Courts (cont’d) (Text pp. 541-565, Supp 80-81; 571-582).


Class 25: Appellate Review of Lower Federal Courts (Text pp. 1556-1584, Supp 233-38; Text, 1595-1596)

3 Subjects discussed in Chemerinsky, 173-264

4 Subjects discussed in Chemerinsky, 265-363

5 Subjects discussed in Chemerinsky, 653-733
IV. 1983

Class 26 § 1983 (Chemerinsky, 463-73) [By Schnapper]

V. Anti-Injunction Act and Abstention Doctrines

Class 27: Anti-Injunction Act (Text pp. 1148-1170).
Class 28: Pullman Abstention; (Text 1186-1203)
Class 29: Burford, Thibodaux and Rooker Feldman (Text pp. 1203-1213, 1436-1441, 1186-1203; Supp. 212-213.)
Class 30: Younger (Text pp. 1213-1229; Supp. 151)
Class 31: Younger (cont’d) (Text pp. 1229-1258; Supp. 152)
Class 32 Colorado River (Text pp. 1258-1271)

VI. Vertical Choice of Law & Federal Common Law

Class 33: Federal Common Law ((Chemerinsky 310-17; Text pp. 690-704, 709-724, Supp. 88-89; 741-743; Supp. 91- 98 Addition to page 743)

Class [34] Federal Common Law and International Law: 743-75?

Class 35: Implied Rights of Action to Enforce Federal Statutes (Text pp. 766-789, Supp 101)
Class 36: Bivens and its Progeny (509-512; Text pp. 804-825; Supp. 102-03)
Class 37: Federal Law in State Courts (Text pp. 418-443)
Class 38: Federal Law in State Courts (cont’d) (Text pp. 443-465; Supp. 73-74-)

VII. Time permitting TBA

Class 39: TBA

VIII. Wrap Up

Class 40: Federal Courts Jurisprudence: Reflections
Class 41: Review

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6 Subjects discussed in Chemerinsky, 733-752; 783-865
7 Subjects discussed in Chemerinsky, 363-401