

FEDERAL COURTS

Spring 2024

Prof. Conley

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Office Hours: Monday, 9 – 10 am and Thursday, 1:30 – 2:30 pm

Learning Goals:

- Identify constitutional versus prudential sources and limits of federal court power
- Articulate and distinguish separation of powers, federalism and parity
- Appreciate the importance of the power and myths of judicial review
- Reconcile and prioritize complex bodies of federal court doctrines
- Sharpen ability to analogize, distinguish and synthesize cases
- Examine and apply doctrines of restraint such as abstention
- Explicate the meaning and implications of constitutional and statutory law
- Interpret quintessential, complex precedent to resolve modern hypotheticals
- Navigate conflicting precedent and propose normative paths
- Distinguish competing jurisprudential schools as represented by famous jurists
- Deepen critical thinking and bolster unique legal voice on controversial topics
- Hone oral advocacy skills through class discussions and in class exercises.
- Reflect on the nature of judicial power in the federal legal system and better understand historical and policy developments relating to powers.

Assigned Reading:

- Finch, Roberts & Allan, Federal Courts: Context, Case & Problems (3d ed 2020) and moodle assigned reading.

Each student is expected to come to class having read and analyzed the assigned readings and be prepared to discuss them.

Graded Assessments:

- There will be an open book mid-term exam (50%) and an open book cumulative final exam (50%).
- Both exams will be graded anonymously.
- The mid-term will cover classes 1 – 15, and the final will cover classes 1 – 26.

Attendance: Students will struggle to succeed in this class if they do not attend class regularly. As such, regular attendance is expected.

In class expectations: Each class will have a heavy class participation component. This will include in class applied learning in groups and individually in **every class**. The only way this works is if every student comes to class having fully read and synthesized the readings. There is intentionally less reading in this class to provide space for significant in class applied learning. Due to the significant amount of in class participation, respectful and supportive communication among all class participants is important and expected.

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Accommodations: The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and the Office for Disability Equity (ODE). If you think you may have a disability adversely affecting your academic performance, and you have not already connected with ODE, please contact ODE through one of the options listed at <https://www.umt.edu/disability/Students/inquire/default.php>. The Law School will work with you and ODE to provide an appropriate accommodation. Retroactive accommodation requests will not be honored, so please, do not delay.

Academic honesty: ABIII Honor Code and UM Conduct Code apply. All students must practice academic honesty. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University. All students need to be familiar with the Student Conduct Code of the University of Montana. The Code is available for review online at <https://www.umt.edu/campus-life/community-standards/default.php>.

We may utilize generative AI as a class during in-class exercises. As set forth in the ABIII Honor Code, students are expressly prohibited from utilizing generative AI for any graded assessments.

CLASS SCHEDULE AND READING

1/16 - Class 1 – Historical overview of federal courts & Separation of Powers, Federalism, Parity and Judicial Review

- 1 – 28

1/18 - Class 2 – Justiciability – Advisory Opinions and Standing

- 29 – 53
- Optional Reading: Held v. Montana (moodle)

1/23 – Class 3 – Justiciability – More Standing

- 53-77, 80-81
- Optional Reading: SB8 (Texas) (first seven pages with focus on Sec.171.208) (moodle)

1/25 – Class 4 – Justiciability – Ripeness, Mootness and Political Question

- 97-126

1/30 – Class 5 – Congressional Control of Federal Jurisdiction and Decision Making

- 127-146

2/1 – Class 6 – Congressional Control over Federal Jurisdiction and Decision Making cont'd

- 146-167

2/6 – Class 7 – Congressional Control over Federal Jurisdiction and Decision Making cont'd

- 167-208

2/8 – Class 8 – Workshop – Justiciability and Congressional Control

2/13 – Class 9 – Allocation of Jurisdiction to Non-Article III Tribunals

- 209-233

2/15 – Class 10 – Allocation of Jurisdiction to Non-Article III Tribunals cont'd

- 234 - 268

2/20 – Class 11 - Arising Under Jurisdiction

- 269-299

2/22 – Class 12 – Arising Under Jurisdiction, cont'd

- 300-336

2/27 – Class 13 – Augmenting Federal Courts' Power Through Supplemental and Removal Jurisdiction

- 337-360

2/29 – Class 14 – Augmenting Federal Courts’ Power Through Supplemental and Removal Jurisdiction, cont’d.

- 360-393

3/6 – Class 15 – Workshop – Non-Article III Tribunals, Arising Under Jurisdiction and Supplemental and Removal Jurisdiction

3/8 – Class 16 – Eleventh Amendment and State Sovereign Immunity

- 395-317

3/13 – Class 17 – Amendment and State Sovereign Immunity, cont’d

- 417-438

3/15 – Class 18 - Amendment and State Sovereign Immunity, cont’d

- 438-70

3/26 – Class 19 - Amendment and State Sovereign Immunity, cont’d

- 471-90

3/28 – Class 20 – Introduction to 1983 Actions

- 541-429

4/2 – Class 21 – Protecting State Courts from Interference by Federal Courts

- 611-656

4/4 – Class 22 – Protecting State Courts from Interference by Federal Courts, cont’d

- 656-690

4/9 – Class 23 – *Erie* and federal common law

- 691-716

4/11 – Class 24 – Original Jurisdiction of Supreme Court and Appellate Jurisdiction of Federal Courts

- 799-830

4/16 – Class 24 – Original Jurisdiction of Supreme Court and Appellate Jurisdiction of Federal Courts

- 380-860

4/18 – Class 26 – Workshop on Eleventh Amendment and State Sovereign Immunity, 1983, Protecting State Courts from Interference by Federal Courts and Original Jurisdiction of Supreme Court and Appellate Jurisdiction of Federal Courts