

FEDERAL JURISDICTION

LAW 602-2

FALL 2019

MARTIN LEVY

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THE PROFESSOR

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NOTE FROM THE PROFESSOR:

Information concerning this course, including syllabus, changes in class meeting, and questions from students, etc., will be available on the internet at:

1. WWW.PROFMLEVY.COM
2. LAWSCHOOL.WESTLAW.COM, click on THE WEST EDUCATION NETWORK (TWEN) and select this offering.

COURSE BOOKS & MATERIAL

MATERIALS:

Text: Currie, *Federal Courts*, 4th. Ed., West.

Current Supp. to the same. (If available)

Recommended: Wright, *Federal Courts*, West. (Treatise)

Handouts by instructor.

COURSE DESCRIPTION, LEARNING OBJECTIVES & STUDENT LEARNING OUTCOMES

A study of the procedure practice and procedure under the Federal Rules of Civil Procedure. This course focuses on: 1) the relationship between the federal judiciary and executive and legislative branches of the federal government; and 2) the relationship between the federal courts and the states. The topics covered include Congressional power to control federal court jurisdiction, constitutional and statutory limitations on subject-matter jurisdiction, sovereign and official immunity, abstention, equitable restraint, and other limitations, on the exercise of federal court jurisdiction, the Erie Doctrine, and federal common law. This course may be taken in the second or third year.

GRADING

There will be a comprehensive final examination. The instructor reserves the right to have a "mid-term" examination, with its relative weight to be announced at that time. Please note that the Instructor reserves the right to hold additional examinations as may be deemed necessary. Students will be notified of the value of these exams at said time.

ACCOMMODATIONS

Accommodation will be provided and administered as dictated by the Dean's office. If you require accommodation please provide approval and guidelines from the Dean's office.

PARTICIPATION, ATTENDANCE & PROFESSIONALISM

Because verbal articulation of ones' ideas is an essential commodity in the practice of law, class participation is encouraged. With such in mind both the quality and quantity of class participation will be evaluated and applied as an *added* value of up to **two (2)** points in determination of your final grade. Further to such, the Instructor may assign specific class sessions for students participation, which may be applied as up to 10% of the "Professor's" final grade.

ATTENDANCE: Will be applied as required for a 3 hour class via a sign-in roll sheet disseminated at the commencement of class.

POLICIES & PROCEDURES

All policies and procedures relative to this course are articulated in the Law School Student Rules. All such rules will be complied with by both students and the Instructor.

**TEXAS SOUTHERN UNIVERSITY THURGOOD MARSHALL SCHOOL OF LAW
ACADEMIC CALENDAR 2019–2020**

FALL SEMESTER ACCELERATED (TURBO) COURSE

First Day of Accelerated Summer Monday August 5, 2019

Last Day to Add/Drop Classes Monday August 5, 2019

Last Day of Classes Friday August 16, 2019

FALL SEMESTER 2019 (SEVENTY-ONE DAYS OF CLASSES)

Orientation Monday–Friday August 12–16, 2019

First Day of Class Monday August 19, 2019

Last Day to ADD/DROP Wednesday August 21, 2019

Labor Day (NO CLASSES) Monday September 2, 2019

Purge of all unpaid course selections Wednesday September 18, 2019

Mid Term Examinations Monday–Friday October 14–18, 2019

Last Day to Drop a Class Friday November 8, 2019

Last Day of Classes Tuesday November 26, 2019

First Year Professors' Grades due Tuesday November 26, 2019

Reading Period (NO CLASS) Wednesday November 27, 2019

Thanksgiving Holiday Thursday–Friday November 28–29, 2019

Reading Period (NO CLASS) Saturday–Sunday November 30–December 1, 2019

Final Examinations Monday–Friday December 2–December 13, 2019

Commencement Exercises Saturday December 14, 2019

SPRING SEMESTER 2020 (SEVENTY DAYS OF CLASSES)

School Opens Thursday January 2, 2020

First Day of Class Monday January 13, 2020

Last Day to ADD/DROP Wednesday January 15, 2020

M L K Holiday (NO CLASSES) Monday January 20, 2020

Purge of all unpaid course selections Friday February 7, 2020

Mid Term Examinations Monday–Friday March 9–13, 2020

Spring Break Monday–Friday March 16–20, 2020

Spring Break (University Closed) Wednesday–Friday March 18–20, 2020

Last Day to Drop a Class Thursday April 9, 2020

Good Friday (NO CLASSES) Friday April 10, 2020

Last Day of Classes Tuesday April 28, 2020

First Year Professors' Grades due Tuesday April 28, 2020

Reading Period (**NO CLASSES**) Wednesday–Thursday April 29–April 30, 2020

Simulated Bar Exam* Friday May 1, 2020 (*tentative*)

Reading Period (**NO CLASSES**) Saturday–Sunday May 2–May 3, 2020

Final Examinations Monday–Friday May 4–May 15, 2020

Hooding Ceremony Friday May 15, 2020

Commencement Exercises Saturday May 16, 2020

Please note that the calendar events and /or dates are subject to change.

READING ASSIGNMENTS

CHAPTER II - Federal Question and Admiralty Cases

Section 1: Identifying Federal Question Cases

- Introduction..... 139-140
- *Osborne v. Bank of U.S.*..... 140-147
- ***Textile Workers v. Lincoln Mills*** [Note 4]..... 147 (H)
353 U.S. 448 (1957)
- Notes 1,2,..... 147
- *Louis. & Nash. R.R. v. Mottley*..... 149-151
- *Skelly Oil Co. v. Phillips*..... 151-153
- Notes 1,2..... 153
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- *T.B. Harms v. ELISCU*..... 160-164
- Notes 1,2,4..... 164-165
- *Smith v. K.C. . Title & Trust* [Note 1]..... 174
- *Franchise Tax Board v. Construction Laborers* [N1,2]..... 156-157
- *Merrell Dow v. Thompson*..... 166-174
- *Verlinden v. Cental Bank of Nigeria*[Note 5]..... 148-149
- Notes 2,3,5..... 175-177
- ***Grable v. Darue, 125 S.Ct. 2363 (2005)***
- Exclusive Jurisdiction [Notes 1,2,3,5]..... 179-182
- Removal [Notes 7,8]..... 183-184
- Obligation to Provide Forum [Notes 11,12]..... 185-188

Section 2. The Scope of a "Case"

- *Finley v. United States*..... 188-194
- Pendent Jurisdiction [Notes 1-9]..... 194-200
- ***City of Chicago v. International College of Surgeons,***
522 U.S. 156 (1997)
- ***Raygo v. Regenst, 534 U.S. 533 (2002)***

Section 3. Maritime Cases

- "Read only" assignment..... 200-226

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Section 2. "Complete" Diversity and Ancillary Jurisdiction

- *Strawbridge v. Curtiss*.....244-245
- Notes 1,2,3..... 245-247
- *Treines v. Sunshine Mining*..... 247-249
- Notes 1,2,3..... 249-251
- *Owen Equipment v. Kroger*..... 251-257
- Notes 1,2,3,4..... 258-260
- ***Exxon Mobile v. Allapattah Services, 125 S.Ct. 2611 (2005)***
- *American Fire v. Finn*..... 260-264
- Notes 1,2,3,4,5,6,8..... 264-267

Section 3. Corporations and Other Associations

- *Carden v. Arkoma Associates*.....267-272
- Notes 1,2,4,5,6,7..... 267-274
- *Kelly v. U.S. Steel*.....274-278
- ***Hertz v. Friend, __ US __, 130 S.Ct. 1181 (2010)***
- Notes 1,2,3,4,5,7..... 278-280
- *Majewski v. N.Y. Central R.R.*..... 281-282
- *Diesling v. Vaughn Wood Products*..... 282-284
- Notes 1,4..... 284-287
- *Smith v. Sperling*..... 287-292
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Section 4. The Jurisdictional Amount

- *Snyder v. Harris*..... 294-299
- Notes 3,4,5,6,7,8,9,10..... 301-309
- ***Exxon Mobile v. Allapattah Services, 125 S.Ct. 2611 (2005)***

Section 5. The Place of Trail

- Venue/Service: Notes 1,2,3,4,5,6,7,8,10,11..... 309-314
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- S. Ct./ Original: Notes 1 through 11-[R],12..... 320-328

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- Notes 5,6..... 334-336
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- *Klaxon v. Stentor Electric*.....347-349

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- *Bank of America v. Parnell*..... 354-356
- *Banco Nacional De Cuba v. Sabbatino*..... 356-359
- Notes 1,2,3,4,6,7,8,9,..... 353-364
- *Transamerica v. Lewis*..... 370-376
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Section 3. Remedies Against Government Officials

- *Monroe v. Pape*..... 379-385
- Notes 1,2,3,4,5,6,7..... 385-390
- *Monell v. Dept. of Social Servies*.....390-397
- Notes 1,2,3,4,5,6,7,8,9..... 397-401
- *Bivens v. Six Unknown Named Agents of F.B.I.* 401-409
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- *Fitzpatrick v. Bitzer*..... 460-465
- ***Seminole Tribe v. Florida, 517 U.S. 44 (1996)***
- ***Florida Prepaid Postsecondary Education Expense Board v.***

College Savings Bank And United States, 527 U.S. 627 (1999)

- **Kimel v. Florida Board of Regents, 120 S.Ct 621 (2000)**
- **U.S. v. Morrison, 120 S.Ct. 1740, (2000)**
- **Board of Trustees of Univ. of Ala. v. Garrett, 531 U.S. 356, 121 S.Ct. 955 (2001)**
- **FMC v. SCSPA, 535 U.S. 743 (2002)**
- **Lapides v. Boarrd. of Regents , 535 U.S.613 (2002)**
- **Verizon v. PSC of Maryland, 535 U.S. 635 (2002)**
- **Nevada Department of Human Resources v. Hibbs, 528 U.S. 721 (2003)**
- **Tennessee v. Lane, 124 S.Ct. 1978 (2004)**
- **U.S. v. Georgia, 126 S.Ct. 877 (2006)**
- **Coleman v. Court of Appeals of Maryland, 132 S.Ct. 1327 (2012)**
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- **Smith v. Bayer Corp., 131 S.Ct. 2368 (2011).**

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- *Exxon Mobil v. Saudi Basic Indus.*, 126 S.Ct. 990 (2005)

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- ***Stern v. Marshall, 131 S.Ct. (2011),***

"Read Only" materials are assigned for student review, materials will only be summarized for in-class discussion. Examination will only cover "Read Only" materials discussed in class.

IMPORTANT NOTE: This Case Book is updated by citation to more recent decisions. It is **most important** that the student coordinate these materials into the text as detailed above.