

FEDERAL COURTS
Law 6302-23350
University of Florida Levin College of Law
Spring 2025

Merritt McAlister
mcalister@law.ufl.edu / HH 264

Syllabus

1. Overview. This course explores the complex role of the federal courts in our constitutional system. At bottom, our core question is: why *federal* courts? What do we need them for and what role should they play in a system of divided government? It's ultimately a course about the limits of federal courts to remedy wrongs. Some of those limits are self-imposed, while others are imposed by the Constitution or by Congress. You'll learn that federal courts can't solve all the problems we have with government (both state and federal), and why courthouse doors sometimes close. The flipside is equally important: we'll consider how to maneuver within the system to open doors, how to think through these limitations and to access (and stay in) federal courts. These are often complex questions, but they reflect core debates about the constitutional power of the federal courts, the role of courts vis-à-vis the other branches of government (that is, the executive and the legislative branches), and the relationship between federal courts and the default and most widely used court system (that is, the state court system).

2. Required and Optional Materials. Our casebook is HART & WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM (8th ed. 2025).

Note that this is a new edition of the casebook, and if you use an older edition, you are expected to ensure that your reading aligns with the assigned material. There will not be used copies of this book available, unfortunately, because it was released in January. Please use the code "WAUF" at checkout on West Academic's website for 15%. I will post the first week's reading on Canvas, if there are any difficulties getting this new book.

To the extent you may need further assistance learning and absorbing this challenging material, I suggest Professor Erwin Chemerinsky's excellent treatise, FEDERAL JURISDICTION (8th ed. 2021). You are not required to use the treatise, but you may find it helpful. I used it as a resource in the first few years of teaching this material.

3. Class Meetings. Our class meets on Mondays and Wednesdays from 8:30 am to 9:45 in HH 285C.

4. Contact Information. My e-mail address is mcalister@law.ufl.edu. E-mail is usually the best way to reach me, and please do not hesitate to contact me. If you need to reach me more urgently, you may call 352.273.0603. Or you may drop by the Dean's Suite between 8:00 am and 5:00 pm, Monday through Friday, and my assistant Suzy Heinbockel will be able to help if I'm not available.

5. Drop-in Hours/Appointments. I will hold regular drop-in hours on Mondays from 4:00 pm to 6:00 pm in the Rare Book Room, which is inside the Dean's Suite in HH 264. I am happy to meet at

other times as well if those hours are not convenient for you. To schedule a meeting outside of my drop-in hours, please email my assistant Suzy Heinbockel at heinbockel@law.ufl.edu.

6. Canvas. I will use Canvas to communicate all relevant class information, including to make any additional material like classroom hypothetical problems available to students.

7. Course Objectives and Student Learning Outcomes. By the end of this course, you should be able to: (1) develop arguments that are helpful to the government/defendant and the plaintiff on issues of standing, immunity (qualified, absolute, and sovereign), and the redressability of constitutional rights against government actors; (2) critique and develop federalism and separation of powers arguments that inform whether federal courts provide a federal forum and/or afford a federal remedy; (3) predict the circumstances in which federal courts will create federal law and provide a federal remedy; and (4) compare different approaches to congressional control of federal court jurisdiction. More generally, it is my hope and expectation that this course will deepen your critical reasoning skills and your ability to analyze issues from different perspectives.

8. Course Reading Map. At the end of this syllabus, you will find a Course Reading Map, which is a list of assignments by subject matter. The Reading Map itself may provide you with a useful organizational tool. Each assignment corresponds to one class period, as indicated. Some of our material may spillover into the next class hour; some material is interconnected. Know that part of your preparation includes reviewing your notes from the prior class. I reserve the right to remove assignments from our planned reading map depending on how quickly we move through the material.

9. Class Preparation, Participation, and Experience. Consistent with the American Bar Association Standard 310, you should expect to spend at least **six hours** per week preparing for this three-hour course.

I have high expectations for the learning environment we create together. I rely heavily on classroom discussion to explicate cases and concepts and apply those frameworks to new problems. I expect each of you to attend class prepared. Preparation includes completing the assigned reading, reviewing notes and/or reading material from the prior class, and considering any practice problems posted on Canvas.

I have an on-call policy that may be more rigorous than other upper-level courses. I will use a list randomizer to identify those who are “on-call,” and I will call on students from that list in that order. I will strive to call on multiple students each class—and sometimes many students—but, admittedly, I will occasionally have a longer dialogue with a single student when I believe it is important to work a particular dialogue to completion. I will re-run the on-call list each Monday.

If for some reason you are not prepared, please email me (mcalister@law.ufl.edu) at least 10 minutes before class. Please do not abuse that policy. **If I call on you and you are not prepared for class and you have not notified me of your lack of preparation in advance, I reserve the right to reduce your grade by one-third of a point (e.g., from a B to a B-).** Do not tempt fate; notify me in advance of your lack of preparation.

10. Class Attendance. Class attendance is essential to success in this course. Although some exceptions for illness, family events, or religious holidays are understandable, students should make

every effort to attend class. Indeed, the ABA requires that all law schools ensure that students attend class and suggests that absences in excess of 15% should render a student ineligible to receive credit for the course. If you foresee missing more than three classes, please contact my assistant Suzy Heinbockel at heinbockel@law.ufl.edu. She will schedule a one-on-one meeting at which we will discuss your situation.

11. Electronic Devices. A computer and/or smartphone is necessary to complete this course. It is necessary both for class participation and to record your attendance. I will use interactive polling software during class, and I will expect you to participate in these polls. Do not use your computer for any non-class related purpose during class. I reserve the right to amend my electronic device policy if I observe students using computers for non-classroom related purposes.

12. Class Recordings. Our class is recorded, and all recordings will be available to all students through Canvas.

13. Evaluation. A final exam will count for 100% of your grade, subject to modification for exceptional participation (as discussed below). It will be a three-hour closed-book, closed-notes exam that you must take on an assigned day. I will discuss the format of the exam in class, and I will post the coversheet with instructions for the exam at least one week prior to the beginning of the reading period. Past exams will be made available through Canvas.

Exceptional participation will be considered to set the curve and, rarely, to adjust final grades by no more than 1/3 of a point if I determine that your exam grade does not reflect your classroom contributions and engagement with our course. Grade adjustments based on participation are the exception, not the norm.

I define quality participation for these purposes in multiple ways. For example, quality contributions may be those that reflect exceptional preparation, offer substantive ideas, build on preceding class discussions, move discussion forward to generate new insights, demonstrate the ability to persuade others or challenge conventional wisdom, relate a personal experience in a way that illuminates the ideas being discussed, or build upon the insights of other classmates. Please do not confuse high quantities of participation with quality participation. Good listening is vital for quality participation. I will evaluate negatively any comments that are disrespectful or dismissive of others.

14. UF Law Standard Syllabus Policies. Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, and Course Evaluations may be found here: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

FEDERAL COURTS

Spring 2025

** Generally, you may skim the Notes, which often have helpful background info and some synthesis. I will include mention of Notes that need specific attention **

I. The Nature of the Federal Judicial Function: Cases and Controversies

A. Background Principles on the Judicial Function and Nature of Federal Judicial Power

1. **Monday, January 13.** *Marbury v. Madison* and Notes, pp. 76-101 (you may skim the Notes on 86-91, if you've read and studied *Marbury* before; pay more attention to Notes on 91 to 101 on the Judicial Function).
2. **Wednesday, January 15.** Issues of Parties, the Requirement of Finality, and the Prohibition Against Feigned and Collusive Suits (*Hayburn's Case, Tutun, & Johnson*), pp. 101-125

B. Plaintiff's Standing

3. **Wednesday, January 22.** Introduction, Modern Standing Doctrine, and Injury in Fact (*Frothingham, Clapper*), pp. 125-149 (pay more attention to Notes on Injury in Fact, 140-149)
4. **Monday, January 27.** Causation and Redressability (*California v. Texas*), pp. 149-166 (read Notes with care).
5. **Wednesday, January 29.** Congressional Power to Regulate Standing (*Lujan*), pp. 166-187 (read Note 2 with care).
6. **Monday, February 3.** Congressional Power to Regulate Standing (*TransUnion*), pp. 187-210

C. Justiciability

7. **Wednesday, February 5.** Mootness, pp. 244-269
8. **Monday, February 10.** Ripeness, pp. 269-288.
9. **Wednesday, February 12.** Political Questions, pp. 292-312 (through Note 3)

II. The Supreme Court's Docket & Judicial Power

A. The Appellate Jurisdiction & Original Jurisdiction of the Supreme Court

10. **Monday, February 17.** Certiorari Policy & Supreme Court Discretion; Original Jurisdiction & Congressional Power to Regulate, pp. 325-331 (skim only) & 331-52.

B. Extraordinary Writs & the Emergency Docket

11. **Wednesday, February 19.** *Ex parte Republic of Peru* & the “Emergency” or “Shadow” Docket, pp. 358-366 & 375-91

C. Review of State Law & State Court Decisions

12. **Monday, February 24.** Supreme Court’s Power to Review State Court Decisions, pp. 615-36
13. **Wednesday, February 26.** Relationship Between State and Federal Law and the Adequate and Independent State Grounds Doctrine, pp. 649-67
14. **Monday, March 3.** Final Judgment Rule, pp. 712-727

III. Congressional Control of Federal Judicial Power

15. **Wednesday, March 5.** Congressional Power over Article III Courts (*Sheldon & McCordle*), pp. 401-418 (read Notes with care)
16. **Monday, March 10.** Jurisdiction Stripping Directed at Substantive Ends, pp. 431-51 (*Klein & Patchak*).

IV. The Law Applied in Civil Actions in Federal Courts (& State Courts)

A. The *Erie* Doctrine

17. **Wednesday, March 12.** Common Law & *Erie* (*Swift v. Tyson & Erie*), pp. 749-767.
18. **Monday, March 24.** Divining State Law & the “Outcome” Test, pp. 768-773 (read with some care but all Notes) & 789-809 (focus on Note 3, *Shady Grove & Hanna*).

B. Federal Common Law

19. **Wednesday, March 26.** Defining Primary Obligations (*Clearfield Trust & Kimbell Foods & Boyle*), pp. 811-836
20. **Monday, March 31.** Enforcing Primary Obligations—Implied Statutory Rights, pp. 882-904 (through Note 5)
21. **Wednesday, April 2.** Enforcing Primary Obligations—Remedies for Constitutional Violations, pp. 918-945 (focusing on *Bivens & Mesa*).

V. Suits Challenging Official Action

A. The Eleventh Amendment and State Sovereign Immunity

22. **Monday, April 7.** Scope of the Eleventh Amendment (*Hans*), pp. 1166-1170 (skim as background); 1171-84
23. **Wednesday, April 9.** The *Ex parte Young* Work-Around, pp.1184-1194 (through Note 3) & 1211-1224 (*Whole Woman's Health*)
24. **Monday, April 14.** Congressional Control of Sovereign Immunity, pp. 1225-1251

B. Federal Protection Against State Official Action

25. **Wednesday, April 16.** Federal Statutory Protection Against State Official Action (§ 1983), pp. 1275-1297
26. **Monday, April 21.** Official Immunities: Qualified & Absolute Immunity, pp. 1311-1321 (through Note 1), 1322-1328 (read with care); & 1328-1337 (Absolute Immunity)

FINAL OFFICE HOURS: Monday, April 21 from 4:00 to 6:00 pm & Wednesday, April 23 from 4:00 pm to 6:00 pm

OPTIONAL REVIEW SESSION AT on THURSDAY, APRIL 24 at 11:00 AM