

# **THE FOUNDERS: CONSIDERATIONS ON FEDERALIST AND ANTIFEDERALIST IDEAS**

## **UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW SPRING SYLLABUS – LAW 6930 – 2 CREDITS**

**Philip Lammens, U.S. Magistrate Judge**

Email: [philip.lammens@ufl.edu](mailto:philip.lammens@ufl.edu)

Office Hours: By appointment

**MEETING TIME:** Wednesday 6-8pm

**LOCATION:** HH283

### **COURSE DESCRIPTION AND OBJECTIVES:**

This course examines the ideas of the founders on the creation of a national government under the U.S. Constitution, with a focus on each branch of government and the amendment process. We'll study the writings of the federalists and antifederalists to help us understand the philosophical, historical, and doctrinal roots of our Constitution, including the early development of the law through the present. We begin with a consideration of the Declaration of Independence and the Articles of Confederation. We'll then move to the Constitution and the founders' understandings of it. We'll study the judicial vision articulated in the federalist and antifederalist papers, especially with regard to judicial review, independence, and tenure. We'll also examine Congress and the presidency, and consider the amendment process. Each week, we will consider foundational readings with either (or a combination of) court decisions or proposed reforms or amendments.

### **STUDENT LEARNING OUTCOMES:**

At the end of this course, students should be able to:

- Appreciate the work of our founders and the difficult task they set out to accomplish.
- Understand the ideas of the federalists and antifederalists.
- Understand the worries that federalists had in proceeding under the Articles of Confederation and the worries that the antifederalists had with various provisions of the U.S. Constitution.
- Explain how the law has developed in a way that has supported the ideas of the founders.
- Consider changes, including amendments, that could be made to ensure the intent of the founders.

### **REQUIRED READING MATERIALS:**

The reading for each class is set forth below. This is a general overview of that material.

- [Declaration of Independence \(Also National Constitution Center interactive\)](#)
- [Articles of Confederation \(Also a discussion of it in Jefferson\)](#)
- [U.S. Constitution \(Also this general collection of related work on the Constitution\)](#)
- [The Federalist Papers](#)
- [The Antifederalist Library](#)
- [James Wilson's Lectures on Law](#)
- [Judiciary Act of 1789](#)
- [Correspondence and other writings](#) (Founders Online)

- [National Constitution Center: Constitution Drafting Project](#)
- [National Constitution Center Video Library](#)

### **CANVAS**

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

### **COURSE EXPECTATIONS AND GRADING EVALUATION:**

Students will be evaluated based on their class participation (20%), class project (20%), and the final paper (60%).

Students in this seminar will be expected to read the assigned materials prior to each class meeting and engage in classroom discussion. Specifically, students will be expected to display their understanding of the readings by answering questions from me and engaging with each other in a conversation about the material. The expectation is that the class will be able to carry a conversation about the material and how it can be applied to historical cases and cases impacting the country today.

The reading each week will take several hours. Students should also be prepared to research and write about some issues during class meetings.

During a portion of each class students will work on a class project – considering and proposing amendments to the U.S. Constitution. Students will be expected to engage each other in a discussion about proposed amendments as if they were the drafters at a constitutional convention.

Finally, this class is a writing class. Your final paper will cover a topic from the course syllabus. It should demonstrate an understanding of the material: It should have a thesis, a substantive analysis section, and a conclusion that brings the ideas in the paper together. The paper must be 7,500 to 8,000 words, in 12 point font, and word format.

Notably, there are likely many areas (including ones that we may only touch on briefly) from the material we plan to cover that concerned or worried the federalists and antifederalists, that could be explored for paper topics.

- The powers of the presidency as too broad.
- The fear of a standing army and its use internally.
- A lack of representation in the house because of the size of the country.
- The difficulty of impeachment.
- The difficulty of amendments.

### **CLASS ATTENDANCE POLICY:**

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed two absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course. The law school's policy on attendance can be found [here](#).

### **COMPLIANCE WITH UF HONOR CODE:**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments unless expressly authorized by the professor to do so.

### **INFORMATION ON UF LAW GRADING POLICIES:**

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.0	C (Satisfactory)	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.0	D (Poor)	1.0
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.0

The law school grading policy is available [here](#).

### **OBSERVANCE OF RELIGIOUS HOLIDAYS:**

UF Law respects students' [observance of religious holidays](#).

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

### **EXAM DELAYS AND ACCOMMODATIONS:**

The law school policy on exam delays and accommodations can be found [here](#).

### **STATEMENT RELATED TO ACCOMODATIONS FOR STUDENTS WITH DISABILITIES**

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page, available at <https://ufl.instructure.com/courses/427635>.

### **STUDENT COURSE EVALUATIONS**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

### **RECORDINGS OF CLASS**

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor. A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or guest lecturer during a class session. Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor and Student Conduct Code.

**ABA OUT-OF-CLASS HOURS REQUIREMENTS:** ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Each weekly class is approximately 2 hours in length, requiring at least **4 hours of preparation** outside of class including reading the assigned materials, writing critical analyses, and developing your final paper.

### **COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS**

This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change.

A weekly syllabus of required reading for class preparation will be maintained on canvas each weekend and updated based on the pace of the class.

#### ***General questions to consider while reading:***

- Who is the author?
- What role did they play in the founding?
- What was their interest in the outcome?
- Did what they write or talk about pan out?
- How would they feel about the development of the law – historically or currently?
- Are there reforms or amendments we should consider?

Class	Topic and Readings
1	<p><b>Introductions and course overview, including the amendment project</b></p> <p><i>Readings:</i>  <a href="#">Declaration of Independence (Also National Constitution Center interactive)</a>  <a href="#">Articles of Confederation (Also a discussion of it in Jefferson)</a>  <a href="#">U.S. Constitution (Also this general collection of related work on the Constitution)</a></p> <p><a href="#">Madison to Washington April 16, 1787</a></p> <p>Convention Debate – Objections to the Constitution  <a href="#">-Mason’s Objections</a>  <a href="#">-Sept. 7 (Mason)</a>  <a href="#">-Sept. 10 (Randolph)</a>  <a href="#">-Sept. 15 (Mason, Randolph, Pikkney, Gerry)</a></p> <p><a href="#">Convention Signing discussion (Franklin)</a></p> <p><i>Other:</i>  <a href="#">What to the Slave is the Fourth of July by Frederick Douglass</a>  <a href="#">Gettysburg Address by Abraham Lincoln</a></p>
2	<p><b>(Cont. from 1 &amp;) Constitutional structure and a large republic</b></p> <p><i>Readings:</i>  <a href="#">Federalist 1 by Alexander Hamilton</a>  <a href="#">Federalist 2 by John Jay</a></p> <p><a href="#">Brutus 1 by *Robert Yates</a></p> <p><a href="#">Federalist 9</a> by Hamilton  <a href="#">Federalist 10</a> by Madison</p> <p><a href="#">Cato 1</a> by *George Clinton, Gov. NY  <a href="#">Federal Farmer</a> by Richard Henry Lee</p> <p><a href="#">National Constitution Center Drafting Project</a></p> <p><i>Other:</i>  DeWitt  Maryland Farmer</p>
3	<p><b>Separation of Powers, checks and balances, federalism</b></p> <p><i>Readings:</i></p>

	<p><a href="#"><u>Federalist 51</u></a> by Madison  <a href="#"><u>Debate on Federalism</u></a> – Johnson, Madison, James Wilson</p> <p><a href="#"><u>Brutus 10</u></a> by Yates  <a href="#"><u>Centinel 1</u></a> by Samuel Bryan</p> <p><a href="#"><u>Chisholm v. Georgia (1793)</u></a>  Established that states could be sued by citizens of other states, leading to the 11th Amendment.</p> <p><a href="#"><u>Marbury v. Madison (1803)</u></a>  Established the principle of judicial review, allowing the Supreme Court to declare laws unconstitutional.</p> <p><a href="#"><u>Fletcher v. Peck (1810)</u></a>  First case in which the Supreme Court struck down a state law as unconstitutional.</p> <p><a href="#"><u>Martin v. Hunter's Lessee (1816)</u></a>  Established the Supreme Court's authority over state courts in matters of federal law.</p> <p><i>Other:</i>  <a href="#"><u>James Wilson Lecture Of Government, Part I, Chapter X</u></a></p>
4	<p><b>Amendments and the Bill of Rights</b></p> <p><i>Readings:</i>  <a href="#"><u>Federalist 84</u></a> by Hamilton  <a href="#"><u>Federalist 83</u></a> by Hamilton  <a href="#"><u>James Wilson October 6, 1787</u></a></p> <p><a href="#"><u>Brutus 2</u></a> by Yates  <a href="#"><u>Cato 6</u></a> by Clinton  <a href="#"><u>Patrick Henry 4</u></a></p> <p><a href="#"><u>Barron v. Baltimore (1833)</u></a>  Applied 5<sup>th</sup> Amendment to the federal government – not the states.</p> <p><a href="#"><u>Chicago, Burlington &amp; Quincy Railroad Co. v. Chicago (1897)</u></a>  Use of 14<sup>th</sup> Amendment to apply 5<sup>th</sup> Amendment to the states.</p> <p><a href="#"><u>Gitlow v. New York (1925)</u></a>  Applied 1<sup>st</sup> Amendment to the states.</p> <p><a href="#"><u>Trump v. Casa (2025)</u></a>  Birthright citizenship case – injunctive relief.</p> <p>Equal Rights Amendment  -<a href="#"><u>ERA recognized</u></a>  -<a href="#"><u>ERA not yet ratified</u></a></p> <p><i>Other:</i>  Patrick Henry 11  Federal Farmer 6  Federal Farmer 16</p>

	<p>DeWitt 2</p> <p>Genuine Information X by Luther Martin</p> <p>Patrick Henry Virginia Ratifying Convention XXI</p>
	<p><b>(Cont. from 4 &amp;) Creation of the judiciary</b></p> <p><i>Readings:</i></p> <p><a href="#">Constitutional Origins of the Federal Judiciary</a> by Bruce A. Ragsdale, FJC</p> <p><a href="#">Establishing a Federal Judiciary</a> by Bruce A. Ragsdale, FJC</p> <p><a href="#">Judicial Independence and the Federal Courts</a> by Bruce A. Ragsdale, FJC</p> <p><a href="#">John Marshall Speech: Virginia Convention, 20 June 1788</a></p> <p><a href="#">McCulloch v. Maryland (1819)</a></p> <p>Upheld the constitutionality of the national bank and denied states the power to tax it, affirming the doctrine of implied powers under the Necessary and Proper Clause.</p> <p><a href="#">Osborn v. Bank of the United States (1824)</a></p> <p>Affirmed federal courts' jurisdiction over cases involving federal laws and parties.</p> <p><a href="#">Ex parte McCordle (1867)</a></p> <p>Confirmed Congress's power to restrict the appellate jurisdiction of the Supreme Court</p> <p><a href="#">District of Columbia v. Heller (2008)</a></p> <p>Second Amendment case.</p> <p><i>Other:</i></p> <p><a href="#">Debates on the Federal Judiciary: A Documentary History</a> by Bruce A. Ragsdale, FJC (Selected Parts from Part I: The Federal Convention – Debates on the Judiciary; Ratification Debates on the Judiciary; The Judiciary Act of 1789)</p>
6	<p><b>Appointments and Tenure</b></p> <p><i>Readings:</i></p> <p><a href="#">Federalist 76</a> each by Hamilton</p> <p><a href="#">Federalist 77</a></p> <p><a href="#">Federalist 78</a></p> <p><a href="#">Federalist 79</a></p> <p><a href="#">Debate on Appointment of Judges and the Judiciary</a> – Wilson, Gerry, Morris, et al.</p> <p><a href="#">Brutus 15</a> by Yates</p> <p>Proposed reforms/issues (select articles/readings):</p> <ul style="list-style-type: none"> <li>-Democracy docket article: <a href="#">Leading reforms to the federal judiciary.</a></li> <li>-Demand justice article: <a href="#">Reforming the courts.</a></li> <li>-AFJ article: <a href="#">The Future of Judicial Reform.</a></li> <li>-The Fix. <a href="https://fixthecourt.com/">https://fixthecourt.com/</a></li> </ul> <p>Impeachment article: <a href="https://www.npr.org/2025/03/13/nx-s1-5316340/threats-judges-trump">https://www.npr.org/2025/03/13/nx-s1-5316340/threats-judges-trump</a></p>

	<p><i>Other:</i>  <a href="#"><i>Federalist No. 78 and Brutus Neglected Thesis on Judicial Supremacy</i></a>, University of Minnesota Law School, Shlomo Slonim (2006) (PDF)  Federal Farmer 2  Federal Farmer 13  <a href="#">James Wilson Of the Constituent Parts of Courts (Of the Judges) Part 2, Chapter V</a></p>
7	<p><b>Midpoint: Judicial authority/jurisdiction and Judicial Review</b></p> <p><i>Readings:</i>  <a href="#">Federalist 80</a> each by Hamilton  <a href="#">Federalist 81</a>  Federalist 82</p> <p><a href="#">Brutus 11</a> each by Yates  Brutus 12 <a href="#">part 1</a>, <a href="#">part 2</a>  Brutus 14 <a href="#">part 1</a>, <a href="#">part 2</a>  Brutus 15 (revisited)</p> <p><a href="#">Cohens v. Virginia (1821)</a>  Reaffirmed the Supreme Court’s right to review state supreme court decisions in criminal matters involving federal law.  <a href="#">Roe v. Wade (1973)</a></p> <p><a href="#">Dobbs v. Jackson Women’s Health Organization (2022)</a> (summary)</p> <p><a href="#">Brown v. Board of Education (1954)</a> (summary)</p> <p><a href="#">Loving v. Virginia (1967)</a></p> <p><a href="#">Obergefell v. Hodges (2015)</a></p> <p><i>Other:</i>  <a href="#">Federal Farmer 15</a> by Lee</p>
8	<p><b>Continuation/review of material to date; amendment project; paper topic discussions</b></p> <p><i>Readings:</i>  <a href="#">Sources of Federalism: An Empirical Analysis of the Court's Quest for Original Meaning</a>, by Peter J. Smith  <a href="#">Taking Judicial Legitimacy Seriously</a> by Luis Fuentes-Rohwer</p> <p><i>Other:</i>  <a href="#">The Founders’ Constitution</a>, edited by Philip B. Kurkland and Ralph Lerner  -<a href="#">Table of Contents</a> (Article 3, selected works from each clause)</p>



	<i>Gouverneur Morris and James Wilson at the Constitutional Convention</i> , Journal of Constitutional Law, James Heyburn
9	<p><b>Congress</b></p> <p><i>Readings:</i>  <a href="#">Federalist 52</a> each by Madison re the House  <a href="#">Federalist 53</a>  <a href="#">Federalist 57</a></p> <p><a href="#">Federalist 62</a> each by Madison re the Senate  <a href="#">Federalist 63</a></p> <p><a href="#">Brutus 4</a> each by Yates  <a href="#">Brutus 5</a>  <a href="#">Brutus 6</a></p> <p><u><b><i>Chevron v. NRDC</i></b></u> (1984)</p> <p><u><b><i>Loper Bright Enterprises et al. v. Raimondo</i></b></u> (2024)</p> <p><i>Other:</i>  Cato 3  Federal Farmer 7</p>
10	<p><b>Presidency</b></p> <p><i>Readings:</i>  <a href="#">Federalist 67</a> each by Hamilton  <a href="#">Federalist 69</a>  <a href="#">Federalist 71</a>  <a href="#">Federalist 72</a>  <a href="#">Federalist 74</a></p> <p><a href="#">Cato 5</a>  <a href="#">Cato 2</a>  Brutus 4 (revisited)</p> <p><u><b><i>Bush v. Gore</i></b></u> (2000)</p> <p><u><b><i>United States v. Nixon</i></b></u> (1974)</p> <p><u><b><i>Trump v. United States</i></b></u> (2024) (<a href="#">summary</a>)</p> <p><i>Other:</i>  Centinel 2</p>
11	<p><b>Electoral College</b></p> <p><i>Readings:</i></p>

	<p><a href="#">Federalist 68</a> by Hamilton</p> <p><a href="#">Cato 4</a> by George Clinton Cato 5 (revisted)</p> <p><b><u><i>Chiafalo et al. v. Washington (electoral college suit) (2020) (Summary)</i></u></b></p> <p><a href="#">Final Report of the Select Committee on January 6</a> (selected sections, including the Executive Summary)</p> <p><i>Other:</i></p>
12	<p><b>Judicial reform and other constitutional reform</b></p> <p><i>Readings:</i> <a href="#">Presidential Commission on the Supreme Court of the United States</a></p> <p>Articles on: -Changes to Diversity Jurisdiction -Judicial Immunity -Impeachment (Judicial and Presidential)</p> <p><i>Readings:</i> <a href="#">Our Common Purpose</a></p> <p>Articles/sections on: -Amending the Constitution -Expanding the House</p> <p><i>Other:</i></p>
13	<p><b>Look at contemporary cases or amendment project discussions and presentation (if we haven't completed this)</b></p> <p><i>Readings:</i> <a href="#">Newsome v. Trump</a> (ND Calif. 2025) (<a href="#">appeal of TRO</a>) <a href="#">Oregon v. Trump</a> (Dist. Oregon 2025)</p> <p><a href="#">American Assoc. of University Profs. v. Rubio</a> (Dist. Mass 2025)</p>
14	<p><b>Course review and final paper presentations</b></p>