Syllabus--Federal Courts  
Law 543, Sections 001 and 002  
Professor Dawson

Course Time and Room:  
Tuesday and Thursday, 9:00-10:15, Room 164i

Professor's Information:  
Professor Edward Dawson  
Office #252  
Office Phone: 618-453-8735  
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Office Hours/ Availability:  
My office hours are Monday through Thursday from 10:20-11:20, unless I inform you in advance I will not be available on a particular day. You are welcome to come by during office hours with questions without making an appointment. You may also request an appointment outside office hours by sending me an email. You can also send me questions by email, but I may ask you to come by if the question isn't easily answered by email. I check my email regularly during business hours (9 am-6 pm); outside of those times I may not respond the same day. My assistant is Susan McLaren, susanw@law.siu.edu, and her office is in room 243.

Required Course Materials:

  ° It is important that you use the new/2d edition of the casebook. If you prefer, you can rent the book online to save money.
- Beyler supplemental packet, posted on TWEN.

Course Overview:  
This course focuses on federal jurisdiction and procedure, and issues of federal-state relations that arise in federal court. The material in this course is at the intersection of constitutional law and civil procedure, and deals with advanced and complicated problems implicating both of those subjects.

The course’s major themes of the course are the powers of the federal courts, limits on federal courts’ ability to hear cases, the law applied in federal courts, and how federal-state relations are handled in the federal courts. Among the topics we will cover are:

- The justiciability of cases in federal court (standing, ripeness, and mootness)  
- The scope of and limits on Congress’s power to control the jurisdiction and decisionmaking of federal courts, and to allow non-Article III courts to decide disputes  
- The scope of and limits on federal court subject matter jurisdiction, including federal question, diversity, supplemental, as well as removal of cases from state to federal court  
- State-federal relations in federal court, including the sovereign immunity of the states, and federal-court doctrines of abstention
• Habeas corpus, which raises issues related to both federal-court jurisdiction and state-federal relations

You will learn about these topics by reading the assigned texts, lecture, class discussion, working problems, group exercises, and a written assignment.

Learning Objectives:

At the end of this course, a student should be able to:

• Explain the fundamental course themes of limited jurisdiction, separation of powers, and federalism, and discuss these themes with reference to specific cases, statutes, and doctrines covered in class
• Master the fundamentals of federal-court jurisdiction by learning the relevant constitutional provisions, statutes and judicial doctrines, and applying the rules through problem solving by analyzing whether there is jurisdiction in a hypothetical case
• Be able to answer multiple-choice questions on topics covered on the civil procedure and constitutional law sections of the Multistate Bar Exam including justiciability, jurisdiction, federal common law, state sovereign immunity, and state-federal relations
• Complete a writing assignment that involves preparing a draft pleading in federal court that analyzes justiciability, jurisdiction, or state-federal relations
• Orally explain cases and doctrines covered in the class, through practice via call panels, class summaries, and individual and group problem solving
• Express a sophisticated understanding of how legal doctrine changes over time, and with changes in composition of the Supreme Court
• Have some practical knowledge federal court practice, strategy, and tactics, and how the doctrines covered in the course can be used for litigation advantage

Reading:

For each class, you are expected to do the assigned reading. I will ask you questions about the reading in class, and also sometimes have you work problems in class based on the material from the reading. I have tried to keep the reading short, but because the material is challenging and dense it is likely that you will need to read closely, and sometimes reread.

For each class, there will be a panel of four students assigned to be “on call” for that class; there is more information on this under “Call and Participation Policy,” below.

Workload Expectations:

As a reminder, ABA and SIU standards define a “credit hour” as one hour of direct instruction, and at least two hours of out-of-class student work. This means that for a three-hour class, like this class, you should expect to spend six hours on class preparation, which includes reading, preparing problems, and working on the writing assignment.

Assignments:

You will have one writing assignment that will be due after the halfway point of the semester. I will give you more details on the assignment several weeks before it is due. Your assignment will
likely require you to draft some sort of federal court pleading or motion addressing an issue/ doctrine we have covered in class. Your written assignment will count for 20% of your final grade.

We will also have in-class problems, group exercises or written assignments. Some of these are assigned problems from the casebook, other problems will be distributed through the TWEN page. If a problem is assigned prior to class, you should prepare your answers before class, but you do not need to prepare a written answer, even if the case book says “prepare a memo” or “draft a pleading.” These problems will not be graded, but may affect your grade based on the class participation policy.

Attendance:
You are allowed six absences for this course. Since the material for this course is challenging, I recommend you not miss class unless it is truly necessary.

Recording Policy:
The course sessions will not be recorded, unless needed to accommodate a student with a disability.

Call and Participation Policy:
A panel of four students will be “on call” each class—this means you will be on call 5-6 times during the semester. I will go in alphabetical order and let you know at the end of class who is on call for the next class. For days you are part of the “on call” panel, I expect you to be prepared to answer questions about the reading and take the lead in class discussion. If you miss a class when you are on call, and do not find someone to trade with you before class, I will adjust your grade downward under the participation policy described below. I will also at the end of each session randomly assign one student who was not “on call” to give a short (~5 minute) summary of the material we covered for that session at the beginning of the next class.

Grading Policy:
Your grade will be determined by the combination of your performance on our class writing assignment, and your performance on the final exam. The writing assignment will count for 20% of your grade, and the exam for 80% of your grade. The final exam will be on Friday, December 18 at 1:15 pm. It will be a mix of multiple choice, short answer, and essay, and will be a closed-book exam. Grades for the course will be assigned based on the law school grading policy, which is available at http://www.law.siu.edu/_common/documents/rules-code/grading.pdf

Your class participation may affect your grade. I may adjust your grade =/- .3 points based on your class performance and your performance on our written assignments. Participation includes volunteering to speak in class as well as engaging in dialogue and demonstrating preparedness when you are called upon.

The grades of students who have elected to take this course with S/U grading will be converted by the Registrar according to the following scale: 2.1 or greater = Satisfactory; below 2.1 = Unsatisfactory. Only students who receive a Satisfactory grade will earn academic credit for the course.
TWEN Page:

There is a TWEN page for this course, and you should sign up for it. On that page I will post course documents such as this syllabus, handouts, and any powerpoint slides I use in class.

Emergency Procedures:

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Disability Support Services:

Disability Support Services (618-453-5738; http://disabilityservices.siu.edu/) typically recommends accommodations through a small card they prepare for the student and the student gives to their faculty. Any information you provide is private and confidential and will be treated as such. If you require an accommodation for a disability, you can contact Associate Dean Chris Behan to request an accommodation.
Outline and Schedule of Assignments

Below is a list of the reading assignments and topics for each course session. The sessions are organized within an outline format intended to give you an overview of how each session fits into the larger structure of the course. I may update and modify the assignments as we go through the semester; I will give you advance notice of these changes.

The casebook includes problems designed to get you thinking about the material; if the assigned pages include a problem you should review the problem, consider an answer, and be prepared to discuss your answer in class. The only exception is when the syllabus expressly tells you to skip a problem.

We will generally meet every Tuesday and Thursday at the assigned time, except:

--1-3 sessions early in the semester, when I take a brief paternity leave
--Tuesday Nov. 24 and Thursday Nov. 26, which are Thanksgiving Break
--1-3 makeup sessions, which I will schedule and announce when I return from leave

Because the schedule will change after the first couple of weeks of the semester, the schedule below only lists dates for the first few classes. Later in the semester I will distribute an updated schedule with all the dates for the rest of the semester, including regularly scheduled sessions and makeups.

I. Introduction

1. **Tuesday August 25**
   
   **Topics:** Introduction to the Course, Federal Judicial Power's Sources and Limits
   
   **Reading:** Syllabus, Casebook pp. 1-27, 1075 (Article III)

II. Article III and Article I—Federal Courts’ Power and Congress’s Powers over Federal Courts

A. Justiciability—Article III “cases and controversies”

2. **Thursday August 27**
   
   **Topic:** Justiciability—Advisory opinions and standing
   
   **Reading:** Casebook p. 29-52

3. **Tuesday September 1**
   
   **Topic:** Justiciability pt II—Standing continued
   
   **Reading:** Casebook p. 52-80
   
   **Note:** Several of the environmental standing cases mentioned in the casebook’s Problem 2-2 are excerpted in the Beyler supplement at pages 1-13.

4. **Thursday September 3**
   
   **Topic:** Justiciability pt III—Taxpayer standing, ripeness, and mootness
   
   **Reading:** Casebook p. 81-87, 92-96 (skip problem 2-4), 97-109
5.  
**Topic:** Justiciability pt. IV—Political Question doctrine  
**Reading:** Casebook p. 109-125 (skip problems 2-10, 2-11); Zivotovsky excerpt (posted on TWEN)

B. Congressional Control of Federal Jurisdiction and Decisionmaking

6.  
**Topic:** Congress’s Power to Control Jurisdiction of the Supreme Court and Lower Federal Courts  
**Reading:** Casebook p. 127-149, 1075 (Article III, sections 1 and 2)

7.  
**Topic:** Congress’s Power to Affect or Control Federal Court Decisionmaking  
**Reading:** Casebook pp. 167-191 (start @ heading “2. Control of Decisionmaking”), 195-196 (Problem 3-6)

C. Congressional Allocation of Jurisdiction to Non-Article III Tribunals

8.  
**Topic:** Non-Article III Tribunals—Intro and Earlier Cases  
**Reading:** Casebook pp. 199-217, 228-237 (skip problem 4-1, stop at heading c.)

9.  
**Topic:** Non-Article III Courts—Later Cases and Shifts in Doctrine  
**Reading:** 237-264, 271 (figure 4-2), 277-278 (problem 4-6)

III. Jurisdiction of the Federal Courts

A. Federal Question Jurisdiction

10.  
**Topic:** Federal Question Jurisdiction pt. I: constitutional Limits  
**Reading:** Casebook pp. 279-299 (stop at heading 2.), 1075 (Art. III, sec. 2)

11.  
**Topic:** Federal Question Jurisdiction, Pt. II: statutory limits  
**Reading:** Casebook pp. 299-310, 312-325, p. 1088 (28 U.S.C. 1331), 1091-1094

12.  
**Topic:** Federal Question Jurisdiction, Pt. III: Advanced Topics and Synthesis  
**Reading:** Casebook pp. 327-345 (skip problem 5-10)
B. Diversity Jurisdiction

13. **Topic:** Diversity Jurisdiction, Pt. I—theories, basic rules, problems  
**Reading:** Casebook p. 349-358, 367-372, 1088 (28 U.S.C. 1332(a) and (b)); Beyler supp. pp. 26-31, 38-44  
**Assignment:** Diversity problems, Beyler supp. p. 30-31

14. **Topic:** Diversity Jurisdiction, Pt. II—citizenship of business entities; complex litigation  
**Reading:** Casebook pp. 372-391; 1088-1091 (28 U.S.C. 1332 (c) and (d)), 1095-1096 (28 U.S.C. 1369); Beyler supp. p. 31-38

C. Supplemental Jurisdiction and Removal

15. **Topic:** Supplemental Jurisdiction  
**Reading:** Casebook pp. 401-423, 443 (“Review and Consolidation” inset); 1094-1095 (28 U.S.C. 1367)

16. **Topic:** Removal  
**Reading:** Casebook pp. 442-455 (skip problems 7-5 and 7-8), 1096-1101 (28 U.S.C. 1441 through 1447); Beyler supp. pp. 50-64 (skip Boyd and Note on Wirtz)  
**Assignment:** Removal problems, Beyler supp. p. 44

Writing Assignment—The Writing Assignment will be due some time after we complete the material on removal; I will give you more specific details on the writing assignment during the semester.

E. Supreme Court and Appellate Jurisdiction

17. **Topic:** Supreme Court and Appellate Jurisdiction  
**Reading:** Casebook pp. 853-868 (skip problem 12-1); 890-897; 899-901; 1085-1088 (statutes)

IV. State-Federal Relations in Federal Courts

A. State Sovereign Immunity and its Limits

18. **Topic:** Eleventh Amendment and State Sovereign Immunity  
**Reading:** Casebook pp. 457-476, Casebook p. 1078 (Eleventh Amendment)

19. **Topic:** Ways to Avoid State Sovereign Immunity—Waiver and Ex Parte Young
Reading: Casebook pp. 476-499

20. Topic: Ways to Avoid State Sovereign Immunity—Abrogation By Congress
Reading: Casebook pp. 499-511, 526-529, 531-541, 547;

B. Limits on Federal Court Interference With State Courts

21. Topic: Intro to topic; Anti-Injunction Act; Pullman, Burford, and Colorado River Abstention
Reading: Casebook pp. 674-697; 734-737 (skip problem 10-1), 744-746

22. Topic: Younger abstention
Reading: Casebook pp. 701-724, 726-733 (skip problem 10-5)

V. Federal Courts’ Power to Make Federal Law

Reading: Casebook pp. 749-777, 787 (skip problem 11-2)

Reading: Casebook pp. 788-816

Reading: Casebook pp. 818-828 (skip Burger dissent), 829-846; 848 (inset on “exploring doctrine”)

VI. Habeas Corpus

26. Topic: Habeas and Federal Executive Detention (Guantanamo)
Reading: Casebook pp. 916-945; (skip problem 13-1); 1105-1107 (statutes)

27. Topic: Habeas for State Court Prisoners under AEDPA
Reading: Casebook pp. 961-972; 987-990, 1008 (figure 13-3); 1030-1039 (skip problem 13-4); 1049-1056; 1107-1110 (habeas corpus statutes)

28. Topic: Catchup and Exam Review
Reading: As assigned