Political Science 4603
American Constitutional Law I

Department of Political Science
University of Central Florida

Fall 2023

Class Time and Place: MW, 09:00-10:20; HS1-116	**Office Hours**: Mon. and Wed., 10:30 to 1:00, *or by appt.* (phone, Zoom, etc.)
Professor: Dr. Drew Lanier	
Office: Phillips Hall 302	**Credit Hours**: three (3)
Phone: (407) 823--2608 [main number]	
Email: drew.lanier@ucf.edu	*The true miracle was not the birth of the Constitution itself, but its life*—Justice Thurgood Marshall

REQUIRED TEXTS

American Political Science Association, Committee on Publications. 2018. *Style Manual for Political Science*. Rev. ed. Washington, DC: APSA (ISBN 978-1-878147-62-2). [Available on the Canvas Reserves Discussion Topic]. The Style Manual is also available digitally at www.apsanet.org/stylemanual.

Epstein, Lee, Kevin T. McGuire, and Thomas G. Walker. 2023. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. 11th ed. Washington: Sage/CQ Press (ISBN 978-1-07182-212-8).

McCloskey, Robert G., and Sanford Levinson. 2016. *The American Supreme Court*. 6th ed. Chicago: University of Chicago Press (ISBN 978-0-226-29689-0).

OPTIONAL TEXTS

Kirszner, Laurie G., and Stephen R. Mandell. 2017. *The Brief Cengage Handbook*. 8th ed. Boston: Thomson/Wadsworth (ISBN 1-305-63869-3).

Strunk, William, Jr., and E.B. White. 2000. *The Elements of Style*. 4th ed. New York: Longman (ISBN 0-205-30902-X).

REQUIRED MATERIALS

In addition, students **must** purchase a pack of scantrons (Form No. 209161), which are strawberry in color and bear the UCF logo. These will be used during the three exams administered across the term. No other form is acceptable. If you nevertheless attempt to submit an exam with another form of scantron, your exam WILL BE REFUSED. This is a course requirement as the UCF Test Scoring Center will accept no other form.

COURSE OBJECTIVES AND GOALS

This course is designed to examine the text and substance of the U.S. Constitution and its development

across the past 230 years. Our framework for evaluating constitutional jurisprudence considers the context of the Framers' theory of law and order and the present policy questions facing our political system. The three sections of the course are devoted to understanding the history and development of the Constitution and the role of the courts. The goal of this course is to provide students with an in-depth evaluation of the institutions of government, the relationships and power struggles between the three branches, the role of the Supreme Court in resolving institutional conflicts, and the relationship between the federal government and states' rights.

The first section deals with judicial review and methods of judicial interpretation, focusing specifically on judicial activism and restraint. We examine issues of standing and jurisdiction to hear cases and the structure of federal and state court systems. We address the Supreme Court's gate-keeping function in resolving disputes. During this section of the course, you are acquainted with conducting legal research. This section then shifts focus to examine the other institutions of political power, the Executive Office of the President and the Congress. This section evaluates the role of the judiciary in influencing political institutions and participants. We devote a fair amount of time to the separation of powers and the role of the president in domestic and foreign policy. Next, we move into a discussion regarding the power struggles between the executive and the legislature. This section focuses primarily on the war-making powers allocated to Congress, and the degree of control that the executive has asserted in this area.

The second section addresses the domestic powers given to Congress. The issues evaluated include the spending powers, the commerce clause, and the power to levy taxes. A recurring theme throughout our Constitution's history has been the power struggle between the federal and state governments. In the third section, we analyze the role of states in our distinct system. Here, we examine federalism and states' rights, focusing specifically on voting rights. We address whether the limits and contours of federal government intervention have dominant themes throughout history. Tracing modern federalism dilemmas to the founding of the Constitution, we examine the different shifts in U.S. Supreme Court decision-making over time.

Course Goals: By the end of this course, you should be able to:

- discuss the past and current socio-political climate of the Supreme Court's decision-making process
- understand legal concepts utilized by the Supreme Court and important to Constitutional jurisprudence
- discuss recent trends in Constitutional decision-making
- understand the legal underpinnings and parameters of the Constitution
- understand and articulate current standards and legal tests utilized by the Supreme Court in deciding institutional conflicts
- brief court decisions
- conduct appellate court research
- present appellate court arguments

- argue principles involved in Constitutional cases
- articulate policy arguments for or against judicial interference with federal and state institutions
- understand and discuss legal cases involving: judicial review; standing; jurisdictional authority; separation of powers; executive privilege; national security; war-making powers; appointment and removal powers; legislative enactments; taxing and spending powers; federalism; states' rights; voting rights; and, Equal Protection.

WEB RESOURCES

Canvas Site

The Course has a Canvas site associated with it. It is an innovative technology that allows the students to interact with each other, post messages to a common bulletin board, take quizzes, and many other tasks that facilitate comprehension of the course material and collaborative learning among the course's students in a student-centered context. This site, however, is a password-protected domain. A more thorough discussion of this course tool as well as how to navigate through it will be offered in class. Navigate to it via your my.ucf.edu login, find the course in the Online Course Tools Tab and the Webcourses@UCF Pagelet and then enter your PID and password.

Online Con Law Resource Center (https://edge.sagepub.com/conlaw)

The Student Resource Center, organized by the publisher of the Epstein and Walker text, provides students access to supplemental cases not found in the printed text as well as several study aids.

GRADING

MANDATED DOCUMENTATION OF COURSE ATTENDANCE

As of fall 2014, all faculty members are required to document students' academic activity at the beginning of each course in order to comply with federal regulations involving student financial aid. In order to document that you began this course, please complete the self-introduction assignment, on the Canvas Discussion board, by the end of the first week of classes, or as soon as possible after adding the course, but no later than **Friday, August 25, 2023**. Failure to do so will result in a delay in the disbursement of your financial aid (adapted from a draft statement from Academic Affairs Office, UCF).

COURSE EVALUATION Your grades will be determined by the following components and weighted accordingly:

COMPONENT	WEIGHT
First Exam	15%
Second Exam	15%
Final Exam	15%
Class Participation	10%
Case Briefs	15%
Daily Surveys	10%
Moot Court	20%

GRADING SCALE (AS A PERCENTAGE OF TOTAL POINTS)

GRADE	PERCENTAGE
A	100-90
B+	89-87
B	86-80
C+	79-77

GRADE	PERCENTAGE
C	76-70
D+	69-67
D	66-60
F	59 or less

In calculating averages, the only rounding will be up from 0.5 below the grade required in the professor's sole professional discretion. For example, 89.5 *may* earn an "A-," 79.5 may earn a "B-," and so on. ***I give you the opportunity to earn extra credit points all semester long. Do not expect that I will give you any more points at the end of the term. I interpret this clause very stringently.***

EXAMS

There are three (3) in-class, closed book exams. All three exams are exclusively composed of very challenging multiple-choice items. The final exam IS NOT comprehensive. It will focus on topics presented in the third section of the class. No make-up exams will be allowed absent exigent (*i.e.*, truly emergency) circumstances. You MUST contact me *before the exam* if you know you will miss it. There is *ABSOLUTELY NO EXCUSE* FOR MISSING AN EXAM AND YOUR NOT ADVISING ME IN ADVANCE OF YOUR ABSENCE AND THE **BONIFIDE, DOCUMENTED, COMPELLING** REASON FOR YOUR NOT TAKING THE EXAM AS SCHEDULED. If you do not take the exam as scheduled, I will not look favorably upon your request to take a make-up exam regardless of the nature of your excuse. Unexcused exams will receive a failing grade (0 points).

CLASS PARTICIPATION

Since most of you would like to go to law school someday, class topics are discussed using the Socratic method typical of most law schools. ***You are expected to read and prepare for discussions, completing the assigned reading BEFORE THE CLASS DURING WHICH THEY WILL BE DISCUSSED.*** Be advised that the points associated with class participation are not points that I simply give to you as result of consistent class attendance. Rather, you must ***earn the component*** of the total points assigned to participation, rather than merely obtaining them as a sole result of attending class regularly. If you simply sit in class and do not actively inject yourself into the conversation, you will receive very few, if any, points for this component of the course. Moreover, the quality as well as the quantity of your participation will be assessed in distributing the points for this component

of your grade. Not only must you at least attempt to answer the questions I put to you, you must actively participate to receive most of the points for participation. Students who regularly miss class will find that their exam grades are adversely affected. Most of the material that appears on my exams will be discussed in class.

Readings should be completed PRIOR to the week for which they are assigned. Most of the reading is very dense and difficult. Give yourself enough time to get through all of the material AND ANTICIPATE PROBLEMS IN COMPLETING THE ASSIGNMENTS. THEY WILL OCCUR, I ASSURE YOU.

DAILY SURVEYS

You should become familiar with all of your colleagues, even those who do not speak during every class. Your usage of the Canvas tool will be assessed at the end of the term to distribute this portion of the course grade. Specific assignments for you will be posted on the Canvas site. You, thus, must check the site regularly. I WILL remove assignments after they have been posted for a significant period, thereby preventing you from completing the assignment if you wait until the last minute. Once again, don't allow yourself to get into that bind! It is made a component of the course so as to facilitate communication between you as members of the class. Of the points available for this component of the course, all of them are earned based on the proportion of surveys that you complete across the term.

The following are regulations regarding the daily surveys that must be followed:

- If you do not attend class on a particular day FOR ANY REASON IMAGINABLE, you may NOT complete the survey for that day as you cannot logically answer the questions posed. If you nevertheless attempt to do so, I will mark it as if you did not.

- Failing to complete even a small number of the daily surveys will negatively affect your final course grade. Ignoring them is dangerous to your understanding of course material (and your final course grade).

- **Surveys are due by 8:00 AM on the following lecture day**. For example, if we have lecture on Monday, then the survey for that class is due by the following Wednesday at 8:00 am. If we have class on Wednesday, then the survey for that class is due by the following Monday at 8:00 am. Days on which we have tests scheduled or days on which there is a University holiday are not "lecture days."

- Be honest and forthcoming in your responses as they are designed to deepen your understanding of the course content and its significance.

- After the due date for the Surveys has passed, I will collate and collect the most pertinent and relevant questions and read answers to them in class for the entire class to consider and from which to benefit. They are good ways to prepare for the exams, and not "busy work." Use them for your benefit. Ignore them at your own peril.

- If you have already answered the Survey for the day, Canvas will not allow you to complete the Survey again.

- Do NOT send blank responses through for the Survey. Repeated violation of this rule will result in the

entire class's being required to send survey responses to me through my UCF email account. Past classes have, sadly, tested me on this requirement. Please do not make me implement this requirement.

CASE BRIEFS

When we read cases from Epstein, McGuire, and Walker, you are expected to "brief" each indicated case and answer questions regarding the specific details and reasoning provided in the opinions. These "briefs" are collected and due at the **beginning of class** (*i.e.,* 09:00 am) on Monday (or the first class day) of the week for which they are assigned. **I interpret this due date/time very stringently.** If you are even one minute late, your brief is late and will be penalized one letter grade per day or part thereof. This is the way of the professional world.

All briefs must be word-processed. *Please staple each of your briefs individually once in the upper left-hand corner of the page.* ***Do not paper clip, dog-ear or binder clip your case briefs.*** Briefs that are not fastened as required will be penalized. You are also required to put your name on each of your assignments. Assignments without student names will also be penalized one letter grade.

Further, as you are preparing your case briefs, edit them very carefully for grammar, style and syntax. I have assigned the grammar book to assist you in this regard, if you need assistance. The clarity and accuracy of your writing is critical to your success in this class. *Sloppy and unclear writing indicates sloppy and unclear thinking.* I will grade them accordingly.

Any written assignment containing more than five spelling errors will automatically receive a score of zero (0), regardless of the score that the assignment would have otherwise earned. Multiple misspellings of a single word count the number of times the misspelled word appears in the assignment, not as a single misspelling.

Assignments do not count until they are RECEIVED, not sent. I customarily send a brief email message indicating its receipt if you submit it to me via email. IF YOU DO NOT RECEIVE SUCH A MESSAGE, THE ASSIGNMENT HAS NOT BEEN RECEIVED AND YOU WILL NOT RECEIVE FULL CREDIT FOR THE ASSIGNMENT. In that case, contact me by other means (such as the telephone) to determine if I have received the assignment. If not, resubmit it ASAP. Computers seem to know when humans are working on deadlines and will maniacally crash as the deadline approaches. Do not wait until the metaphorical midnight hour approaches to submit your work. If you come to me with an exotic tale of woe about your not having turned in your assignment on time, I will nod relatively sympathetically and point to this warning. If you submit it on Canvas and Canvas indicates that it has been successfully uploaded, then you can rest assured that it has been received accordingly.

The biweekly briefs and class participation are easy ways to increase your grades. For whatever reason, there are always students that think they can simply ignore the briefs. **You will not pass this course if you do not submit at least half of the weekly briefs assigned, regardless of your scores on other assignments.** Additionally, many of the questions that appear on the exam are taken from the case briefs, even if these cases only receive cursory attention or were only assigned as extra credit during class discussions. While students frequently complain about the number of briefs that you are required to submit, you will find that when you are studying for the exams, these briefs save you!

Do not lose your composure when you see how many briefs are assigned. I indicate in class which briefs are used for extra credit. Mandatory briefs are denoted with an asterisk following the case name. I modify the

number of briefs that are actually required; the remainder of the briefs that I do not assign are given to you as extra credit. YOU MAY COMPLETE ONE EXTRA CREDIT BRIEF EVERY TWO WEEKS (FOR A MAXIMUM BIWEEKLY SUBMISSION OF TWO BRIEFS), **provided that** you have first completed the required brief. I assign the briefs on a bi-weekly basis. If you miss class, you should consult the syllabus to determine what briefs have been assigned.

Furthermore, note the following rules regarding the writing assignments in this class:

- **You may NOT use Wikipedia** (or its variants) as *any* source in your assignments. It is a highly unreliable and invalid source for information. Doing so will substantially reduce your grade, even to an "F."

- **You must follow APSA style** (see the APSA Style Guide) when composing your course assignments. Failure to do so will result in at least one letter grade reduction of the final grade earned.

- **Double space between paragraphs**, even in a document that is otherwise single-spaced.

- **Provide in-text citations** to the SPECIFIC SOURCE FROM WHICH YOU ARE TAKING THE INFORMATION. Otherwise, the reader does not know to what source you attribute your information. Failure to do so will result in a least a one letter grade reduction in the grade earned. See the APSA Style Manual for examples.

- **Case names must be italicized** as per the APSA Style Manual.

- **Attaching printouts to a writing assignment does not magically satisfy the citation and reference requirements of APSA style.**

MOOT COURT ARGUMENT

The final portion of your grade is a simulation of a moot court argument. The assignment includes a written brief and oral argument that a team of student attorneys presents in front of a panel of student justices. The topic for the oral and written brief is drawn from a current controversy docketed for oral argument in the United States Supreme Court. It is assigned shortly after the semester begins. This assignment is discussed extensively in class.

Those students who choose to act as attorneys will be required to complete different, but equally demanding, work from that which the student justices will complete. Student attorneys will be required to write and deliver an oral argument. The argument should last approximately ten (10) minutes including the time allotted for answering questions from the panel. That means that you argue for 10 minutes on your half of the argument and your partner argues for 10 minutes on his/her half of the argument. You will be graded on the thoroughness of your presentation (10 percent), the ability with which you answer questions posed by the bench, and your general demeanor during the argument (10 percent). YOUR JOB IN ORAL ARGUMENT IS NOT TO FINISH YOUR PREPARED REMARKS, BUT TO PERSUADE THE COURT THAT YOUR CLIENT'S POSITION IS THE CORRECT ONE! More details will be given in class.

Those students who choose to act as justices of the United States Supreme Court will be required to

write a *seven-page, single-spaced minimum biography* of the real justice whom they are portraying (five percent). [DO NOT rely at all on the biographies presented in **Walker, McGuire, and Epstein**]. I can point you to several sources to which you can refer for background information on the justices. The biography is intended to be like any other research paper that you submit in any university course: it should contain in-text references to information that you have taken from others' works and citations gathered at the end of the paper and it should be formatted according to the required APSA Style Manual. These references must be PUBLISHED, SCHOLARLY WORKS. Such references do not include internet sources (especially Wikipedia) or informal consumer writing (such as *Reader's Digest*) or interviews that you yourself conduct. It should also include a reference section, in the concluding section of your work, listing the works that you used in researching your paper. **Failure to include these necessary elements will result in an "F" for the assignment. If you are unsure about this requirement, *see me immediately. Failure to do so is dangerous to your grade.***

In addition, justices will be graded based upon the quality of the questions they put to counsel during the oral argument phase (10 percent). Third, justices will be graded on the quality of their deliberations with the other members of the Court as demonstrated in a written Opinion of the Court's ruling and any dissents and concurrences (five percent).

I will soon place material on the Canvas Reserve to assist you in tackling the Moot Court assignment. Legal research should not overwhelm you. This course should help you acquire the skills necessary to complete the assignment successfully.

BEST ALLIES

The professor is **not your friend**. He cannot be your friend, as he is charged with the weighty responsibility of assessing your understanding of the course material and work in an objective manner. He may act in a courteous, kind and helpful manner, but do not mistake that for friendship or laxness. You will find that your colleagues have similar backgrounds and experiences and that they can be your best allies in making it through this course, just as you will discover in later life.

COURSE POLICIES

Classroom Decorum

- Because it is disruptive to everyone to have students arrive late and/or leave early, *you must be on time for every class and you are expected to remain in class until the period is completed, unless there are extraordinary circumstances* (*e.g.*, you are about to become ill on the person in front of you) or you have informed me of your *urgent need* to leave before the period ends (urgent needs **do not** include job-related issues). Consider how you would act in a court of law: would you wander in late or leave early? Many of you may wish to enter the legal profession. Now is the time to begin to act in a manner consistent with the norms and traditions of that profession.

- Do not talk (even in a whisper) with any of your neighbors. It disturbs them and it disturbs me. If you are talking, I presume you have a question about the material and I will ask you about it, as I will quickly learn each of your names.

- Do not listen to an iPhone or other electronic device or read a newspaper or other material not previously assigned for class. If you do so, you will be counted ABSENT FOR THE DAY. Repeated violation of this rule will result in a grade of WF or F.

- PLEASE SILENCE YOUR CELL PHONES AND OTHER ELECTORNIC DEVICES. Repeated violation of this rule constitutes "continuous unruly behavior." (*See* Classroom Decorum Policy No. 5 below). This is critically important during exams.

- Continuous unruly behavior will result in a grade of WF or F. An example of this is the persistent discourtesy of talking in class while someone else (including the instructor) is doing so. The classroom is not a living room, in which one talks during a television show. If you wish to talk, absent yourself from class with the appropriate diminution of your course grade.

No Excuses

First, this class operates under a "No-Excuse" policy. It is incumbent upon you to be responsible for the notes and any other occurrences during class given in the unlikely event you miss class. If you miss class, you NEED NOT inform me about it. Because this course is an upper division class, you will quickly learn that if you intend to pass, you should plan on regularly attending class, keeping up with the lecture, and completing the assignments as they are given. Even if you do inform me of your absence from class, you are still subject to the terms of the syllabus.

Seating Chart

Second, shortly after the course begins, I send around a seating chart to facilitate learning names and the Socratic method (discussed below). Please decide where you would like to sit within the first few days of class. If you have vision difficulties, please situate yourself accordingly.

Accommodations for Physically Challenged Students

Third, if you are physically challenged, every attempt is made to accommodate your learning needs. See me by the end of the first week of class so that we can make appropriate arrangements. This class operates in accordance with the Office of Student Accessibility Services here at the University and federal guidelines governing the *Americans with Disabilities Act* (1990).

Plagiarism and Cheating: Don't Let it Happen to You!

Fourth, please consult the policy regarding plagiarism and cheating which is attached. Each of you must review the University policy on the penalties for plagiarism. Almost every semester, one or more students appropriates the published work of someone else, and I have had the unfortunate responsibility of failing those students and seeking disciplinary action against them. You are on notice that I have failed students because they decided to risk their academic careers by choosing the easy way out. I assure you that it is not.

Caveat Emptor

Fifth, this is an upper division course with correspondent responsibilities for you. I expect that you will devote between at least **25 hours per week outside of class** studying, preparing briefs, reading, and meeting with other

students to prepare your oral argument. *Make no mistake: this is not an easy course by any shape or fashion.* If you are interested in the legal profession, this course is only a very small taste of what it is like.

Socratic Method as a Pedagogical Modality

Sixth, class topics are discussed using the Socratic Method. This means that you are expected to answer questions about the text and material that we have covered in class AND TO HAVE THOUGHT ABOUT ITS IMPLICATIONS. You will quickly learn that one of my favorite questions is, "what does that mean?." You are expected to read and prepare for discussions. I assume that the reading for the day will be done for the day that it is assigned. LEARN TO PACE YOURSELF ACCORDINGLY!

Respect for Colleagues and Their Comments

Additionally, you are on notice that this course engages in difficult discussions about our political leaders. Hopefully we will have intelligent arguments regarding the concepts involved in the course. Above all, everyone will have the right to express their opinions freely and openly without fear of reprisal from other students or myself.

Attendance

Seventh, I do not have a mandatory attendance policy. However, I send around attendance sheets at the beginning of each class so I know who has attended class, and so I can gauge your class participation even if you do not speak in class. Persons who are "borderline" in their grades *may* receive the "benefit of the doubt" in the final computation of grades if they have frequently attended class. It is YOUR responsibility to sign the attendance sheet. The sheet is sent around at the beginning of each class. If you are late, you must see me after class to sign it; otherwise I will not give you the "benefit of the doubt." You are responsible for announcements made in class and changes to the course syllabus and expectations even if you are absent when such announcements are made.

Laptops and Audiotaping

I prohibit the use of laptops in this class. Laptops, while useful in some contexts, represent a physical barrier between professor and student and actually may make student understanding more difficult as students are transformed from learners into typists. Also, other students' use of laptops may represent a distraction from lecture and class discussion. If you have concerns about this policy, please see me. You may, however, audiotape the lecture.

Extra Credit

Ninth, throughout the session there may be several opportunities for you to earn extra credit points. Prior assignments have included pop quizzes on current events, or looking up specific questions that other students or myself may ask about the subject material. This extra credit is announced in class on a sporadic basis. If you miss class, you should check with classmates about missed opportunities. I reserve the right to NOT provide you the extra credit option should you miss the class period that the extra credit was assigned. All extra credit assignments are due the next class period after they have been announced in class.

Word Processing Required

Tenth, all assignments (with the exceptions of exams and quizzes done in class) must be typewritten or word processed. If you do not know how to use a computer or word processor, it is strongly recommended that you learn to do so. If you are concerned about this, please see me. Numerous tutorials are available on campus to assist you. You should allocate enough time for printer cartridges to run dry and dogs to eat papers and computer disks! You laugh, but trust me: I have heard every excuse in the book! Late assignments will receive reduced grades.

Duplicates of Assignments

Eleventh, while I have never lost an assignment, I require that you make copies of all work submitted to me in the unlikely event that something should happen. In the event that I should need a copy of the assignment, and you are not able to provide it, you cannot receive credit. Even after I have returned materials to you, please hold on to the work until after you have received your grade from the Registrar. This protects you from any possibility that you might receive an erroneous grade.

Technological Tools

Twelfth, I require that everyone learn how to use e-mail and the Canvas course site. Its use can facilitate your comprehension of the course material. I have found that this encourages students to communicate with me about questions that they may have regarding the material discussed in class. You are responsible for any assignments or other information that I distribute on Canvas and/or via e-mail or via class announcements, whether you have attended that class or not. If you already have a Knights e-mail account, please do not sign-up for an additional account, but give me your address. You should check your mail at least on a daily basis as I post any changes about class assignments to your account. If your email address changes, you are *required to notify* me of such changes so that you may receive any announcements made to the class through such means.

Time-Sensitive Communications and Assignments

In past semesters, some students have had difficulty submitting assignments to me by the due date and time. This difficulty arises, in part, from their reliance on email and other technologies beyond their control. Accordingly, for time-sensitive communications, send me a message through the Canvas email tool, contact me on the telephone, or see me in person during office hours.

Syllabus NOT a Contract

Finally, this syllabus is not deemed to be a contract. I reserve the right to change any of the exam times or assignments by providing you with a 48-hour notice of such changes. Such changes are either announced in class, or sent on e-mail. Therefore, you are responsible for any changes that may occur during the course of the session. If you are late, you should check to be sure you did not miss any such announcements. As such, your absence in class is not deemed a sufficient excuse as to why work is incomplete. In the event that the University administration closes school for any reason (*e.g.*, hurricane), any assignments or examinations that were scheduled on the day of the canceled class will be due at the next regularly scheduled class meeting.

TENTATIVE COURSE SCHEDULE, TOPICS, AND ASSIGNMENTS

EMW = Epstein, McGuire, and Walker textbook (online case archive: https://edge.sagepub.com/conlaw).
M = McCloskey

Weeks 1 and 2 [Aug. 21–Sept. 1]

Readings:

- Syllabus and Other Documentation
- U.S. Constitution and Amendments, EMW (pp. 659-670)
- EMW, "Introduction to the Constitution" and "Understanding the Supreme Court," "Structuring the Federal System" (pp. 1-56)
- M, Chapt. 1, "The Genesis and Nature of Judicial Power"

Assignment:

- Self-Intro due on Canvas (Self-Intro Discussion Topic by Fri., Aug. 25 by 10:30 am)
- Find appellate case (198 U.S. 45) (due Fri., Sept. 1 at 10:30 am)
- How to Brief a Case (Canvas Reserve)

Lecture:

- Course requirements
- How to Brief a case
- *The Founding, Original Intent and the Structure of the Courts Today*

Week 3 [Sept. 4–Sept. 8]

***** NO Class Monday, Sept. 4 (Labor Day Holiday) *****

Reading:

- EMW, Chapt. 2, "The Judiciary" (pp. 57-114)
- M, Chapt. 2, "The Establishment of the Right to Decide, 1789-1810"
- Sample brief available on Canvas Reserves
- Legal Research Overview (Melone, on Canvas Reserves)

Assignment:

- brief *Marbury v. Madison*, p. 64*
- brief *Martin v. Hunter's Lessee*, p. 72
- brief *Flast v. Cohen*, p. 107
- brief *Walter L. Nixon v. U.S.*, p. 100
- **Begin accepting digital or written and dated Moot Court partner, counsel, and justice**

requests

Lecture:

- *Judicial Review (a.k.a. poor old Marbury!)*
- Introduction to Legal Research

Week 4 [Sept. 11–Sept. 15]

Readings:

- Continue with Prior Reading Assignments
- M, Chapt. 3, "The Marshall Court and the Shaping of the Nation, 1810-1835"

Assignment:

- **all partner, counsel and justice requests due by Friday, Sept. 15 at 10:30 am**
- brief *Ex parte McCardle*, p.85
- brief *Baker v. Carr*, p.95
- brief *Patchak v. Zinke*, p. 88

Lecture:

- *Deciding to Decide: The Changing Role of the Supreme Court*

Weeks 5 and 6 [Sept. 18–Sept. 29]

Readings:

- EMW, Chapt. 4, "The Executive," pp. 177-199, pp. 260-63, and Chapt. 5, "Interbranch Relations," pp. 265-306
- M, Chapt. 4, "The Court Under Taney: The National History of Judicial Prestige"

Assignment:

- brief Moot Court Case
- brief *In re Neagle*, p. 195*
- brief *Ex parte Milligan*, p. 271
- brief *Zivotofsky v. Kerry, p. 290*
- brief *Dames and Moore v. Regan*, p. 311
- brief *The Prize Cases*, p. 288
- brief *Korematsu v. U.S.*, p. 277
- brief *Hamdi v. Rumsfeld*, p. 299

Lecture:

- *Way Over There: The President and Foreign Policy*
- Partner, counsel, and justices assigned by Friday, Sept. 22 on Canvas Announcements
- Overview of legal issues in Moot Court case

***** First Exam, Wednesday, Sept. 27 *****

Week 7 [Oct. 2–Oct. 6]

Readings:

- EMW, Chapt. 4, "The Executive," pp. 200-62
- M, Chapt. 5, "Constitutional Evolution in the Gilded Age, 1865-1900"

Assignment:

- brief *Youngstown Sheet and Tube v. Sawyer*, p. 283*
- brief *Trump v. Vance*, p. 221
- brief *Nixon v. Fitzgerald*, online case archive
- brief *Myers v. United States*, p. 213
- brief *Humphrey's Executor v. United States*, p. 217

Lecture:

- *The Executive and Domestic Power: Separation of Powers or Separate Institutions Sharing Power?*

Week 8 [Oct. 9–Oct. 13]

Readings:

- EMW (finish reading for prior sections)

Assignment:

- brief *Bowsher v. Synar*, p. 262
- brief *Morrison v. Olson*, p. 207
- brief *Clinton v. City of New York*, 202
- brief *Clinton v. Jones*, p. 229
- brief *Immigration and Naturalization Services v. Chadha*, p. 257
- brief *Mistretta v. U.S.,* online case archive

Lecture:

- *The Executive and Domestic Power: Separation of Powers or Separate Institutions Sharing Power?*

Week 9 [Oct. 16–Oct. 20]

Readings:

- EMW, Chapt. 3, "The Legislature," pp. 117-175
- M. Chapt. 6, "The Judiciary and the Regulatory State: 1900-1937"

Assignment:

- **Outlines of Moot Court oral argument due for student attorneys; justice biographies due for student justices (Monday, October 16 at 10:30 am) – both on Canvas**
- brief *Powell v. McCormack*, p. 123
- brief *U.S. Term Limits, Inc. v. Thornton*, p. 128
- brief *Gravel v. U.S.*, p. 132
- brief *South Carolina v. Katzenbach*, p. 166
- brief *Watkins v. U.S.*, p. 154
- brief *Trump v. Mazars; Trump v. Deutsche Bank AG*, p. 162*

Lecture:

- *Membership Has Its Privileges and Its Responsibilities*

Weeks 10 and 11 [Oct. 23–Nov. 3]

***** WITHDRAWAL DEADLINE, FRIDAY, OCT. 27 AT 11:59 PM *****

Readings:

- EMW, Chapt. 6, "The Power to Tax and Spend," pp. 477-533 and Chapt. 7, "The Commerce Power," pp. 375-473
- M. Chapt. 7, "The Modern Court and Postwar America, 1937-1959"
- Kens, "Not Like Grandma Used to Bake" (found in *Judicial Power and Reform Politics: The Anatomy of* Lochner v. New York (1990, University Press of Kansas)) (Canvas Reserve)

Assignment:

- brief *McCulloch v. Maryland*, p. 319
- brief *Gibbons v. Ogden*, p. 377
- brief *Hammer v. Dagenhart*, p. 393
- brief *NLRB v. Jones Laughlin Steel Corp.*, p. 412
- brief *Heart of Atlanta Motel v. U.S.,* p. 425
- brief *U.S. v. Lopez*, p. 431
- brief *Wickard v. Filburn*, p.421
- brief *South Dakota v. Dole*, Canvas Reserve

- brief *U.S. v. Morrison, p. 436*
- brief *National Federation of Independent Business v. Sebellius*, p. 449*

Lecture:

- *Congress and its Purse Strings*

***** Second Exam, Wednesday, Nov. 1 *****

Week 12 [Nov. 6-10]

Readings:

- EMW, "Nation-State Relations," pp. 309-16, Chapt. 6, "Federalism," pp. 317-372
- M, Chapt. 8, "Civil Liberties, Civil Rights, and the Supreme Court"

Assignment:

- brief *Arizona v. U.S,*, p. 368
- brief *Missouri v. Holland*, p. 360
- brief *Printz v. U.S.*, p. 346
- brief *Garcia v. San Antonio Metropolitan Transit Authority*, p. 336
- brief *Murphy v. NCAA*, p. 351*

Lecture:

- *Federalism at the Crossroads*

Week 13 [Nov. 13–Nov. 17]

***** MOOT COURT WEEK *****

Week 14 [Nov. 20–Nov. 24]

Readings:

- EMW, Chapt. 10, "Economic Substantive Due Process," pp. 573-619
- M, Chapt. 9, "Judicial Monitoring of the New American Welfare State"
- M, Chapt. 10, "The Court of Today and the Lessons of History"

Assignment:

- brief *The Slaughterhouse Cases,* p. 576
- brief *Lochner v. New York*, p. 590*
- brief *Horne v. Dept. of Agirculture*, p. 667

- brief *Nebbia v. New York,* p. 604
- brief *Kelo v. City of New London*, p. 645

Lecture:

- *Economic Substantive Due Process (as opposed to Procedural Due Process)*

***** Wednesday, Nov. 22 and Friday, November 24 are University Holidays for Thanksgiving. Give Thanks! *****

Week 15 [Nov. 27–Dec. 1]

- Summary and Catch-up

Week 16 [Dec. 6–Dec. 10]

***** FINAL EXAM: WEDNESDAY, DEC. 6, 2023, 07:00-08:15 am *****
Finals scheduled in accordance with University policy

NO EXCEPTIONS TO THIS DATE AND TIME; DO NOT ASK AS I CANNOT GRANT THEM.

TOPICS FOR MOOT COURT SIMULATION

The assignments for the Moot Court Simulation comprise twenty percent (20%) of your grade. Therefore, it is important that you spend a significant amount of time preparing both components. You will be given a citation to the case in question by the fourth week of class. You should begin preliminary research immediately on your issue (find your case in the library or online, find scholarly works and journal articles discussing the case, etc.).

You are expected to do **approximately 25 additional hours of research (over and above time devoted to preparing for regular class assignments)** in preparing for your portion of the simulation. You may use research from any published resource you may find. You are not expected to have access to a law library; however, you may use such facilities if you wish to do so. While the case itself will help you substantially in preparing, you SHOULD NOT rely solely on the copy of the case you are given for preparing either your participation in oral argument.

The objective of this exercise is to help you acquire skills in legal research and writing. Additionally, the exercise is designed to help you develop argumentation and debate abilities. One goal of this process is to assist you in becoming comfortable with doing legal research. We will have a presentation in class to assist you in conducting such research. This will be a class you WILL NOT want to miss.

Professionalism

I expect that you will treat the students you work with as colleagues and cooperate as a team. Because of concerns that some people may be "slackers," you should feel free to consult with me about problems you are having. All discussions will be strictly confidential; however, should the problem become too onerous, I reserve the right to have a conference with each of you. The Moot Court experience is supposed to be fun, not an assignment from purgatory. I anticipate that this will be a valuable experience, and not one that you dread because the people you are working with decided to sleep through it.

Topics

The topic for the Moot Court case represents a broad coverage of contemporary cases before the federal courts. It will be a decision where there are good arguments on both sides of the issue. You are not going to be judged based on whether or not the case won or lost, but rather, you will be judged on your ability to analyze the legal issues involved in the case. You should begin doing research as soon as you are assigned the case and certified questions. You will have the opportunity to have some input into the role you play and scheduling requirements. Counsel and justice appointments will be assigned on a first come, first serve basis after the announcement is made in class. While every attempt will be made to give you your choice, I am under no legal obligation to make you happy, or to satisfy your request.

General Policies of the University

***Source for these policies*:** UCF Faculty Center for Teaching and Learning (http://fctl.ucf.edu/TeachingAndLearningResources/CourseDesign/Syllabus/statements.php)

Academic Integrity

Students should familiarize themselves with UCF's Rules of Conduct at <http://osc.sdes.ucf.edu/process/roc>. According to Section 1, "Academic Misconduct," students are prohibited from engaging in:

a. Unauthorized assistance: Using or attempting to use unauthorized materials, information or study aids in any academic exercise unless specifically authorized by the instructor of record. The unauthorized possession of examination or course-related material also constitutes cheating.

b. Communication to another through written, visual, electronic, or oral means: The presentation of material which has not been studied or learned, but rather was obtained through someone else's efforts and used as part of an examination, course assignment, or project.

c. Commercial Use of Academic Material: Selling of course material to another person, student, and/or uploading course material to a third-party (such as coursehero.com) without authorization or without the express written permission of the university and the instructor. Course materials include but are not limited to class notes, Instructor's PowerPoints, course syllabi, tests, quizzes, labs, instruction sheets, homework, study guides, handouts, etc.

d. Falsifying or misrepresenting the student's own academic work.

e. Plagiarism: Using or appropriating another's work without any indication of the source, thereby attempting to convey the impression that such work is the student's own.

f. Multiple Submissions: Submitting the same academic work for credit more than once without the express written permission of the instructor.

g. Helping another person violate academic behavior standards.

For more information about Academic Integrity, students may consult The Center for Academic Integrity <http://www.academicintegrity.org/icai/assets/FVProject.pdf>.

For more information about plagiarism and misuse of sources, see "Defining and Avoiding Plagiarism: The WPA Statement on Best Practices" <http://wpacouncil.org/node/9>.

Responses to Academic Dishonesty, Plagiarism, or Cheating

Students should also familiarize themselves with the procedures for academic misconduct in UCF's student handbook, *The Golden Rule* <http://goldenrule.sdes.ucf.edu/docs/goldenrule.pdf>. UCF faculty members

have a responsibility for students' education and the value of a UCF degree, and so seek to prevent unethical behavior and when necessary respond to academic misconduct. Penalties can include a failing grade in an assignment or in the course, suspension or expulsion from the university, and/or a "Z Designation" on a student's official transcript indicating academic dishonesty, where the final grade for this course will be preceded by the letter Z. For more information about the Z Designation, see <http://goldenrule.sdes.ucf.edu/zgrade>.

The Golden Rule: A Handbook for Students (University of Central Florida) defines academic dishonesty as including cheating and plagiarism. Cheating is defined as "unauthorized assistance; communication to another through written, visual or oral means. The presentation of material which has not been studied/learned, but obtained through someone else's efforts and used as part of an examination, course assignment or project constitutes a violation. The unauthorized possession or use of examination or course related material may also constitute cheating" (p. 6). Plagiarism is defined as the deliberate use of another's work "without any indication of source, thereby attempting to convey the impression that such work is the student's own. Any student failing to properly credit ideas or materials taken from another is plagiarizing. Any student who knowingly helps another violate academic behavior standards is also in violation of the standards (p.6-7)".

Normally, the penalty for a violation of this policy is an "F" in the course.

Course Accessibility Statement

The University of Central Florida is committed to providing access and inclusion for all persons with disabilities. Students with disabilities who need disability-related access in this course should contact the professor as soon as possible. Students should also connect with Student Accessibility Services (SAS) <http://sas.sdes.ucf.edu/> (Ferrell Commons 185, sas@ucf.edu, phone 407-823-2371). Through Student Accessibility Services, a Course Accessibility Letter may be created and sent to professors, which informs faculty of potential access and accommodations that might be reasonable. Determining reasonable access and accommodations requires consideration of the course design, course learning objectives and the individual academic and course barriers experienced by the student.

COVID-19 Safety Protocols

I recognize and understand the difficult times that we are all now face. The COVID-19 pandemic impacts us all in many ways, including physically, mentally, emotionally, financially, academically, and professionally. I will work with you on challenges you may be encountering and to provide reasonable support and resources to help you succeed. However, please keep in mind that I will hold you accountable, especially in terms of class attendance, participation, and assignments.

Statement Regarding Masks in Classrooms

UCF expects, when feasible, that all members of our campus community who are able to do so get vaccinated, and we expect all members of our campus community to wear masks indoors, in line with the latest CDC guidelines. Masks are required in approved clinical or health care settings. Social distancing is also a beneficial practice.

Notifications in Case of Changes to Course Modality

If the instructor falls ill during the semester, there may be temporary changes to this course, including having a backup instructor take over the course or going remote for a short time. Please look for announcements or mail in Webcourses@UCF or Knights email for any temporary alterations to this course.

COVID-19 and Illness Notification

Students who believe they may have been exposed to COVID-19 or who test positive must contact UCF Student Health Services (407-823-2509) so proper contact tracing procedures can take place. Students should not come to campus if they are ill, are experiencing any symptoms of COVID-19 or have tested positive for COVID-19. Students should contact their instructor(s) as soon as possible if they miss class for any illness to discuss reasonable adjustments that might need to be made. When possible, students should contact their instructor(s) before missing class.

Campus Safety Statement

Emergencies on campus are rare, but if one should arise during class, everyone needs to work together. Students should be aware of their surroundings and familiar with some basic safety and security concepts.

- In case of an emergency, dial 911 for assistance.

- Every UCF classroom contains an emergency procedure guide posted on a wall near the door. Students should make a note of the guide's physical location and review the online version at <http://emergency.ucf.edu/emergency_guide.html>.

- Students should know the evacuation routes from each of their classrooms and have a plan for finding safety in case of an emergency.

- If there is a medical emergency during class, students having appropriate medical training may need to access a first-aid kit or AED (Automated External Defibrillator). To learn where those are located, see <http://www.ehs.ucf.edu/workplacesafety.html> (click on link from menu on left).

- To stay informed about emergency situations, students can sign up to receive UCF text alerts by going to <my.ucf.edu> and logging in. Click on "Student Self Service" located on the left side of the screen in the toolbar, scroll down to the blue "Personal Information" heading on the Student Center screen, click on "UCF Alert", fill out the information, including e-mail address, cell phone number, and cell phone provider, click "Apply" to save the changes, and then click "OK."

- Students with special needs related to emergency situations should speak with their instructors outside of class.

- To learn about how to manage an active-shooter situation on campus or elsewhere, consider viewing this video (<https://youtu.be/NIKYajEx4pk>).

Deployed Active Duty Military Students

A deployed, active-duty military student who believes that he/she requires a special accommodation due to that unique status should contact the instructor to discuss the circumstances.

Religious Observances

Students may encounter conflicts between the normal class schedule and their honoring major religious observances. Students are expected to notify, in writing, the instructor **at least two weeks in advance** of the relevant date if they intend to miss class or miss and assignment to observe a holy day of their religious faith.

Notice of Use of Turnitin.com

In this course, I may utilize turnitin.com, an automated system that instructors may use to quickly and easily compare each student's written assignment with billions of websites, as well an enormous database of student papers that grows with each student submission. Accordingly, student assignments may be subject to this additional check. After the assignment is processed, I receive a report from turnitin.com that states if and how another person's work was used in the assignment. For more detailed information about this process, visit http://www.turnitin.com.

[Portions of this Notice of Use of Turnitin.com policy were adapted from "Sample Wording for Syllabus," UCF Office of Student Rights and Responsibilities, Patricia A. MacKown, Director].