

FEDERAL COURTS

Spring 2026

Prof. Conley

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Office Hours: Tuesday 1:30 – 3:00 & Wednesday 3:00 – 4:30

Learning Outcomes

- Students understand and can apply justiciability and standing-related concepts and rules to complex fact patterns under Article III’s “case and controversy” requirement.
- Students understand interbranch dynamics relating to congressional control over the courts pursuant to Article III’s “ordain and establish” clause.
- Students understand federal subject-matter jurisdiction concepts and rules, including federal question/arising under jurisdiction, supplemental jurisdiction and removal pursuant to Article III’s “arising under” language and related federal statutes and rules of civil procedure, and can apply such concepts and rules to complex fact patterns.
- Students understand and can apply concepts and rules regarding the Eleventh Amendment and state sovereign immunity issues and 1983 actions.
- Students develop foundational understanding of separation of powers between the three federal branches of government with an emphasis on federal courts’ role.
- Students gain appreciation for emerging issues, including executive immunity, limits on federal courts’ injunctive power, limits on non-Article III tribunals and the proliferation of the U.S. Supreme Court’s stay docket.

Assigned Reading

- Finch, Roberts & Allan, *Federal Courts: Context, Case & Problems* (4th ed 2024) or (3d ed. 2020) and Canvas assigned reading.
- This is an expensive book. There are reserve copies available in the library. If you’d like to buy the 3rd edition used, you can feel free to do that. This syllabus includes page numbers for the 3rd and 4th edition after Chapter 2.

Optional Useful Reading

- Chemerinsky, *Federal Jurisdiction* (8th ed 2020) is not required but is useful in understanding the concepts and cases discussed. It is available in the library.

In-class Expectations

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

Graded Assessments

Assessment	Points	Due Date	Requirements
Mid-Term Exam	35	3/6	<ul style="list-style-type: none"> • Closed book & closed note • Materials from classes 1 – 14 will be covered • Anonymously graded • 20 multiple choice questions & 1 or 2 essay exam questions • Some of these questions will provide a fact pattern, and others will be “closed file” format, in which students will be provided with pleadings or other excerpts from an actual or hypothetical case file, and be asked to provide memos answering legal questions by applying the law studied to the case file provided.
Final Exam	50	TBD - Finals period	<ul style="list-style-type: none"> • Closed book and closed note • Materials from 1 – 26 will be covered • Anonymously graded • 20 multiple choice questions & 1 or 2 essay questions • Some of these questions will provide a fact pattern, and others will be “closed file” format, in which students will be provided with pleadings or other excerpts from an actual or hypothetical case file, and be asked to provide memos answering legal questions by applying the law studied to the case file provided.
Stay day Presentation	10	4/28	<ul style="list-style-type: none"> • Working in groups of 3, students will work research and present on assigned cases leading to SCOTUS stays in 2025. More information and case assignments will be provided on Canvas.
Federal Courts Observation	5	3/26	<ul style="list-style-type: none"> • Each student must attend a court proceeding in a civil action in federal court and provide reflections and answers to the assignment set forth in Canvas.

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

Use of Generative AI

- We may utilize generative AI as a class during in-class exercises.
- Students are **expressly prohibited** from utilizing generative AI for any **graded assessments**.
- Additionally, students are strongly discouraged from using generative AI to summarize assigned cases prior to reading the case. Why?
 - This class is designed to hone the ability to synthesize, assess and digest complex materials. Using generative AI prior to doing this yourself will be a huge missed opportunity to develop this critically important skill. After synthesizing, assessing and digesting the assigned reading, students should feel free to utilize generative AI as a learning tool, but such use should not replace the process.
 - Many former students have communicated how useful this course is as bar prep, in preparation for clerkships, and in practice. Using shortcuts in place of ensuring you understand the material will reduce these benefits for you.
 - Taking the mid-term and final will require you to apply the complex concepts discussed in class. Ensuring you understand these concepts will be crucial to doing well on the exams.
 - When deciding whether to use generative AI, ask yourself “Am I using a machine at the gym to enrich my workout or am I hiring someone to go to the gym for me?” If using generative AI to enhance your learning is like using a machine at the gym, great, you’re getting the work out. If using generative AI for a task is like hiring someone to go to the gym for you, then don’t use it.
 - Your beautiful brain loves to work out. Don’t deprive it of what it loves.

CLASS SCHEDULE AND READING

1/20 - Class 1 – Historical overview of federal courts & Separation of Powers, Federalism, Parity and Judicial Review

- 4th ed. 1 – 24 (available on Canvas)

1/22 - Class 2 – Justiciability – Advisory Opinions and Standing

- 4th ed. 25-31 (available on Canvas)
- *Perry v. Hollingsworth* (Canvas)

1/27 – Class 3 – Justiciability – Standing, cont'd

- 4th ed. 43-71 (Canvas)

1/29 – Class 4 – Justiciability – Ripeness, Mootness and Political Question

- 4th ed. 71-101 (Canvas)

2/3 – Class 5 – Congressional Control of Federal Jurisdiction and Decision Making

- 4th ed. 105-122
- 3rd ed. 127-146

2/5 – Class 6 – Congressional Control over Federal Jurisdiction and Decision Making cont'd

- 4th ed. 122-141
- 3rd ed. 146-167

2/10 – Class 7 – Congressional Control over Federal Jurisdiction and Decision Making cont'd

- 4th ed. 141-173
- 3^d ed. 167-202

2/12 – Class 8 – Arising Under Jurisdiction

- 28 USC 1331
- 4th ed. 231-241, 248-257
- 3rd ed. 269-281, 289-299

2/19 – Class 9 – Arising Under Jurisdiction, cont'd

- 4th ed. 257-271, 275-287
- 3rd ed. 300-315, 320-333

2/24 – Class 10 – Augmenting Federal Courts' Power Through Supplemental and Removal Jurisdiction

- 4th ed. 291-301, 311-328
- 3rd ed. 337-348, 360-380
- 28 USC 1367
- Fed. R. Civ. P. 13, 14, 19, 20, 24

2/26 – Class 11 – Augmenting Federal Courts’ Power Through Supplemental and Removal Jurisdiction, cont’d.

- 4th ed. 328-338
- 3rd ed. 380-490
- *Royal Canin U.S.A., Inc. v. Wulfschleger*, 145 S.Ct. 41 (2025)
- 28 USC 1332
- 28 USC 1441

3/3 – Class 12 – Review Workshop – Justiciability, Congressional Control over Courts, Non-Article III Tribunals, Arising Under Jurisdiction and Supplemental and Removal Jurisdiction

3/5 – Class 13 – Eleventh Amendment and State Sovereign Immunity

- 4th ed. 341-360
- 3rd ed. 395-417

3/10 – Class 14 – Eleventh Amendment and State Sovereign Immunity, cont’d

- 4th ed. 360-378
- 3rd ed. 417-438

3/12 – Class 15 – Eleventh Amendment and State Sovereign Immunity, cont’d

- 4th ed. 378-403
- 3rd ed. 438-470

3/24 – Class 16 – Eleventh Amendment and State Sovereign Immunity, cont’d

- 4th ed. 403-419
- 3rd ed. 471-486

3/26 – Class 17 – Guest Lecture

3/31 – Class 18 – Introduction to 1983 Actions

- 4th ed: 427-448
- 3rd ed: 494 – 518

4/2 – Class 19 – Introduction to 1983 cont’d

- 4th ed: 425-427, Bullet Points 1, 2 and 4 (assume federal, not state, court), 448-469
- 3rd ed: 491-493, Bullet Points 1, 2 and 4 (assume federal, not state, court), 518-540

4/7 – Class 20 – Introduction to 1983 cont’d

- 4th ed. 469-500
- 3rd ed. 540-576

4/9 – Class 21 – Introduction to 1983 cont’d

- 4th ed. 514-526
- 3rd ed. 592-606

4/14 – Class 22 – Workshop on Eleventh Amendment and State Sovereign Immunity, 1983

4/16 – Class 23 – Emerging Issues 1 – Allocation of Jurisdiction to Non-Article III Tribunals *SEC v. Jarkesy*

- 4th ed. 180-181
- 3rd ed. 211-212
- *SEC v. Jarkesy* (Canvas)

4/21 – Class 24 – Emerging Issues 2 – Executive Immunity *Trump v. US*

- *Trump v. US* (Canvas)

4/23 — Class 25 – Emerging Issues 3 – Nationwide Injunctions *Trump v. Casa* & Beginning of Stay Day -2025 SCOTUS Stay Student Presentations

- *Trump v. Casa* (Canvas)

4/28 – Class 26 – Emerging Issues 4 - Stay Day – 2025 SCOTUS Stay Student Presentations

- TBD (Canvas)