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Teaching Assistant (TA): Josh Little
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Office Hours: Thurs., 11:00 am – 12:00 pm

COURSE MEETING TIMES & LOCATION: MW 11:00 am-12:15 pm, Bolton Hall (BOL) B56

COURSE DESCRIPTION:
In this course, we will explore constitutional developments in defining the nature and scope of judicial, congressional, and executive power. The course will also address the enduring constitutional debates surrounding the appropriate balance of power between the national and state governments.

Legal Research Assignment Due Date: Wednesday, September 25

Mid-term Exam: Wednesday, October 23 (regular class time)
Final Exam: Monday, December 16 (10:00 am – 12:00 pm)

Mock Court #1: Wednesday, December 4
Mock Court #2: Wednesday, December 4
Mock Court #3: Monday, December 9
Mock Court #4: Monday, December 9

REQUIRED TEXTBOOK & ONLINE CASE ARCHIVE:

Online Case Archive: Access is free to those who purchase a new copy of the textbook. For those purchasing a used copy, you may purchase access through the following Web site: http://www.cqpress.com/product/CLCA-Online-Case-Archive.html
CLASS REQUIREMENTS AND POLICIES:

Class Readings, Case Assignments, & Participation
It is important that students arrive to class having read the assigned material. To encourage class participation, students will be assigned two cases to prepare for a Q&A exchange with the instructor (See “Case Assignments” under course content on our D2L Web page for your specific assignments). In this process, students will be asked to summarize case facts, articulate the legal question or questions presented in the case, discuss the reasoning of the majority and any separate opinions, etc. If you miss class on a day in which one of your assigned cases was discussed, it is your responsibility to contact the instructor (via e-mail) in order to be assigned another case. Failure to be fully prepared to discuss your assigned cases will result in a substantial reduction in your course participation grade. If one of your cases is part of the assigned reading for the next class, you should assume the case will be discussed during the next class, and you should be prepared accordingly. You are highly advised to prepare a written brief to assist you during the Q&A. Students will also be called on randomly in class and will be expected to provide insightful responses, indicating that they have both read and thought about the material. Therefore, you must complete all reading assignments, including case assignments, regardless of whether you are assigned to discuss the cases in class.

Active participation in this course is expected of all students, including those auditing the course or those taking the course under the credit/no credit option.

General Class Conduct
I seek to create a classroom environment which is marked by mutual respect. At all times, I expect students to conduct themselves in a professional and courteous manner. Please do not arrive late, leave early, or talk while the instructor is talking or a classmate has the floor. Significant deductions will be applied to the course participation grades of those students who leave class early, arrive late, or disrupt class discussion in any way. Please note that students who spend class time surfing the Internet, text messaging, or reading outside materials, etc. will also receive significant deductions on the participation component of their course grades.

If you need to leave a class early, or if you know that you will be late, please inform me in advance whenever possible.

The use of cell phones in this class will not be tolerated. Please silence the ringer of your cell phone prior to entering the classroom. Video or audio recordings of the class are not permitted without the permission of the instructor.

Please make sure you check the course D2L Web site on a regular basis. I will post reading assignments and special announcements on the page.

Exams
There will be two exams in this class. The final exam will emphasize material covered since the mid-term exam, but it might also include some questions that are cumulative in nature. Both
exams will be closed book and will involve essay questions. Both exams will also present students with at least one hypothetical case scenario that will require a written response. All responses are required to be written in ink. The instructor will supply blue books for the examinations.

Make-up exams will only be given to students who have a medical excuse, University-excused absence, or other reasonable excuse (as determined by me). In order to qualify for a make-up examination, students must provide supporting documentation for missing the scheduled exam and must contact me (by phone or e-mail) prior to the scheduled exam. If a student cannot contact me prior to the exam due to extenuating circumstances, the student is required to contact me within 24 hours after the missed exam.

Students who have been approved to take a make-up exam for the mid-term must take it on Friday, October 25 at 12:00 pm (location TBA). This will be the only opportunity I provide unless the student has an emergency or other reasonable excuse (as determined by me) on that day and provides me with sufficient notice. If you miss the final exam, you should follow the above procedures regarding notification and documentation, and I will arrange a time for you to take a make-up final exam.

The results of exams (or any other component of the student’s grade) will not be conveyed to students over the phone or in an e-mail message.

**Legal Research Assignment**
A legal research assignment will be distributed to students (and posted on our D2L site) on September 11 and will be due in class on September 25. The assignment is required to be typed, and students are not to collaborate on the assignment. If you need help with the assignment, please consult the instructor or the TA.

**Mock Supreme Court & Bench Memo/Attorney Argument Brief**
Each student will be assigned to play the role of a Supreme Court justice or an attorney in a mock Supreme Court. Students wishing to volunteer to play the role of an attorney should contact the instructor early in the semester as these positions are limited. Case assignments will be distributed to students at least one month prior to their mock court date.

At the mock court, each attorney will be allotted 15 minutes to present his or her oral argument. Those assigned to be justices are required to ask questions of each attorney. Students assigned the role of a justice should note that active participation (asking a minimum of two informed and well-developed questions) is required to receive a passing grade for the assignment. Therefore, students wishing to earn an above-average score should strive to surpass minimum requirements.

As part of this simulation, students are also required to prepare either a “bench memo” (for those assigned as justices) or an “argument brief” (for those assigned to serve as attorneys). A “bench memo” should include an introductory section (2-3 paragraphs) describing the student’s assigned justice with special attention toward his/her ideological leanings, behavioral tendencies, and
his/her likely approach to the issues raised in the case. Following this brief section, the student should list a minimum of ten questions they might ask of the attorneys during oral argument. Please make every effort to evenly divide your questions between those that you can ask of the petitioner and those you can ask of the respondent.

Students assigned as attorneys should submit an “argument brief” with an introductory section (2-3 paragraphs) that describes the attorney’s overall strategy for persuading the Court of the strength and validity of his or her side, paying attention to likely coalitions among the justices and their known approaches to issues raised in the case. Following this section, the student should provide a minimum of ten talking points or arguments that he or she expects to raise during oral argument.

Bench memos and argument briefs should not exceed three pages (typed, double-spaced, one-inch margins, 12-point font). Sources (e.g., journal/law review articles, books, or legal cases) used in the development of the memo or brief must be cited appropriately throughout the text using in-text parenthetical citations, and each student should attach a “works cited” list with full citations. The “works cited” list will not be factored into the three-page limit. Student memos/briefs must be submitted in class on the day of the student’s mock court. Otherwise, late penalties (see below) will apply.

It is very important that students attend all of the mock court sessions and that students are familiar with all of the case scenarios. Further instructions for the mock court will be posted on the course D2L Web site.

If a student misses class on the date of his or her mock court, the student will receive a zero on the assignment unless the student has a medical excuse or other reasonable excuse (as determined by the instructor) and the student contacts the instructor before class (if possible) or within 24 hours of the missed class. The student will also need to present supporting documentation for the absence. If the student meets these qualifications, the student may submit a research paper as a make-up assignment for both the simulation and memo/brief requirements. The research paper must be 6-8 pages (typed, double-spaced, one-inch margins on all sides, 12-point font) and must discuss 3-4 major arguments on both sides of the student’s assigned case. Students must consult and cite multiple scholarly sources (e.g., journal articles, books, law review articles) and relevant case precedents in preparing the paper. Any source used in the development of the paper must be cited appropriately throughout the paper using in-text parenthetical citations, and each student should attach a “works cited” list with full citations. These make-up assignments must be submitted no later than 7 days (including weekends) after the student’s assigned mock court date. You should submit these assignments directly to the instructor (if possible). Otherwise, you can leave them in the envelope posted on my office door. You will need to send me an e-mail message indicating that you have submitted the assignment in the envelope (please note the time and date of the submission in the message).
Grades
Legal Research Assignment          10%
Mid-Term Exam                    25%
Final Exam                       35%
Mock Court Simulation (10% in-class; 10% memo)  20%
Participation                    10%

Point Scale
A    93-100
A-   90-92
B+   87-89
B    83-86
B-   80-82
C+   77-79
C    73-76
C-   70-72
D+   67-69
D    63-66
D-   60-62
F    ...-59

Grading Concerns
If you have questions or concerns regarding how an exam or assignment was graded by the TA, your first step should be to discuss the issue with the TA during office hours or by appointment. If you are not satisfied after that point, you should meet with me during office hours, and I will re-grade the assignment or the exam. Please note that the grade I assign might be lower than the grade assigned by the TA. I ask that all students who wish to appeal grading matters do so within one week of the assignment or exam being returned to the class.

Academic Dishonesty
I do not tolerate acts of plagiarism or any forms of cheating on exams or assignments. Students who are caught engaging in academic misconduct will receive an “F” (zero percentage points) for the assignment or exam. It is also possible that a student who is caught engaging in academic misconduct will receive an “F” for the course. If I suspect a case of academic misconduct, I will follow the academic misconduct and reporting policies of the University of Wisconsin-Milwaukee. Please see the following for details:
http://www4.uwm.edu/acad_aff/policy/academicmisconduct.cfm

Course Drops & Incompletes
Please consult the UWM Calendar for all dates pertaining to dropping the course. For details regarding incompletes, please consult UWM’s policy located at the following Web page:
http://www4.uwm.edu/current_students/records_grades/grades.cfm#incompletes
I will ask to see supporting documentation from any student requesting an incomplete for the course.
Submitting Course Assignments & Late Penalties
Assignments are due in class on the date noted in the syllabus. Any assignment submitted after its due date will be subject to a ten percentage point deduction for each day it is late (including weekends). Assignments submitted after class on the date they are due will be considered one day late. Late work should be handed directly to me (i.e., the instructor) whenever possible. Otherwise, students can leave late work in the envelope posted on my office door (NWQ B #5420). Students submitting late work are required to send an e-mail notifying me of the time at which the assignment was submitted and to confirm that I received the late assignment. Assignments left in the envelope after 5:00 pm will be posted as received the next day. Please do not leave assignments in my departmental box or slide them under my office door. Under most circumstances, I will not accept course assignments or any parts thereof submitted via e-mail. Students are required to submit hard copies of all assignments on the date noted on the syllabus. However, if you feel your particular circumstances warrant a waiver of this rule, you may contact me (via e-mail) to seek permission to submit an assignment electronically.

Student Accommodations
If you will need accommodations in order to meet any of the requirements of this course, please contact me as soon as possible. Students should also contact a Student Accessibility Center (SAC) counselor on campus (414) 229-6287.

Religious Accommodations
I will follow UWM’s policy regarding the provision of religious accommodations. This policy can be found at: https://www4.uwm.edu/secu/docs/other/S1.5.htm

Outline of Topics & Cases
Below is an outline of topics and cases that we will likely cover this semester. Since it may not be possible to determine how much time we will need to spend on each topic/case, specific reading assignments will be announced in each class and will be posted on the course D2L Web site. The list of cases and topics is subject to change.

* denotes that a case excerpt may be found at www.cqpress.com/clca.htm
** denotes that a case excerpt is available on e-reserve (D2L)

Introduction to the Study of Constitutional Law

- Brief introduction to the judicial process and online legal research tools
- The U.S. Constitution
- Judicial review - The Federalist No. 78
- Modes of constitutional interpretation
THE ROLE OF THE SUPREME COURT IN THE CONSTITUTIONAL SCHEME

- Marbury v. Madison
- Martin v. Hunter’s Lessee
- Ex Parte McCordle

THE NATURE AND LIMIT OF JUDICIAL POWER

Advisory Opinions/Collusive Lawsuits
- Muskrat v. United States

Mootness
- DeFunis v. Odegaard*
- Sosna v. Iowa**

Ripeness
- United Public Workers v. Mitchell
- International Longshoreman’s Union v. Boyd

The Doctrine of Political Questions
- Baker v. Carr
- Nixon v. United States
- Goldwater v. Carter*

Standing to Sue
- Allen v. Wright**
- Hollingsworth et al. v. Perry et al. **
- Flast v. Cohen

THE LEGISLATURE & POWERS OF CONGRESS

Enumerated and Implied Powers
- McCulloch v. Maryland**(Read the excerpt on reserve)

Inherent Powers
- United States v. Curtiss Wright Export Corp.

Amendment-Enforcing Power
- South Carolina v. Katzenbach
- City of Boerne v. Flores*
THE EXECUTIVE BRANCH & THE NATURE OF EXECUTIVE POWER

Appointment and Removal Powers

- *Myers v. United States*
- *Humphrey’s Executor v. United States*
- *Morrison v. Olson*

Executive Privilege & Immunity from Lawsuit

- *United States v. Nixon*
- *Clinton v. Jones*

Executive Power in Foreign Affairs and in Times of War/Emergencies

- *United States v. Curtiss-Wright Export Corporation*
- *The Prize Cases*
- *Ex Parte Milligan*
- *Youngstown Sheet & Tube Co v. Sawyer*

Executive Power & The War on Terror

- *Hamdi v. Rumsfeld*
- *Hamdan v. Rumsfeld* *
- *Boumediene v. Bush* *

THE DELEGATION OF LEGISLATIVE POWER & THE SEPARATION OF POWERS

- *J.W. Hampton, Jr. & Co. v. United States*
- *Panama Refining Co. v. Ryan (the Hot Oil Case)*
- *Schecter Poultry Corp. v. United States*
- *INS v. Chadha*
- *Bowsher v. Synar*
- *Clinton v. City of New York*

GENERAL SCOPE OF CONGRESSIONAL POWER TO REGULATE INTERSTATE COMMERCE

Defining Commerce: A Point of Departure

- *Gibbons v. Ogden*

Formal & Realist Interpretations

- *United States v. E.C. Knight*
- *Champion v. Ames [The Lottery Case]*
- *Hammer v. Dagenhart [The Child Labor Case]*
• Houston, East & West Texas Railway Co. v. U.S. [The Shreveport Rate Case]*
• Stafford v. Wallace

The Commerce Power & the New Deal
• Schecter Poultry Corp. v. United States
• Carter v. Carter Coal Co.
• NLRB v. Jones & Laughlin Steel Corp.
• United States v. Darby
• Wickard v. Filburn

Civil Rights, the Fourteenth Amendment, & the Commerce Clause
• The Civil Rights Cases (instructor will summarize)
• Heart of Atlanta Motel v. United States
• Katzenbach v. McClung (instructor will summarize)

Limits on Congressional Use of the Commerce Power
• United States v. Lopez
• United States v. Morrison

New Developments/Controversies in Commerce Clause Doctrine
• Gonzales v. Raich
• National Federation of Independent Business v. Sebelius

Commandeering
• New York v. United States
• Printz v. United States

The Dormant Commerce Clause
• Hunt v. Washington State Apple Advertising Commission
• Maine v. Taylor
• Granholm v. Heald