Federal Courts and the Federal System  
Spring 2006  
Prof. Hershkoff  

SYLLABUS  

We have 28 classes. Interspersed throughout the Syllabus you will see italicized numbers in parenthesis. Those numbers refer to the class when we probably will take up the assigned readings. But we may go slower or faster depending on class discussion. A separate document, “Tentative Schedule of Readings,” gives you this same information in chart form. I will announce in class when to read additional Supplementary Materials. 

For the first class, please read all of the materials listed in Part I of the Syllabus. You can pick up a hard copy of Supplementary Materials I from Vanderbilt Hall 336 (the materials also are available on Blackboard). For the second class, please read all of the materials listed in Part II. A and Part II. B of the Syllabus.

I. Background (1)  

A. The Constitution of the United States  
   1. Casebook, pp. cv-cxix  

B. The Development and Structure of the Federal Judicial System  
   1. Casebook, pp. 1-54; Supplement, p.1  
   2. Chemerinsky, pp. 1- 11; 20-40  

C. Contemporary Debates about the Federal Courts  
II. The Nature of the Federal Judicial Function: Cases and Controversies

A. General Considerations: Alternative Models of Federal Adjudication (2)

1. *Marbury*, Casebook, pp. 55-73; Supplement, pp. 2-4; Supplement, p.21

2. *Correspondence of the Justices*, pp. 78-85; Supplement, p.4


4. Note on Constitutional Avoidance, pp. 85-90; Supplement, p.4

B. Finality and Adjudication (2)

1. *Hayburn’s Case*, Casebook, pp. 91-94; 96-107; Supplement, pp.4-5

C. Some Problems of Standing to Sue (3, 4, 5)

1. Plaintiff’s Standing, *Allen v. Wright*, Casebook, pp. 114-142; Supplement, pp.5-8


3. Capacity-Based Standing, Casebook pp. 161-170

5. Chemerinsky, pp. 56-112

D. Mootness (6)

1. *DeFunis v. Odegaard*, Casebook, pp. 199-217; Supplement, p.15

2. Chemerinsky, pp. 125-142

E. Ripeness (6)


3. *O'Shea v. Littleton*, Casebook, pp. 234-244; Supplement, pp. 16-18

4. Chemerinsky, pp. 113-124

F. Political Questions (6)

1. *Nixon v. United States*, Casebook pp. 244-267; Supplement, pp. 18-19

2. Chemerinsky, pp. 143-168

III. Congressional Control of the Distribution of Judicial Power Among Federal and State Courts

A. Congressional Regulation of Federal Jurisdiction (7, 8, 9)

1. Introductory Note, Casebook, pp. 319-326


4. Note on the Power of Congress to Limit the Jurisdiction of Federal Courts

(a) Congressional Power to Exclude Cases from the Lower Federal Courts, Casebook, pp. 330-337
(b) Congressional Power over the Supreme Court’s Appellate Jurisdiction, Casebook, pp. 337-342
(c) Congressional Power to Withdraw All Federal Jurisdiction, Casebook, pp. 342-345
(d) Congressional Preclusion of Both State and Federal Court Jurisdiction, Casebook, pp. 345-357
(e) Congressional Apportionment of Jurisdiction Among Federal Courts and Resulting Limitations on the Authority of Enforcement Courts, Casebook, pp. 357-362

5. Chemerinsky, pp. 169-206

B. Congressional Authority to Allocate Judicial Power to Non-Article III Federal Tribunals (10, 11, 12)

2. Introductory Note on Legislative Courts, Casebook, pp. 377-387; Supplement, pp. 23-24
4. Further Note on Legislative Courts, pp. 395-403
5. Chemerinsky, pp. 215-224; 230-238; 243-257
7. Chemerinsky, pp. 239-243

9. Chemerinsky, pp. 224-229

10. Note on the Tidewater Problem, pp. 416-418; Supplement, p.27

11. Chemerinsky, pp. 207-210

C. Federal Authority and State Court Jurisdiction (13)


6. Chemerinsky, pp. 210-214; 262-263

IV. Review of State Court Decisions by the Supreme Court

A. The Establishment of the Jurisdiction (14)

1. Development of the Statutory Provisions, Casebook, pp. 466-469


4. Chemerinsky, pp. 637-663

B. The Relation Between State and Federal Law (15)

1. Note on the Interstitial Character of Federal Law, Casebook, pp. 494-495
2. Fox Film Corp. v. Muller, Casebook, pp. 496-501


4. State Tax Commission v. Van Cott, Casebook, pp. 517-523

5. Note on Federal Protection of State-Created Rights, Casebook, pp. 527-541; Supplement, pp. 30-33

6. Chemerinsky, pp. 684-712

V. Federal Common Law

A. Defining Primary Obligations (16)
   1. United States v. Hudson & Goodwin, Casebook, pp. 686-690
   2. Clearfield Trust Co. v. United States, Casebook, pp. 690-704; Supplement, p. 39
   3. Note on Theories of Statutory Interpretation, Casebook, pp. 705-709
   5. Further Note on Federal Common Law … and Preemption, Casebook, pp. 723-730
   6. Lincoln Mills, Casebook, pp. 741-743
   8. Chemerinsky, pp. 353-374

B. Enforcing Primary Obligations: Statutory Rights of Action (17, 18)
   1. Introductory Note on the Implication of Private Remedies, Casebook, p. 766
   2. Cannon v. University of Chicago, Casebook, pp. 766-775
   3. Alexander v. Sandoval, Casebook, pp. 775-780

5. Chemerinsky, pp. 376-389


8. Chemerinsky, pp. 587-634

VI. Suits Challenging Official Action

A. Suits Challenging Federal Official Action (19, 20)

1. Note on the Development of Remedies in Actions Against Federal Officials and Federal Agencies, Casebook, pp. 938-944; Supplement, p. 71

2. The Sovereign Immunity of the United States and Associated Remedial Problems, Casebook, pp. 944-950; Supplement, p. 71


6. Chemerinsky, pp. 587-634

B. Suits Challenging State Official Action (21, 22, 23))


2. Ex parte Young, Casebook, pp. 987-995
3. Further Note on the Availability of Relief in Suits Against State Officers, Casebook, pp. 995-1000; Supplement, pp. 72-73

4. Note on the Pennhurst Case and . . . Relief for Violations of State Law, Casebook, pp. 1000-1004; Supplement, p. 73

5. Seminole Tribe of Florida v. Florida, Casebook, pp. 1004-1039; Supplement, pp. 73-77

6. Alden v. Maine, Casebook, pp. 1039-1066; Supplement, pp. 77-82

7. Federal Constitutional Protection Against State Official Action: Home Telephone & Telegraph Co. v. City of Los Angeles, Casebook, pp. 1067-1072

8. Chemerinsky, pp. 391-462


10. Introductory Note on the Relationship Between Common Law Torts and Constitutional Torts in Actions Against State and Local Officials, Casebook, pp. 1097-1098

11. Parratt v. Taylor, Casebook, pp. 1098-1112


13. Chemerinsky, pp. 463-586

VII. Judicial Federalism: Limitations on District Court Jurisdiction or Its Exercise (24, 25, 26)


3. Mitchum v. Foster, Casebook, pp. 1153-1169; Supplement, p. 86
4. Other Statutory Restrictions, Casebook, pp. 1170-1178; Supplement, pp. 86-87

5. Chemerinsky, pp. 713-733

6. Judicially-Developed Limitations on Federal Court Jurisdiction: Doctrines of Equity, Comity, and Federalism, Casebook, pp. 1179

7. Note on Exhaustion of State Judicial Remedies, Casebook, pp. 1179-1186; Supplement, p. 87

8. Abstention: *Pullman* and Related Doctrines, Casebook, pp. 1186-1203; Supplement, pp. 87-88

9. Note on *Burford* and *Thibodaux* Abstention, Casebook, pp. 1203-1213

10. Chemerinsky, pp. 761-794


13. Chemerinsky, pp. 795-836


15. Chemerinsky, pp. 837-860

**VIII. Reprise and Review (27, 28)**