

FEDERAL COURTS

Professors O'Connell & Sullivan
George Mason Law School, Spring 2009

Tentative Syllabus

The materials for this course are HART AND WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM (5th ed. 2003), by Richard H. Fallon, Jr., Daniel J. Meltzer & David L. Shapiro; and the 2008 Supplement to that casebook. The U.S. Constitution is reproduced in the front of your casebook. Relevant statutes are available online or in the library. Additional materials may be assigned as the semester proceeds.

Reading assignments from the casebook appear below as unadorned page numbers, while assignments from the Supplement are preceded by "Supp." The material in HART AND WECHSLER'S is divided into principal cases and textual Notes. For example, *Textile Workers Union v. Lincoln Mills* appears as a principal case at pages 840–46, followed by a "Note on the Scope of the Constitutional Grant and the Validity of a Protective Jurisdiction" at pages 846–55. Unless otherwise directed, you are always responsible for the footnotes in the principal cases, but not for the footnotes in the textual Notes. Thus, in the previous example, footnote 4 on page 841 is part of the assigned reading, while footnote 4 on page 849 is not. The same rule applies to the Supplement, which uses a smaller typeface to indicate footnote material.

Our class meets in Hazel Hall 120 on Mondays and Wednesdays from 8:00 p.m. to 9:15 p.m. Please arrive on time to avoid distracting your classmates and professors. We hope that the size of this class will allow lively discussion of this fascinating subject. To that end, it is essential that students come to class having studied the assigned reading. Everyone should be prepared to contribute to the conversation. If circumstances prevent you from preparing or attending, please email the professors. Students who consistently detract from our collaborative endeavor by attending class without having prepared, or by skipping class entirely, may have their delinquency taken into account in grading.

Professor O'Connell can be reached at (202) 662-5433 or at aoconnell@cov.com. Professor Sullivan can be reached at (202) 662-5549 or at jsullivan@cov.com. Please contact either of us if you have any questions, or if you would like to set up a meeting.

Assignments

Before our first meeting as a class, please read the following: U.S. CONST. art. III (p.cxi); 6–9, 14–19, 28–33 (including ¶ 4), 319–21 (including ¶ 2(c)), skim 41–54. Although we will not devote an entire meeting to this material, it lays the foundation for many of the topics we will cover.

Diversity Jurisdiction

1. (Jan. 7) Meaning of Citizenship, Complete Diversity: 28 U.S.C. §§ 1332, 1335, 1369; 1453–63 (including "Note on the Effects of Misjoinder of Parties"), 326–27
2. (Jan. 12) Corporate Citizenship, Amount in Controversy: 1464–84
3. (Jan. 14) Supplemental Jurisdiction: 28 U.S.C. § 1367; 1484–93, Supp. 276–79
[Jan. 19 — Martin Luther King Day]

Federal Question Jurisdiction

4. (Jan. 21) Constitutional Meaning of “Arising Under”: 416–18 (including footnote 1), 832–55
5. (Jan. 26) Statutory Meaning of “Arising Under”: 28 U.S.C. § 1331; 856–70; Supp. 125–41 (but skip ¶ 3)
6. (Jan. 28) Declaratory Judgments: 28 U.S.C. §§ 2201, 2202; 886–905
7. (Feb. 2) Supplemental Jurisdiction: 28 U.S.C. § 1367; 918–30

Appellate Jurisdiction

8. (Feb. 4) Jurisdiction of the Courts of Appeals: 28 U.S.C. §§ 1291, 1292, 1651; 1556–65, 1572–80; Supp. 289–92
9. (Feb. 9) Certiorari, Supreme Court Review of State Cases: 28 U.S.C. §§ 1251, 1254, 1257; 1595–96, 1602–08, 1612–20, 466–79, 483–91, 494–508, 328–30, 337–42

Removal

10. (Feb. 11) Removing from State to Federal Court: 429–33; 28 U.S.C. §§ 1441, 1442; 1536–39, 905–10; Supp. 142–44 — The Obligation to Determine Jurisdiction: 1504–11; Supp. 281–84

Collateral Review

11. (Feb. 16) Habeas Corpus: 28 U.S.C. §§ 2241, 2254, 2255; 1284–89, 1296–1302, 1327–32

Federal Common Law

12. (Feb. 18) Sources and Existence of Federal Common Law: 28 U.S.C. § 1652; 630–36 (including ¶ 3), 685–86, 690–98, 705–09
13. (Feb. 23) Proprietary Interests of the United States: 698–704 — Private Litigation Involving Federally Created Interests: 709–22; Supp. 100–01 (¶ 7)
14. (Feb. 25) Federal Common Law Generated By Statutes: 723–29; Supp. 102–04 — Implication from Constitutional Structure or Jurisdictional Grant: 730–43; Supp. 104
15. (Mar. 2) International Affairs: 28 U.S.C. § 1350; 743–58; Supp. 105–12
16. (Mar. 4) Procedural Rules for Actions Involving Federal Rights, Private Remedies for Statutory Violations: 758–75, Supp. 108–14 (including ¶ 7(e))
[Spring Recess]
17. (Mar. 16) Private Remedies for Statutory Violations (cont’d): 775–89 (including ¶ 7(b))
18. (Mar. 18) Private Remedies for Constitutional Violations: 793–804

State Sovereign Immunity

19. (Mar. 23) Sovereign Immunity and the Eleventh Amendment: 944–45, 973–87, 950–59
20. (Mar. 25) *Ex parte Young* and Suits Against State Officers: 987–1004

21. (Mar. 30) Abrogation of Sovereign Immunity: 1004–39; Supp. 152–54
22. (Apr. 1) Abrogation of Sovereign Immunity (cont'd): 1039–59, 1060–63 (¶ 3)
23. (Apr. 6) § 1983 & *Bivens* Suits: 1067–72; 42 U.S.C. § 1983; 1072–84; 804–12
24. (Apr. 8) Defendants and Immunities: 1084–92, 1112–34 — Statutory Violations: 1092–97

Relations of State and Federal Courts

25. (Apr. 13) The Anti-Injunction Act: 28 U.S.C. § 2283; 1142–44 (including ¶ 1), 1148–69
26. (Apr. 15) Abstention Doctrines: 1186–1213, skim 1258–77

27. (Apr. 20) Review or Make-up Session
28. (Apr. 22) Review Session