

FEDERAL COURTS
Spring 2013
Judge Rosenthal & Prof. Bruhl

Welcome to Federal Courts. This is above all a course about power. This course deals with *whether* and *when* a federal court will decide a question more than it deals with *how* it will decide. The *whether* and the *when* are frequently as important as the *how*. The course covers a number of topics concerning federal jurisdiction, federal judicial power, and the relationship between federal and state courts. The course material is organized around three main themes: (1) the federal courts' proper role in the national government (separation of powers); (2) the proper relationship between the federal courts and state courts (judicial federalism); and (3) methods of enforcing federal rights against government officials. Specific topics include: advanced aspects of federal question and diversity jurisdiction, including supplemental jurisdiction; justiciability doctrines such as standing, ripeness, mootness, and political questions; abstention doctrines; Section 1983 suits; the 11th Amendment and state sovereign immunity; habeas corpus; and federal appellate jurisdiction.

The course is especially relevant for those who plan to work in litigation or to serve as judicial clerks, but it should also be valuable to those who are interested in structural constitutional law and the political and social issues surrounding the work of the federal courts.

Course Materials

The required texts for this course are:

Redish, Sherry & Pfander, *Federal Courts* 7th edition (West)

Redish, Sherry & Pfander, *2012 Supplement to Federal Courts* (West)

Occasionally there will be additional readings, such as recent court opinions or handouts that will be distributed on TWEN.

Course Requirements and Objectives

Your grade will be based primarily on a scheduled final exam. We will provide you with practice questions to help you study. The test is open book in that you may use the assigned textbooks, your class notes, handouts from class, and outlines prepared by you (including as part of an outline group). You may not bring commercial outlines or any other material or outline you did not help create. If you have a question about what is permitted, ask us well in advance of the exam.

Participation in class discussion is necessary both for your own understanding of the material and for the benefit of your classmates. We may increase your grade one step (e.g., B+ to A-) for outstanding participation and lower it one step for failing to participate adequately or for consistently being unprepared for class.

Regular attendance (at least 80%) is required as a matter of ABA and Law Center policy. You may be dropped from the course for failing to comply with that requirement.

The objectives of the course are for you to learn the leading doctrines of federal courts law; for you to gain an appreciation of the role of the federal courts within our system of federalism and separated powers; and for you to integrate the information you learn in this course with other practical and analytical skills necessary to the practice of law.

Office Hours

Professor Bruhl (BLB 1st floor) will post regular office hours, but you can make an appointment if you cannot make those hours. You are also welcome to drop in without an appointment any time he is here, which is most of the time. Judge Rosenthal will be available to speak with students after class and is also readily available by e-mail.

Reading Assignments

Readings will cover the topic areas listed below. Reading assignments for each class session will be distributed at a later date. Students should expect an average of about twenty pages of reading per class, sometimes more, sometimes less.

The Role of the Federal Courts and the Institution of Judicial Review

Justiciability Doctrines: Standing, Ripeness, Mootness, Political Questions

Selected Topics in Subject Matter Jurisdiction

Enforcing Federal Rights Against State Officials (42 U.S.C. § 1983)

State Sovereign Immunity and Eleventh Amendment

Abstention, Preclusion, and Related Doctrines of Judicial Federalism

Remedies Against Federal Officials for Violating Constitutional Rights (*Bivens*)

Overview of Habeas Corpus