

**FEDERAL AND STATE COURTS
SPRING 2006**

Professor Erbsen

Course Schedule:

M/Tu, 11:15-12:30, Room 35

Office Hours:

Tu, 3:30-4:45, other times to be announced, and by appointment, Room 336

Contact:

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Course Description:

This three-credit course will cover approximately half of a traditional six-credit “Federal Courts” curriculum; the other half is covered in “Federal Jurisdiction and Courts.” Students may take either course or both courses, in any order. Topics will include: the Eleventh Amendment and state amenability to suit in federal court, federal and tribal sovereign immunity, statutory and judicially-created constraints on federal jurisdiction arising from federalism concerns, interjurisdictional claim preclusion, choice of law and *Erie*, federal common law, and the availability of state courts to adjudicate federal claims.

Required Texts:

Fallon, Meltzer & Shapiro, Hart and Wechsler’s The Federal Courts and the Federal System (5th ed. 2003) (“CB”).

Fallon, Meltzer & Shapiro, Hart and Wechsler’s The Federal Courts and the Federal System (2005 Supplement) (“Supp”).

Optional Reserve Materials:

If you find any assignment or discussion unclear, the following texts might be helpful. Each is on reserve at the library.

Chemerinsky, Federal Jurisdiction (4th ed. 2003).

Wright & Kane, Law of Federal Courts (6th ed. 2002).

Freer & Redish, Federal Courts (3d ed. 2004).

Class Participation and Attendance:

Students should be prepared at all times to answer any question raised by the assigned reading.

Participation may affect a student’s final grade. A recurring lack of preparation for class may lower a grade, and a consistent pattern of exceptionally well-informed and insightful participation that significantly advances classroom discussions may raise a grade.

Attendance at all class sessions is mandatory. Excessive absences may result in a reduced grade or denial of credit for the course.

Exam:

There will be an eight-hour open book take-home exam on a date to be set by the Registrar. Exam answers must be typed on a computer, and will be subject to a word limit.

TWEN Site:

Students should monitor the course TWEN site for announcements, and may also participate in on-line discussions.

Technology Use in Class:

“Use of video games, personal email, or unauthorized internet surfing during class is prohibited.” (Quote excerpted from the Student Handbook.)

“Taping of classes is allowed only by permission from the Instructor.” (Quote excerpted from the Student Handbook.)

Electrical devices capable of generating noise (including phones, pagers, watch alarms, and PDAs) must be turned off during class. Laptop computer speakers must be muted.

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Course Outline & Assignments

Each assignment below covers one class session. For the first class, read the first assignment (CB 938-972).

Unlike many casebooks that include small “note” or “commentary” sections that are often ancillary to the course, the Hart & Wechsler casebook includes detailed bridging material that is essential to understanding the topics covered in the principal cases. You should read this bridging material carefully.

Unless otherwise instructed, you are not required to read footnotes written by the casebook’s authors (e.g. footnotes to “Note” material), but you are required to read footnotes written by authors of texts quoted in the casebook (e.g., footnotes to Supreme Court opinions).

I. BACKGROUND READING

If you have not thought about federal jurisdiction or the structure of the federal judiciary recently – or ever – you should consider skimming pages 1-54 of the casebook. Reviewing these pages is not required, but would be helpful.

II. INTRODUCTION TO THE STUDY OF FEDERAL COURTS

III. AMENABILITY OF GOVERNMENT ACTORS TO SUIT IN FEDERAL COURT

A. Federal Actors

1. Remedies Against Federal Action
2. Sovereign Immunity of the U.S.
3. Waiver of U.S. Sovereign Immunity

B. State Actors

1. 11th Amendment and State Sovereign Immunity
2. Abrogation of Immunity
3. Consent to Suit
4. Supreme Court Original Jurisdiction Over States

C. Foreign Actors

D. Tribal Actors

Assignment: CB 938-972 (US. v Lee)

Assignment: CB 973-987 (Hans v. Louisiana)

Assignment: CB 987-1004 (Ex Parte Young)

Assignment: CB 1004-1039 (Seminole Tribe v. Florida)
Supp 73-76 (additions to CB 1032-33)

Assignment: CB 1039-1066 (Alden v. Maine)
Supp 78-79 (addition to CB 1064-65)
Supp 80-82 (addition to CB 1066)

Assignment: CB 268-287, 294-304 (US v. Texas; Kentucky v. Indiana; Ohio v. Wyandotte Chemicals Corp.)
Supp 20-21 (addition to CB 281)

Assignment: Materials on foreign and tribal immunity to be distributed

IV. FEDERALISM CONSTRAINTS ON THE AVAILABILITY OF A FEDERAL FORUM

- A. Coordination of Concurrent Jurisdiction
- B. Statutory Constraints on Federal Judicial Action
 - 1. The Anti-Injunction Act
 - 2. Three-Judge District Courts
 - 3. Johnson Act
 - 4. Tax Injunction Act
- C. Judicially-Developed Constraints on Federal Judicial Action
 - 1. Exhaustion of State and Tribal Remedies
 - 2. *Pullman* Abstention
 - 3. *Burford* and *Thibodaux* Abstention
 - 4. Equitable Restraint
 - 5. Denial of Leave to File Original Jurisdiction Claims
 - 6. Parallel Proceedings
 - 7. Domestic Relations and Probate
 - 8. Interjurisdictional Preclusion
 - 9. *Rooker-Feldman* Doctrine

Assignment: CB 1142-1170 (Kline v. Burke Constr.; Atl. Coast Line v. Locomotive Engineers; Mitchum v. Foster)

Assignment: CB 1170-1186
Supp 86-87 (addition to CB 1173)
Supp 87 (addition to CB 1184)

Assignment: CB 1186-1203 (Railroad Comm'n v. Pullman)
Supp 87-88 (addition to CB 1200)

Assignment: CB 1203-1229 (Younger v. Harris)

Assignment: CB 1229-1258 (Steffel v. Thompson; Hicks v. Miranda)
Supp 89 (addition to CB 1239)

*Assignment: CB 1258-1283 (Colorado River Water Conserv. Dist. v. US;
Ankenbrandt v. Richards)*

*Assignment: CB 1406-1436 (US v. Mendoza; Allen v. McCurry)
Supp 130 (addition to CB 1408)*

*Assignment: CB 1436-1441 (Rooker v. Fidelity Trust Co.)
Supp 131-32 (addition to CB 1440)*

V. THE AVAILABILITY OF STATE FORA TO ADJUDICATE FEDERAL CLAIMS OR CLAIMS AGAINST FEDERAL OFFICIALS

*Assignment: CB 25-28 (Federalist 82)
CB 418-443 (Tafflin v. Levitt; Tennessee v. Davis; Tarble's Case)
Supp 27-28 (addition to CB 426)*

*Assignment: CB 443-465 (Testa v. Katt; Dice v. Akron, Canton & Youngstown
R.R.)
Supp 28 (addition to CB 461)*

VI. CHOICE OF LAW IN DISTRICT COURT

- A. Rules Enabling Act / Federal Procedure
- B. Primary Legal Obligations
- C. Equitable Remedies and Procedure
- D. Effect of State Law or Private Agreement on the Availability of a Federal Forum

*Assignment: CB 601-636 (Sibbach v. Wilson & Co.; Swift v. Tyson; Erie R.R. v.
Tompkins)*

Assignment: CB 636-673 (Guaranty Trust Co. v. York; Hanna v. Plumer)

Assignment: CB 673-684 (Railway Co. v. Whitton's Administrator)

VII. FEDERAL COMMON LAW

- A. Defining Primary Obligations
 - 1. Criminal Prosecutions
 - 2. Civil Actions
 - 3. Cases Implicating Foreign Affairs and International Law

B. Enforcing Primary Obligations

1. Federal Procedure
2. Implied Rights of Action
3. Remedies for Constitutional Violations

Assignment: CB 685-709 (US v. Hudson & Goodwin; Clearfield Trust Co. v. US)

Assignment: CB 709-743 (Boyle v. United Techs. Corp.; Chelentis v. Lukenbach S.S. Co.)
Supp 39 (addition to CB 735)
Supp 40 (addition to CB 743)

Assignment: CB 743-758 (Banco Nacional de Cuba v. Sabbatino)
Supp 40-41 (addition to CB 753)
Supp 42 (addition to CB 755)
Supp 42-45 (addition to CB 758)

Assignment: CB 758-793 (Cannon v. University of Chicago; Alexander v Sandoval)
Supp 47-48 (addition to CB 787)

Assignment: CB 793-825 (Ward v. Love County; Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics)

VIII. CONCLUSION