



FALL 2026 COURSE SYLLABUS

Course Number: 226-001

Course Title: Federal Courts

Credit Hours: 3

Grading Mode: Letter graded

Meeting Day(s)/Time(s): THUR 4:00-6:55P

Meeting Mode: IN PERSON

Exam Day(s)/Time(s): DEC 10, NOON

Final Exam Mode: IN PERSON EXAM

Prerequisite(s): N/A

Corequisite(s): N/A

Instructor(s): Judge Kyle Duncan

Contact Information: TBA

Office Hours: I'm happy to meet with you, whether in person, by phone, or by Zoom. Please email me to make an appointment (put "Fed Cts Class" in subject line).

Course Overview

This course examines the nature and role of United States federal courts and explores the degree to which the Constitution, statutes, the courts themselves, and other authorities place limits on what federal courts can do.

Course Learning Outcomes

Here is what you are expected to learn from this class:

- An advanced understanding of the Constitution's principles, structure, and individual provisions, insofar as they pertain to federal jurisdiction, judicial review, federalism, and the separation of powers.

- A basic understanding of constitutional development and federal (constitutional) common law.
- An ability to spot and analyze jurisdictional problems in federal litigation.
- A solid understanding of interlocking problems in Constitutional Law, Administrative Law, and Civil Procedure.

Reading(s) & Supplement(s):

William Baude, Jack Goldsmith, John Manning, James Pfander, & Amanda Tyler, *Hart & Wechsler's The Federal Courts and the Federal System* (8th Ed. 2025)

[Please note this is a new 8th Edition, which is different from the 7th Edition]

Grading Policies

This class will be a mix of lecture and Socratic questioning. **Diligently reading and annotating the materials assigned for each class is essential.** Class participation will factor into your grade. You will get a good class participation grade if you volunteer to discuss at least one case and do so reasonably well.

Participation & Preparation %: **25**

Final %: **75** (there will be no mid-term)

Classroom Policies

Attendance: Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences: Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Use of Technology & AI:

Moderate Use Policy: Generative AI tools may be used in this course for the following purposes, and with the following guidelines. Students may use AI in this course to study and outline the material, but may not use AI during Socratic

dialogue or the exam. Misuse of AI will be treated as a violation of academic standards.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's written exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student's computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e -book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor's standards for all examinations, which are included in the examination materials.

Course Schedule & Assignments

One of the textbook's authors kindly sent me his syllabus for the 8th Edition, which I have adapted for our class. Yes, there's a lot of reading. Focus on the cases and I'll direct your attention to what's important in the notes.

Due to my court schedule, I will occasionally need to have a Zoom class on the Canvas platform. This will likely happen once a month. I will let you know well ahead of time when that will occur and how you will access the class.

Week 1: 8/20

The Judicial Function

1. Introduction

- H&W, ci–cxvii (especially art. III)
- H&W, 1–31 (Introductory Note on Article III) (also read 31–63 for your own background)
- H&W, 65–73 (through Note 2)
- H&W, 101–06 (*Hayburn's Case* through Note 3)

2. *Marbury*

- H&W, 76–95 (*Marbury* and Notes through 5), plus footnote 6 on 89

Week 2: 8/27

"Case or Controversy"

3. Standing: Introduction

- H&W, 114–16 (*Tutun*)
- H&W, 117–19 (*Johnson*)
- H&W, 119–25 (cases in Notes: *Muskrat*, *Moore*, *Windsor*)
- H&W, 125–29 (*Frothingham* and Notes 1–2)

4. Standing: Injury in Fact

- H&W, 133–49 (*Clapper* and Notes)

5. Standing: Causation and Redressability

- H&W, 149–63 (*California v. Texas* and Notes)

6. Congressional Power to Confer Standing

- H&W, 166–210 (*Lujan*, *Transunion*, and Notes)

Week 3: 9/3

7. Standing: Review

8. Mootness

- H&W, 244–55 (*Defunis* through Note 3)

9. Ripeness

- H&W, 269–89 (*Mitchell*, *Abbott Laboratories*, and Notes; *Susan B. Anthony List* through Note 2)

10. Political Questions

- H&W, 291–314 (*Nixon* and Notes 1–5)

Week 4: 9/10

The Supreme Court's Docket

11. Supreme Court's Original Jurisdiction

- H&W, 346–50 (through Note 4)

12. Supreme Court's Appellate Jurisdiction

- H&W, 326–46

13. Interim Orders

- H&W, 371–99 (The Supreme Court's Interim Orders)
- *Trump v. CASA*, 145 S. Ct. 2540 (2025) (Kavanaugh, J., concurring).

Week 5: 9/17

THE CONSTITUTIONAL SCOPE OF THE FEDERAL JUDICIAL POWER

14. Federal Questions

- H&W, 993–1006 (Introduction, *Osborn*, and Notes through 2)
- H&W, 1017–19 (Notes 2 & 3)

15. Declaratory Judgments

- H&W, 73–75 (Note 3)
- H&W, 1051–59 (Introductory Note, Note on Declaratory Judgment Act, *Skelly Oil*, Notes)

16. Diversity

- H&W, 1077–79 (*Strawbridge*, *Tashire*)

Week 6: 9/24

CONGRESSIONAL CONTROL OVER THE JUDICIAL POWER

17. Congressional Power to Restrict Supreme Court Appellate Jurisdiction

- H&W, 401–06 (Introduction through Note 3)
- H&W, 407–10 (*McCardle*)
- H&W, 355–58, 362–64 (*Bollman*, Notes 1–2)
- H&W, 418–28 (Introductory Note, *Yerger*, and Notes)

18. Congressional Power to Restrict Lower Federal Court Jurisdiction

- H&W, 406–07 (*Sheldon*)
- H&W, 413–15, 417–18 (Notes 3 & 5)

19. Congressional Power to Eliminate All Federal Jurisdiction

- H&W, 410–13 (Notes 1–2)
- H&W, 416–17 (Note 4)
- H&W, 428–31 (Notes 1–2)

20. Congressional Power to Eliminate All Judicial Review

- H&W, 457–64 (*Battaglia*, Notes 1–4)
- No Kings Act, 118th Congress, July 2024 (text available online)

21. Jurisdiction Stripping and the Suspension Clause

- H&W, 464–71 (Note on Habeas and Suspension Clause)
- H&W, 1471–77 (Notes on Suspension Clause and Judicial Review, and Power to Suspend)
- H&W, 1506–26 (Introductory Note, *Boumediene*)

22. Extrajudicial Revision and Congress’s Power over “Rules of Decision”

- H&W, 433–57 (*Klein*, *Patchak*, and Notes)

Week 7: 10/1

NON-ARTICLE III COURTS

23. Non-Article III Federal Courts

- H&W, 475–93 (Introductory Note, *Crowell*, and Notes through 5)
- H&W, 498–546 (Notes on non-Art. III courts, *Stern*, *Oil States*, and Notes)
- H&W, 546–50 (Note on Magistrate Judges)

24. Federal Law and/in State Courts

- H&W, 559–605 (*Tafflin*, *Davis*, *Tarble*, *Testa*, *Haywood*, and Notes)

25. Supreme Court Review of State Court Decisions

- H&W, 615–34 (Introduction, *Martin* and Notes through 3)
- H&W, 636–49 (*Murdock* and Notes)

Week 8: 10/15

ERIE AND FEDERAL COMMON LAW

26. The Common Law Through 1938

- H&W, 746–67 (Introduction, *Hudson*, *Swift*, *Erie*, Notes)

27. Procedure Through 1938

- H&W, 727–39 (Note on historical development of procedure)

28. The *Erie* Doctrine

- H&W, 739–45 (*Sibbach* and Notes through 3)
- H&W, 768–69 (Notes 1 & 2 on *Klaxon*)
- H&W, 773–87 (*York*, *Grupo*, Notes through 4)
- H&W, 789–805 (Introduction, *Hanna*, Notes on *Erie* doctrine through 2)
- *Berk v. Choy*, 607 U.S. 187 (2026)

29. The “New” Federal Common Law

- H&W, 811–44 (Introduction, *Clearfield*, *O’Melveny*, Notes)
- H&W, 847 (first paragraph of Introductory Note at bottom of page)
- H&W, 859–61 (through Note 2)
- H&W, 863–64 (Note on *Lincoln Mills*)

Week 9: 10/22

CAUSES OF ACTION

30. An Express Cause of Action: 42 U.S.C. § 1983

- H&W, 1279–90 (*Monroe*, Notes through 2)

31. Implied Causes of Action

- H&W, 881–904 (Introductory Note, *Cannon*, *Sandoval*, and Notes through 5 but skip 4)

32. “Rights” Enforceable Through § 1983

- H&W, 1297–1300 (Notes 1–4)
- *Medina v. Planned Parenthood South Atlantic*, 606 U.S. 357 (2025)

SUITS AGAINST GOVERNMENTS AND THEIR OFFICIALS

33. Federal Sovereign Immunity

- H&W, 1147–65 (Introduction, *Barreme*, *Lee*, and Notes)
- H&W, 1340–47 (Notes on remedies for wrongful federal action through 2)

34. Damages Suits Against Federal Officers

- H&W, 917–49 (*Bivens*, *Ziglar*, *Mesa*, *Egbert*, and Notes)
- *Byrd v. Lamb*, 990 F. 3d 879 (5th Cir. 2021)

Week 10: 10/29

35. State Sovereign Immunity

- H&W, 1165–84 (Introductory Note, *Hans*, and Notes)

36. Ex parte Young and Progeny

- H&W, 1184–224, 922–38 (*Young*, *Armstrong*, *Whole Women’s Health*, and Notes, but skip Note 7 on 1197)
- H&W, 1347–59 (Notes on injunctive relief, but skip Note 2 on 1349–50)
- *Trump v. CASA*, 606 U.S. 831 (2025)

Week 11: 11/5

37. Congress's Control of Sovereign Immunity

- H&W, 1225–1245 (Introduction, *Seminole Tribe*, and Notes)
- H&W, 1248–1262 (*Alden*, *Torres*, and Notes)

38. Official Immunity

- H&W, 1311–1337 (Introduction, *Kisela*, Notes)

Week 12: 11/12

POST-CONVICTION HABEAS REVIEW OF STATE COURT CONVICTIONS

39. Post-Conviction Habeas Corpus: General Principles

- H&W, 1555–75 (Introductory Note, *Brown*, and Notes)
- H&W, 1580–87 (Notes B and C on *Teague*)
- H&W, 1587–1607 (Section 2254(d)(1) & *Terry Williams*)

Week 13: 11/19

Review

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-993-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[University Life](#)