THE 14TH AMENDMENT and SUING LOCAL GOVERNMENT
Course Policies and Syllabus
MWF 9:00-9:50
Professor Sanders

SYLLABUS

Course Description: The course will be divided into 2 parts. The first part of the course will explore the historical, doctrinal, and theoretical underpinnings of the 14th Amendment, including notable Supreme Court decisions interpreting the 14th Amendment and its various clauses. A considerable amount of class time will be spent exploring documentaries, interviews, speeches and other media that provide historical context for the various Supreme Court decisions under the 14th Amendment. This portion of the course will make up about ¾ of the course.

The second part of the course will explore various federal statutes such as section 1983 and doctrines such as qualified immunity involved in suing state and local governments. In the second part, you will also learn how to sue (and to a limited extent, defend) local governments for violations of the 14th Amendment.

This aspect of the course will bring all the doctrines learned in the first and second parts of the course together in a practical way. Using the fact pattern on which your midterm exam will be based, you will litigate (pretrial litigation) a mock suit against a municipal government. You will learn how to handle all the major parts of the pretrial litigation process. You will learn to draft a complaint, conduct discovery (including interrogatories, requests for production, requests for admission, and depositions) and respond to defense motions to dismiss and/or motions for summary judgment.

Grading

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<tr>
<th>Component</th>
<th>Percentage</th>
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<tr>
<td>Midterm (essay)</td>
<td>20%</td>
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<tr>
<td>Final (Summary Judgment)</td>
<td>40%</td>
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<tr>
<td>Class Presentations and Participation</td>
<td>20%</td>
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<tr>
<td>Discovery and Other Exercises</td>
<td>20%</td>
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Contact Info: Office: 236D
E-Mail: docksanders@gmail.com

Office Hours: MWF 3:00-5:45


For those REALLY interested: Edward E. Baptist, The Half Has Never Been Told: Slavery and the Making of American Capitalism; Eric Foner, Reconstruction; Douglas A. Blackmon, Slavery by Another Name; Michelle Alexander, The New Jim Crow; Carol Anderson, White Rage; Ira Katznelson, When Affirmative Action was White; Khalil Gibran Muhammad, The Condemnation of Blackness: Race, Crime and the Making of Modern Urban America; Robert Caro, The Years of Lyndon Johnson Books 1-4; Edwin Black, War Against the Weak: Eugenics and America’s Campaign to Create a Master Race; Juan Williams, Thurgood Marshall American
This class will use the TWEN webcourse. You must register for the TWEN Webcourse so you can receive emails from me. Once registered, you are responsible for logging on to TWEN to access handouts, exercises, assignments, and announcements. Should you decide to delete the webcourse after the semester concludes, you should wait until receiving your final grade to do so. This is because you will receive emails from me including a score-confirmation spreadsheet and other grade-related inquiries, after the semester concludes.

Assignments. An outline of tentative reading assignments (syllabus) is provided below. However, reading assignments for upcoming classes will be adjusted based on progress and need. Students should bring the required materials listed above and all handouts with them to class. You may also regularly be given questions, problems, quizzes, and other assignments to work on outside of class.

Attendance, Preparation and Participation. You should come to class on time and be prepared to discuss the assignments for that class. You may be quizzed frequently on reading assignments as well as on any material covered in the two-week period preceding the day of the pop quiz. This means, in preparation for each class, you should not only read the cases, you should study, understand, memorize and be able to apply the rules announced in each case. Furthermore, you should review and study notes and rules (student notes and any notes I have provided) from the prior class. Also, before the beginning of each class week, you should review and study all notes and rules from the prior week.

A failure to attend class regularly, or to be prepared in class, will adversely affect your grade. Students must miss no more than 5 classes over the course of the semester in order to receive credit for the course. Moreover, because quizzes may be given on a regular basis, missing classes also means missing quizzes. This will directly affect your grade.

In the event of an absence, any request to make up a quiz, exam or other assignment should be made only after an excuse is obtained from Dean Mouton in the Dean of Student’s office.

Class Structure. 20% of your grade will derive from presenting and leading the class in discussing the assigned cases. Each student will be called to present 2-3 times. You will be called to present in alphabetical order and will be only required to present one case per class. You will be awarded 5-10 percentage points for each presentation. You will receive a bonus point for each presentation you make over the required minimum. Each student will also serve as a designated questioner for each case presented. Your score per presentation will depend on a number of factors including your knowledge of the facts, issues and reasoning as well as your responses to questions asked by the professor, the questioner and the class. Visual aids and added historical and social context will also boost your score.

Class Discussions. All students will be on call each and every class period. Each student should be prepared to be orally examined on the assigned cases, problems, and materials. Students should also be prepared to answer hypotheticals designed to test their understanding of the rules and rationales underlying the rules as well as to engage in debates with other students concerning the issues, rules and rationales.
Each student is awarded four (4) passes that he or she may use at his or her discretion. Thereafter, a percentage point (1.0) will be deducted from your final grade total for each instance of un-readiness.

**Technology.** The use of laptops is limited to course-related activity. Other unauthorized uses will result in point deductions. Internet usage is not allowed during class for any purpose unless under the express direction of the professor. The audio or video recording of the lecture and/or class discussion is not allowed.

**Professionalism.** You are expected to treat your colleagues like you want to be treated. You are also expected to be respectful of the teaching process and to abstain from any activity that might detract from the learning environment, included but not limited to engaging in distracting side-conversations and not waiting to be acknowledged before you speak. You are expected to be in class on time and to remain in class throughout the class period, barring an emergency such as a restroom need.

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**READING and OTHER ASSIGNMENTS**

**PART I: The 14th Amendment**

- **Chapter 1 · The State Action Doctrine**
  - A. Introduction 1 Exercise 1
  - B. Original Meaning of the State Action Doctrine
    - Exercise 2
  - C. The Seminal Case
    - The Civil Rights Cases: *United States v. Stanley*
      - Exercise 3
  - D. Exceptions to the State Action Doctrine
    - The Thirteenth Amendment
      - Jackson v. Metropolitan Edison Company
        - Exercise 4
    - The Public Functions Exception
      - Burton v. Wilmington Parking Authority
        - Exercise 5
        - Exercise 6
        - Exercise 7

- **Chapter 2 · The Privileges Or Immunities Clause**
  - A. Introduction
    - Exercise 1
  - B. Original Meaning of the Privileges or Immunities Clause
  - C. The Short-Lived Privileges or Immunities Clause
    - The Slaughter-House Cases: The Butchers’ Benevolent Association of New Orleans v. The Crescent City Live-Stock Landing and Slaughter-House Company
      - Exercise 2
    - Cruikshank v. United States, 92 U.S. 542
      - H.O.
    - Bradwell v. Illinois, 83 U.S. 130
      - H.O.
• Chapter 3 · The Due Process Clause
  o A. Introduction
    Exercise 1
  o B. Original Meaning of the Due Process Clause
  o C. The Incorporation Doctrine
    Barron v. The Mayor and City Council of Baltimore
    Exercise 2
    McDonald v. City of Chicago
    Exercise 3
  o D. “Classical” Substantive Due Process
    Lochner v. New York
    Exercise 4
    West Coast Hotel Co. v. Parrish
    Exercise 5
  o The Supreme Court Documentary
    Meyer v. Nebraska
    Exercise 6
  o E. The New Deal Settlement
    Williamson v. Lee Optical of Oklahoma, Inc.
    Exercise 7
    United States v. Carolene Products Co.
    Exercise 8
  o F. Modern Substantive Due Process
    1. Introduction
    2. Origins of Modern Substantive Due Process
      Griswold v. Connecticut
      Exercise 9
    Documentary on 1960’s Women’s Rights Movement
      3. Right To Marriage
        Loving v. Virginia
        Exercise 10
        Sexual Orientation and Gender Identity
        Obergefell v. Hodges
        Exercise 11
      Gay Rights Movement Documentaries (1960’s-present)
        4. Right to Family Integrity
          Moore v. City of East Cleveland
          Exercise 12
        5. Right to Rear One’s Children
          Troxel v. Granville
          Exercise 13
        Right to Welfare?
          Goldberg v. Kelly, 397 U.S. 254
          Right to Conceive?
          Skinner v. Oklahoma, 316 U.S. 535 (1942)
          Eugenics/Buck v. Bell Documentary
        6. Right to Artificial Birth Control
          Eisenstadt v. Baird
          Exercise 14
Sexual Revolution Documentary

- 7. Right to Abortion
  
  *Roe v. Wade*
  
  Exercise 15
  
  Planned Parenthood of Southeastern Pennsylvania v. Casey
  
  Exercise 16

Reversing Roe Documentary

- 8. Right to Sexual Autonomy
  
  *Bowers v. Hardwick, 478 U.S. 186*
  
  *Lawrence v. Texas*
  
  Exercise 17

Lawrence v. Texas Documentary

Sexual Revolution (Gay Rights Excerpts)

- 9. Right to Assisted Suicide
  
  *Washington v. Glucksberg*
  
  Exercise 18

- 10. Rights To Education and Welfare
  
  *San Antonio Independent School District v. Rodriguez*
  
  Handout
  
  Exercise 19

A Class Apart documentary (Mexican American Civil Rights)

- Chapter 4 · The Equal Protection Clause
  
  A. Introduction
  
  Exercise 1

- B. Original Meaning of the Equal Protection Clause
  
  1. Race in Antebellum America

Slavery Documentary

- *Dred Scott v. Sandford*
  
  Exercise 2

Dred Scott Documentary Excerpt

- 2. The Equal Protection Clause’s Original Meaning

Jim Crow Documentary

- C. Limited Application
  
  Law as Power
  
  *Plessy v. Ferguson*
  
  Exercise 3

- Historical Background of Civil Rights
  
  D. Revival of the Equal Protection Clause
  
  1. Pre-Brown
  
  *Sweatt v. Painter*
  
  Exercise 4

  2. *Brown v. Board of Education (I)*

  3. “Reverse Incorporation”
  
  *Bolling v. Sharpe*
  
  Exercise 5

- Brown and Constitutional Remedies
  
  *Brown v. Board of Educations (II)*
  
  *Cooper v. Aaron*
  
  *Green v. County School Board of New Kent County Virginia*
  
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• Missouri v. Jenkins (A) 230-238

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  ▪ Regents of the Univ. of Cal v. Bakke, 438 U.S. 265 H.O.
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True Justice: Bryan Stevenson’s Fight for Equality
United States v. Clary, 846 F.Supp. 768 (E.D.Mo) H.O.
United States v. Clary 34 F.3d 709 (8th Cir. 1994)

Rick Ross: Crack in the System Documentary
State V. Russell, 477 N.W. 2d 886 H.O.
Armstrong V. United States H.O.

Rick Ross: Crack in the System Documentary

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        - (A) 559-568
  - Substantive Due Process and 42 U.S.C. 1983
    - (A) 581-589
  - Equal Protection and 42 U.S.C. 1983
    - H.O.
  - Government Immunity
    - *Monell v. Department of Social Services of the City of New York*
      - (A) 589-607
    - *Pembaur v. City of Cincinnati*
      - (A) 607-614
    - *Board of the Country Commissioners of Bryan Country, Oklahoma v. Brown*
      - (A) 614-623
    - *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*
      - (A) 623-634
- Color of State Law and Station Action
  - *Lugar v. Edmonson Oil Co.*
    - (A) 634-643
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  - *Memphis Community School District v. Stachura*
    - (A) 643-652
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  - *FRCP 3, 5.1, 7.1, 8*
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  - Drafting the complaint
  - Government Responses
    - *FRCP 8,12*
    - Answer to Complaint
    - Motion to Dismiss
- Conducting Discovery
  - *FRCP 26*
  - Interrogatories
    - *FRCP 33*
    - Strategy
    - Drafting interrogatories
    - Dealing with government objections
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    - *FRCP 34*
    - Strategy
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    - Dealing with government objections
    - Subpoenaing documents and other items from non-parties
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    - Preparing to depose Defendants, witnesses and other parties
    - Objections
- **Summary Judgment**
  - **FRCP 56**
  - Responding to Summary Judgment Motion
    - Summary Judgment Standard
    - Citing the record