FEDERAL COURTS
SYLLABUS

Law 226-001
Spring Semester 2014
Mondays 9:00 a.m. to 11:40 a.m.
Hazel Hall 222

James L. Cooper
(202) 942-5014
James.Cooper@aporter.com

John C. Massaro
(202) 942-5122
John.Massaro@aporter.com

This Course focuses on the scope and authority of the United States federal courts, including the role of the federal courts in our larger federal system of government.

Schedule

Our class will meet every Monday morning for two hours and forty minutes (with a ten minute break). The attached Schedule is our best attempt with the information we have now to outline the days on which we’ll meet and the topics we hope to cover. Experience teaches that our plans will inevitably change to accommodate the speed at which we are able to work through this interesting material and the intervention of the outside world, including our litigation schedules. We will do our best to advise you ahead of time of any changes we foresee.

Materials

We will use Fallon, Manning, Meltzer & Shapiro, Hart & Wechsler’s The Federal Courts and the Federal System, (Sixth Ed. 2009) and the associated 2013 Supplement. Please note that the casebook is now 4 years old and thus the Supplement is getting relatively thick. It is critical that you read the supplement for each class! We may add to these materials as needed with cases, statutes and the like depending on developments in the law and the scope of our course coverage. U.S. Code sections are not generally included in the casebook, but are available in many places including http://www.gpoaccess.gov/uscode/.

Be advised that the reading for this course is significant and dense, though rewarding and (we think) relevant to litigation practice.
Communications

Because we both litigate as a day job, we anticipate that most of our class-wide communications outside of the classroom will be through email. We are available to meet with you in-person before and after class and by appointment either on campus or at our offices adjacent to Metro Center. If you have questions that arise outside of class or you wish to arrange a time to speak with us in person or by phone, please contact both of us by email.

Participation, Final Exam and Grades

The participation of everyone in the class is an important part of our mutual endeavor. Accordingly, we expect you to attend and to participate. We will call on students to assist with the discussion, though we expect voluntary participation to be the chief means of discussion. Although your grade is determined by the final exam, we will consider in-class participation and preparation as an aggravating/mitigating factor in your final grade.

Our final exam will be on April 26, 2014 beginning at noon. Details to follow.
CLASS SCHEDULE AND AGENDA

Class 1: January 6

Introduction to the Class

U.S. Constitution
  pp. ci-cxvii (scan all but Article III); 1-26; 30-47

Fundamentals of Federal Justiciability
  -- Standing
    pp. 58 (beginning with Marbury) - 80; 101 (beginning with Allen) - 129

Class 2: January 13

Fundamentals of Federal Justiciability
  -- Ripeness
  -- Mootness
  -- Political Questions
    pp. 183-194; 222-32

January 20 -- No Class -- MLK Day

[Pro tip -- think about reading ahead for Class 4.]

Class 3: January 27

Congressional Control
  -- of Federal Jurisdiction
    pp. 275-308; 314-20
  -- of State Court Jurisdiction
    pp. 383-417

Law Applied in District Court [H&W Chapter VI]
  -- read edited version of Shady Grove Orthopedic Assoc. v. Allstate Ins. Co., to be supplied by instructors. Original opinion is at 130 S. Ct. 1431 (2010).
Class 4:  **February 3**

Federal Question Jurisdiction

-- Constitutional Scope
  *pp. 743-74*

-- Statutory Scope
  *pp. 774-800; 28 U.S.C. § 1331*

-- Declaratory Judgments
  *pp. 800-812*

Class 5:  **February 10**

Diversity Jurisdiction

-- The Basics of Diversity
  *pp. 1355-63; 381-83; 28 U.S.C. § 1332*

-- Complete Diversity
  *pp. 1363-67; 28 U.S.C. § 1335; 1367, 1369*

-- Corporations and Associations
  *pp. 1371-76*

-- Jurisdictional Amount
  *pp. 1376-87*

Supplemental Jurisdiction

-- Fed Question
  *pp. 824-36*

-- Diversity
  *pp. 1387-1401; 28 U.S.C. § 1367*
Class 6: **February 17**

Appellate Review

-- Supreme Court Review of State Cases
  *pp. 431-44; 448-61; 465-80; 496-505; 518-30*
  *28 U.S.C. §§ 1257, 1651*

Class 7: **February 24**

Challenging Official Action

-- Suits against the US or Federal Officers
  *pp. 841-69*

-- Suits against States
  *pp. 869-85*

Class 8: **March 3**

Challenging Official Action

-- Suits against States (con’t) and State Officers
  *pp. 886-941*

March 10 -- No Class - GMU Spring Break

Class 9: **March 17**

Challenging Official Action

-- Civil Rights Actions (§1983 and *Bivens*)
  *pp. 947-72; 726-42; 42 U.S.C. § 1983*

-- Official Immunities
  *pp. 986-1007*
March 24 -- NO CLASS -- Instructors’ Kids’ Spring Break

Class 10: March 31

Class Actions and Coordination
   pp. 1367-71 and additional reading TBA

Removal

Class 11: April 7

Limitations of Federal Jurisdiction

   -- Injunctions
      pp. 1019-49

   -- Abstention
      pp. 1057-83

Class 12: April 14

Limitations of Federal Jurisdiction

   -- Equitable Restraint
      pp. 1083-1114; 1128-46

Supreme Court Jurisdiction

   -- Original Jurisdiction

   -- Discretionary Review
Class 13: **April 21**

Collateral Review -- Habeas  
*pp. 1153-1223; 28 U.S.C. §§ 2241, 2254-55*

*(Tentative) Thursday, April 24: 9:00 a.m. to 11:00 a.m. --*

Optional review Q&A session.  
Location TBD

**Saturday, April 26:** Noon to 3:00 p.m. -- FINAL EXAM

Location TBD