

FEDERAL JURISDICTION SYLLABUS

Law 602

Spring Semester 2018

1/10/2018

Judge Manuel D. Leal

Office Hours: 3:00-3:50 M/W/F

Office: Room 221G

Telephone 713-313-1131

Administrative Assistant:

Ms. Jo Alridge

713-313-4476

Please see Ms. Alridge for

appointments

COURSE BOOKS AND MATERIALS

Case book: Currie, *Federal Courts - Cases and Materials*, 4th edition
(West Publishing Co.)

Suggested Supplemental Materials:

Chermerinsky, *Federal Jurisdiction*, Sixth Edition (Wolters
Kluwer)

CLASS MEETINGS

Class meets every Monday, Wednesday and Friday from 3:00 to 3:50 in Room 107.

Important! Roll will be taken at the beginning of every class session. See "ATTENDANCE" below.

INDIVIDUAL STUDENT ASSISTANCE

Any enrolled student needing assistance concerning the course is encouraged to schedule individual personal help from Judge Leal by contacting his administrative assistant Ms. Jo Alridge at 713.313.4476.

LAW SCHOOL RULES AND REGULATIONS

It is the responsibility of each student to be aware of the *law school rules and regulations*. You may access the Rules and Regulations Handbook at our TMSL website;

<http://www.tsulaw.edu/life/20142015RulesRegulations.pdf#view=Fit>

COURSE DESCRIPTION & OBJECTIVE

This course is a study of the jurisdiction of federal courts. The Constitution of the United States creates, limits and defines the jurisdiction of all federal courts and grants Congress authority to establish and set limits as to the exercise of federal judicial power. Federal courts are courts of limited jurisdiction. State courts, on the other hand, are of general jurisdiction pursuant to state law.

The principles upon which federal court authority rest will be emphasized along with the recognition and respect extended to state courts sovereignty. Other federal court limitations dealing with abstention doctrines and injunctions against state court proceedings will be studied since these are sensitive and recurring problems affecting relations between state and federal courts

Initially, students are introduced to reviewing the nature of federal judicial authority itself, recognizing that students may have studied some of the concepts from a different perspective in other courses such as constitutional law or civil procedure. Congress' power as received from the United States Constitution over federal judicial jurisdiction and its subsequent controlled conveyance to or withdrawal from the federal courts will be examined. Various types of federal courts and judges are surveyed to some extent.

Students will follow a path through federal courts while spelling out the basic contours of federal question and diversity jurisdiction

along with a basic study of the United States Supreme Court's original and appellate jurisdiction. Finally, federal judicial review will be examined pursuant to habeas corpus and post-conviction relief.

It is very important that students look for doctrinal themes of federal jurisdiction as these principles are absolutely critical in grading a student's performance on exams.

COURSE REQUIREMENTS - CRITICAL THINKING ANALYSIS

Students are required to demonstrate by their performance throughout the semester, including on the final exam, application of analytical skills based on *critical legal thinking analysis* in solving federal jurisdiction legal problems. Law students must master this basic skill while in law school in preparation for the realities of representing clients. It is the process of legal problem solving, of thinking through and analyzing possible legal outcomes that gets a student a grade of A, not memorized answers from last year's notes. However, any memorized legal answer obligatorily must be supported and explained by critical legal analysis that in turn, determines the grade.

This course has a basic, interrelated objective: to teach students in preparation for federal court, the basic building-blocks of legal reasoning, from the basic conceptual apparatus necessary to precisely express legal positions, through the identification and elaboration of valid and sound legal arguments, to an understanding of the distinctive features of legal reasoning. An attempt is made to further hone and develop the skills in critical thinking, providing students with both the capacity and the confidence to approach complex federal court legal

issues from a critical/analytical perspective.

When attorneys maintain a legal position in dealing with client problems they must provide a thorough *logical analytical legal* justification for it. If an attorney can show that a legal conclusion follows logically from legal premises, then the attorney will have supported his or her *legal* position with a sound legal argument. However and equally important, there may be *other* good legal arguments that could impact the client and therefore, must be considered and discussed. This is the very essence of what is expected from an attorney. In this course the conclusion is not as important as the *logical analytical legal reasoning* used in arriving at a legal conclusion.

"The purpose is for law students to develop a competency in raising legal questions rather than to giving memorized answers, to be impressed with the number of possible solutions or arguments rather than with the number of rules they "memorize". Hopefully, students will leave class stimulated by the doubt and the opportunity created by the lack of rigid answers, rather than comforted by the illusion that they safely memorized answers."

Cases in the casebook are based on legal reasoning analysis supporting the Court's ruling. Students are required to understand them. But, often legal reasons are cited *in opposition* and students are required to understand these. In other words, there were legal reasons that convinced the Court to rule a particular way but, there were also legal reasons considered by the Court to rule differently.

Thorough knowledge of all case law covered in the course, applicable statutes and constitutional law is required. Therefore, studying law requires a careful analysis of the rationale and public policy leading to the development of a particular law. Students are expected to analyze and recognize legal issues followed by a full

presentation of the substantive law that could apply to a set of facts.

CLASS PARTICIPATION BY STUDENTS

Class participation by all students is very important and an essential component of the course. Every student must be prepared to recite and discuss in class the doctrines, theories, logic and propositions of law presented in the assigned cases. In order to be adequately prepared for class, students are required to read and understand all assigned materials.

Students are assigned to read approximately 25 to 30 pages from the case book per each hour of class meeting. There is no required reading assignment from any other recommended handbook or outside materials since these are primarily used to help the student understand the assigned reading materials. Students may be given recently decided cases or statutes not included in the casebook. Students will be responsible for these since they may modify or be the most recent pronouncement of existing law or establishment of new law.

EXAMINATION AND GRADING

Only one final examination, in essay form, will be administered during the semester at the date, time and location designated by the law school and is not subject to being changed by Judge Leal.

FINAL GRADE –

A student's final grade for the course is a composite of letter grades received on the student's final exam with such adjustments as permitted by the law school's rules and regulations. Letter grading is pursuant to the Law School's Student Rules and Regulations, *See Chapter III SCHOLARSHIP Section 3. Grading System.*

A student who fails to attend an examination or fails to submit an answer *will* receive the letter grade of F. *See Student Rules and Regulations, Chapter III SCHOLARSHIP Section 4. Examinations A. Attendance*

The final exam in essay form will assess a student's competency in the course by a student's performance demonstrating legal reasoning in analyzing federal court jurisdiction problems through critical legal thinking.

The highest letter grades on an exam are awarded for a student's performance on logical legal analysis of a given problem. Memorized answers will not likely result in a good letter grade. Memorized answers are an illusion in receiving a good grade. Rather, letter grading is obtained by a student's showing a thorough understanding of the reasons justifying the development of a given rule of law along with a thorough legal analysis of possible outcomes rather than a "model answer". This should include giving all legal arguments that favor a conclusion and all legal arguments against.

The examination will be comprised of traditional law school legal problems in essay question format requiring a student to analyze legal problems through analytical critical legal thinking as stated above in "Course Requirements". A creative legal solution to a client's problem will mark those papers that get the highest grades. Merely recognizing a legal issue and writing your knowledge of memorized law on that issue will not suffice. Much more is required, i.e., a demonstration of a

student's logical analytical critical legal thinking rather than memorized answers.

STUDENT EXAMINATION NUMBER -

Student examination numbers must appear on every enrolled student's examination.

It is the responsibility of each student to reflect a correct *exam number* on an exam issued by the law school to all enrolled students prior to an exam. Since exams are graded on a strict anonymous basis, a student's exam number is the only way that a grade can be linked to a particular student for posting after grading. A student using an incorrect exam number results in the student appearing of not having turned in an exam and therefore, a grade of F will be posted to that student pursuant to law school rules and regulations. *(See Student Rules and Regulations, Chapter III SCHOLARSHIP Section 4. A.3 Anonymous Examinations)*

CLASS ATTENDANCE

Class attendance is absolutely required of all students.

Students are required to comply with all school requirements regarding class attendance. (*See Student Rules and Regulations, Chapter III. SCHOLARSHIP Section 9 Class Attendance*).

Caution. *Roll will be taken at the beginning of every class session.* Any student who fails to answer roll at the commencement of class or after answering roll leaves class without being excused by Judge Leal is deemed to be a "failure to attend class" and recorded as an absence.

EXCESSIVE ABSENCES

Excessive absence is defined as any absence in excess of the 5 permitted absences for this course. (*See Student Rules and Regulations, Chapter III Scholarship Section 9. Class Attendance*)

The following notices have been issued to faculty by the Dean's office:

"... 'Absence' shall be defined as either a failure to attend class, or a failure to be present at the commencement of class." Article III. Scholarship, Section 9, Class Attendance, p. 27 Student Rules and Regulations.

"Please forward to the Assistant Dean of Student Development the name of any student who has exceeded the permissible maximum number of absences in your course(s), and the total number of absences that student has incurred for the Fall or Spring Semester."

"Law Faculty Reminder—The law school's official definition of an absence is stated in the Student Rules and Regulations."

Excessive absence from classes will result in a grade reduction of up two letter grades or an administrative withdrawal from the course. (See Student Rules and Regulations, *Chapter III Scholarship Section 9. Class Attendance*)

Each student is personally responsible for keeping track of his or her absences.

There are no excused absences except where instructed by the President's Office of the University.

COMPUTERS and CELL PHONES

The use of laptops, cell phones *or other internet access electronic devices* during class session is strictly prohibited.

However, a student may obtain prior authorization from Judge Leal for using *internet access electronic devices* during class session only for the taking of class notes provided that;

- (1) the student executes a signed written affirmation agreeing that the student will not during a class session access the internet with a laptop or other internet access device except for the taking of class notes and,
- (2) the student also agrees in the affirmation to receive a letter grade reduction if such student is reported by anyone to have accessed the internet with such device during class session and,
- (3) the student must sit in one of the first three front rows.

CLASS PREPARATION

Every student is required to be fully prepared for every class session. Any student not prepared when called upon to recite will be immediately excused from that class session unless that student did not respond to roll call. In addition, unprepared students are subject to points being deducted from their grade.

STUDENT LEARNING OUTCOMES

As stated above, students must exercise *critical legal thinking analysis* with respect to learning and working with the substantive law of federal jurisdiction. Attorneys licensed to practice law are required to be competent in their relationship with their client. At a bare minimum, this entails handling their client's legal issues both in detecting and solving their legal problems. Lawyering is done through the process known as "critical legal thinking" sometimes referred to as "thinking like a lawyer".

The final exam will assess a student's competency in the course by demonstrating their competency in *solving legal problems* through critical legal thinking analysis. Student grades received on the final exam are an assessment of their performance, in writing, of how well they have applied critical legal thinking in solving a legal problem in a logical presentation. Learning and understanding the law is fundamental but, communicating that knowledge and the use of it is absolutely critical in the practice of law.

Students will follow a path through federal courts while spelling out the basic contours of federal district court federal question and diversity jurisdiction with some study of the Supreme Court's original and appellate jurisdiction. However, students should look for recurring doctrinal themes of federal jurisdiction as this is not a course on the federal rules of procedure.

Significant historical events underlying the United States Constitution form the basis for federal jurisdiction. Applicable sections of the Constitution in addressing questions of whether federal jurisdiction exists and to what extent should always be kept in mind. The students' development in this area is assessed during the semester through individual student case recitation. While historical reasons are useful in preparation of a case for recitation it is not necessarily tested on exams.

READING ASSIGNMENTS

FEDERAL COURTS
Cases and Materials
Fourth Edition
David P. Currie

CHAPTER 1 CONGRESS, THE COURTS, AND THE CONSTITUTION

Lecture.

Judicial review

Marbury v. Madison p. 19

Justiciability and standing

Warth v. Seldin p. 32

Abbott Laboratories v. Gardner p. 57

Unites States Parole v.Geraghty p. 69

Congressional power to curtail jurisdiction

Sheldon v. Sill	p. 98
Ex part McCardle	p. 100

Judicial power outside Article III

Northern Pipeline Construction v. Marathon Pipe Line Co.	p.114
<i>**Stern v. Marshall, 131 S. Ct. 2594 (2011)</i>	

CHAPTER II FEDERAL QUESTION

Identifying federal question cases

Osborn v. Bank of the United States	p. 140
Louisville & Nashville RR v. Motley	p. 149
Skelly Oil Co. v. Phillips Petroleum	p. 151
T. B. Harms v. Eliscu	p. 160
Merrell Dow Pharm. V. Thompson	p. 166
<i>**Grable v. Darue, 125 S. Ct. 2363 (2005)</i>	

The scope of a case

Finley v. United States	p. 188
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CHAPTER III THE DIVERSITY JURISDICTION

The determination of citizenship
Sadat v. Mertes p. 231

Complete diversity & Ancillary jurisdiction

Strawbridge v. Curtis p. 244
Treinies v. Sunshine Mining Co. p. 247
Owen Equipment & Erection v. Kroger p. 251
***Exxon Mobile v. Allapattah services, 125 S. Ct. 2611 (2005)*

Removal jurisdiction

Note B (7) Removal p. 183

Note (8) p. 183

28 U S C § 1441 Actions removable generally
p.701

28 U S C § 1446 Procedure for removal
p. 703

28 U S C § 1447 Procedure after removal
p.705

28 U S C § 1452 Removal . . . bankruptcy cases
p.706

American Fire & Casualty v. Finn p. 260

Corporations and other associations

Carden v. Arkoma Associates	p. 267
Kelly v. Unites States Steel Corp.	p .274
<i>** Hertz Corp. v. Friend, 130 S. Ct. 1181, 1192 (2010)</i>	
Majewski v. New York Central RR Co.	p. 281
Diesing v. Vaughn Wood Products, Inc.	p.282
Smith v. Sperling	p. 287

The jurisdictional amount

Snyder v. Harris	p. 294
<i>Note 3 in casebook</i>	<i>p. 301</i>
<i>Note 4 in casebook</i>	<i>p. 303</i>
<i>Note 10 in casebook</i>	<i>p. 308</i>

CHAPTER IV THE APPLICABLE LAW

The Erie problem

Erie Railroad Co. v. Tompkins	p. 327
Guaranty Trust Co. v. York	p. 336
Hanna v. Plumer	p. 339
Klaxon Co. v. Stentor Electric	

Manufacturing Co. p. 347

The federal common law

Clearfield Trust Co. v. United States p. 353

Bank of America v. Parnell p. 354

Transamerica Mortgage v. Lewis p. 370

Remedies against government officials

Monroe v. Pape p. 379

Monell v. Department of Social Services p. 390

Bivens v. Six Unknown Agents p. 401

CHAPTER V SOVEREIGN IMMUNITY

The Eleventh Amendment and Sovereign Immunity

Hans v. Louisiana p. 433

Ex Parte Young p. 444

Edelman v. Jordan p. 447

Fitzpatrick v. Bitzer p. 460

***Seminole Tribe v. Florida, 517 U.S. 44 (1996)*

***U. S. v. George, 126 S.Ct. 877 (2006)*

CHAPTER VI ABSTENTION

Pullman Abstention and Certification

Texas Railroad Comm'n v. Pullman p. 485

State administrative agencies and taxew

Burford v. Sun Oil	p. 497
Fair Assessment v. McNary	p. 506

Injunctions against suits

Mitchum v. Foster	p. 514
Younger v. Harris	p. 528
Steffel v. Thompson	p. 540

Pending actions

Colorado River Authority v. U. S.	p. 556
<i>**Exxon Mobil v. Saudi Basic Indus., 126 S.Ct. 990 (2005)</i>	

CHAPTER VII APPELLATE & COLLATERAL REVIEW IN FEDERAL COURTS

Direct appellate review

Henry v. Mississippi	p. 573
<i>Note B. (5)</i>	<i>p. 580</i>
<i>Note C. (6)</i>	<i>p. 582</i>
<i>Note C. (9)</i>	<i>p. 583</i>
Cox Broadcasting Corp . Cohn	p. 587

Habeas corpus and post-conviction relief

Wainwright v. Sykes	p. 608
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Preiser v. Rodriguez	p. 633
Jones v. Cunningham	p. 643
Peyton v. Rowe	p. 647