

# FEDERAL JURISDICTION

LAW 602-2

FALL 2015

MARTIN LEVY

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## THE PROFESSOR

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**LOCATION:** 221-B

**OFFICE HOURS:** MWF: 12-1;2-3  
T: 2-3  
(All other times by appointment only)

### NOTE FROM THE PROFESSOR:

Information concerning this course, including syllabus, changes in class meeting, and questions from students, etc., will be available on the internet at:

1. [WWW.PROFMLEVY.COM](http://WWW.PROFMLEVY.COM)
2. [LAWSCHOOL.WESTLAW.COM](http://LAWSCHOOL.WESTLAW.COM), click on THE WEST EDUCATION NETWORK (TWEN) and select this offering.

## COURSE BOOKS & MATERIAL

### MATERIALS:

*Text:* Currie, *Federal Courts*, 4th. Ed., West.

Current Supp. to the same. (If available)

*Recommended:* Wright, *Federal Courts*, West. (Treatise)

Handouts by instructor.

## **COURSE DESCRIPTION, LEARNING OBJECTIVES & STUDENT LEARNING OUTCOMES**

A study of the procedure practice and procedure under the Federal Rules of Civil Procedure. This course focuses on: 1) the relationship between the federal judiciary and executive and legislative branches of the federal government; and 2) the relationship between the federal courts and the states. The topics covered include Congressional power to control federal court jurisdiction, constitutional and statutory limitations on subject-matter jurisdiction, sovereign and official immunity, abstention, equitable restraint, and other limitations, on the exercise of federal court jurisdiction, the Erie Doctrine, and federal common law. This course may be taken in the second or third year.

## **GRADING**

There will be a comprehensive final examination. The instructor reserves the right to have a "mid-term" examination, with its relative weight to be announced at that time. Please note that the Instructor reserves the right to hold additional examinations as may be deemed necessary. Students will be notified of the value of these exams at said time.

## **ACCOMMODATIONS**

Accommodation will be provided and administered as dictated by the Dean's office. If you require accommodation please provide approval and guidelines from the Dean's office.

## **PARTICIPATION, ATTENDANCE & PROFESSIONALISM**

Because verbal articulation of ones' ideas is an essential commodity in the practice of law, class participation is encouraged. With such in mind both the quality and quantity of class participation will be evaluated and applied as an *added* value of up to **two (2)** points in determination of your final grade. Further to such, the Instructor may assign specific class sessions for students participation, which may be applied as up to 10% of the "Professor's" final grade.

**ATTENDANCE:** Will be applied as required for a 3 hour class via a sign-in roll sheet disseminated at the commencement of class.

## **POLICIES & PROCEDURES**

All policies and procedures relative to this course are articulated in the Law School Student Rules. All such rules will be complied with by both students and the Instructor.

# ACADEMIC CALENDAR

## ACADEMIC CALENDAR 2015 – 2016

### **FALL SEMESTER 2015 (SEVENTY DAYS OF CLASSES)**

Orientation Monday-Friday August 10-14, 2015

**First Day of Class Monday August 17, 2015**

Last Day to ADD/DROP Wednesday August 19, 2015

**Labor Day (NO CLASSES) Monday September 7, 2015**

*Purge of all unpaid course selections* Thursday September 17, 2015

Mid Term Examinations Mon – Fri October 12-16, 2015

**VETERANS DAY (NO CLASSES) Wednesday NOVEMBER 11, 2015**

Last Day of Classes Tuesday November 24, 2015

Last Day to Drop a Class Tuesday November 24, 2015

First Year Professors' Grades due Tuesday November 24, 2015

Reading Period (NO CLASS) Wednesday November 25, 2015

**Thanksgiving Holiday Thurs – Fri November 26-27, 2015**

Reading Period Sat-Sun November 28-29, 2015

Final Examinations Mon –Fri November 30-Dec. 11, 2015

Commencement Saturday December 12, 2015

### **SPRING SEMESTER 2016 (SEVENTY DAYS OF CLASSES)**

School Opens Monday January 4, 2016

First Day of Class Monday January 11, 2016

Last Day to ADD/DROP Wednesday January 13, 2016

**M L K Holiday (No Classes) Monday January 18, 2016**

*Purge of all unpaid course selections* Wednesday February 10, 2016

**President's Day Holiday (No Classes) Monday February 15, 2016**

Mid Term Examinations Mon – Fri March 7– 11, 2016

Spring Break Mon – Fri March 14 – 18, 2016

**Good Friday (No Classes) Friday March 25, 2016**

Last Day of Classes Wednesday April 27, 2016

Last Day to Drop a Class Wednesday April 27, 2016

First Year Professors' Grades due Wednesday April 27, 2016

Reading Period (**No Classes**) Thur. – Sun April 28 - May 1, 2016

Final Examinations Mon- Fri May 2 – May 13, 2016

Hooping Ceremony Friday May 13, 2016

Commencement Saturday May 14, 2016

**Please note that the calendar events and /or dates are subject to change.**

# READING ASSIGNMENTS

## CHAPTER II - Federal Question and Admiralty Cases

### *Section I: Identifying Federal Question Cases*

- Introduction..... 139-140
- *Osborne v. Bank of U.S.*..... 140-147
- ***Textile Workers v. Lincoln Mills* [Note 4].....147 (H)  
353 U.S. 448 (1957)**
- Notes 1,2,..... 147
- *Louis. & Nash. R.R. v. Mottley*..... 149-151
- *Skelly Oil Co. v. Phillips*..... 151-153
- Notes 1,2..... 153
- Notes 1,5,6..... 155-158
- *T.B. Harms v. ELISCU*.....160-164
- Notes 1,2,4..... 164-165
- *Smith v. K.C. . Title & Trust* [Note 1]..... 174
- *Franchise Tax Board v. Construction Laborers* [N1,2]..... 156-157
- *Merrell Dow v. Thompson*..... 166-174
- *Verlinden v. Cental Bank of Nigeria*[Note 5]..... 148-149
- Notes 2,3,5..... 175-177
- ***Grable v. Darue, 125 S.Ct. 2363 (2005)***
- Exclusive Jurisdiction [Notes 1,2,3,5]..... 179-182
- Removal [Notes 7,8]..... 183-184
- Obligation to Provide Forum [Notes 11,12]..... 185-188

### Section 2. The Scope of a "Case"

- *Finley v. United States*.....188-194
- Pendent Jurisdiction [Notes 1-9].....194-200
- ***City of Chicago v. International College of Surgeons,*  
**522 U.S. 156 (1997)****
- ***Raygo v. Regenst, 534 U.S. 533 (2002)***

### Section 3. Maritime Cases

- "Read only" assignment..... 200-226

## CHAPTER III THE DIVERSITY JURISDICTION

### Section 1. The Determination of Citizenship

- *Sadat v. Mertes*.....231-238

- Notes 1,2,3,4,5,6,7,8..... 238-241
- Notes 1,2,3,..... 242-244

Section 2. "Complete" Diversity and Ancillary Jurisdiction

- *Strawbridge v. Curtiss*.....244-245
- Notes 1,2,3..... 245-247
- *Treines v. Sunshine Mining*..... 247-249
- Notes 1,2,3..... 249-251
- *Owen Equipment v. Kroger*..... 251-257
- Notes 1,2,3,4..... 258-260
- ***Exxon Mobile v. Allapattah Services, 125 S.Ct. 2611 (2005)***
- *American Fire v. Finn*..... 260-264
- Notes 1,2,3,4,5,6,8..... 264-267

Section 3. Corporations and Other Associations

- *Carden v. Arkoma Associates*.....267-272
- Notes 1,2,4,5,6,7..... 267-274
- *Kelly v. U.S. Steel*.....274-278
- ***Hertz v. Friend, \_\_ US \_\_, 130 S.Ct. 1181 (2010)***
- Notes 1,2,3,4,5,7..... 278-280
- *Majewski v. N.Y. Central R.R.*..... 281-282
- *Diesling v. Vaughn Wood Products*..... 282-284
- Notes 1,4..... 284-287
- *Smith v. Sperling*..... 287-292
- Notes 1,3,6,7..... 292-294

Section 4. The Jurisdictional Amount

- *Snyder v. Harris*..... 294-299
- Notes 3,4,5,6,7,8,9,10..... 301-309
- ***Exxon Mobile v. Allapattah Services, 125 S.Ct. 2611 (2005)***

Section 5. The Place of Trail

- Venue/Service: Notes 1,2,3,4,5,6,7,8,10,11..... 309-314
- Transfer: Notes 1,3,4,5,6,7,8,9,10..... 314-320
- S. Ct./ Original: Notes 1 through 11-[R],12..... 320-328

CHAPTER IV THE APPLICABLE LAW

Section 1. The Erie Problem

- *Erie R.R. v. Tompkins*.....327-332
- Notes 5,6..... 334-336



- *Guaranty Trust Co. v. York*..... 326-339
- *Hanna v. Plumer*..... 339-344
- Notes 1,2,3,4,5,6,..... 344-347
- *Klaxon v. Stentor Electric*.....347-349

Section 2. The Federal Common Law

- *Clearfield Trust v. U.S.*..... 353-354
- *Bank of America v. Parnell*..... 354-356
- *Banco Nacional De Cuba v. Sabbatino*..... 356-359
- Notes 1,2,3,4,6,7,8,9,..... 353-364
- *Transamerica v. Lewis*.....370-376
- Notes 3,4,5,6,7..... 376-379

Section 3. Remedies Against Government Officials

- *Monroe v. Pape*.....379-385
- Notes 1,2,3,4,5,6,7.....385-390
- *Monell v. Dept. of Social Servies*.....390-397
- Notes 1,2,3,4,5,6,7,8,9..... 397-401
- *Bivens v. Six Unknown Named Agents of F.B I.* .....401-409
- Notes 1,4,5,6,7..... 409-415

Section 4. Federal Law in the State Courts

- "Read Only"..... 426-432

CHAPTER V SOVEREIGN IMMUNITY

Section 1. The Eleventh Amendment

- *Hans v. Louisiana*.....433-440
- Notes 4,5,6,8..... 440-444
- *Ex Parte Young*.....444-447
- *Edelman v. Jordan*.....447-452
- Notes 3,4,5,6,7.....452-455
- Notes 2,3,4,6,7,8,9.....455-460
- *Fitzpatrick v. Bitzer*..... 460-465
- ***Seminole Tribe v. Florida, 517 U.S. 44 (1996)***
- ***Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank And United States, 527 U.S. 627 (1999)***
- ***Kimel v. Florida Board of Regents, 120 S.Ct 621 (2000)***
- ***U.S. v. Morrison, 120 S.Ct. 1740, (2000)***
- ***Board of Trustees of Univ. of Ala. v. Garrett, 531 U.S. 356, 121 S.Ct. 955 (2001)***
- ***FMC v. SCSPA, 535 U.S. 743 (2002)***

- *Lapides v. Board of Regents*, 535 U.S.613 (2002)
- *Verizon v. PSC of Maryland*, 535 U.S. 635 (2002)
- *Nevada Department of Human Resources v. Hibbs*, 528 U.S. 721 (2003)
- *Tennessee v. Lane*, 124 S.Ct. 1978 (2004)
- *U.S. v. Georgia*, 126 S.Ct. 877 (2006)
- *Coleman v. Court of Appeals of Maryland*, 132 S.Ct. 1327 (2012)
- Notes 1,2,4,4,5,6..... 465-468
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Section 2. Official and Congressional Immunities

- *Harlow v. Fitzgerald*..... 474-479
- Notes 1,2,3,4,5,6..... 479-484

CHAPTER VI ABSTENTION AND SUCH

Section 1. Pullman Abstention and Certification

- *R.R. Commission v. Pullman*..... 485-488
- *England v. Louis. St. Bd. of Medical Examiners*.....488-491
- Notes 1,2,3,4,5,6,7..... 491-497

Section 2. State Administrative Agencies and Taxes

- *Buford v. Sun Oil*..... 497-502
- Notes 1,2,3,4..... 503-506
- *Fair Assessment in Real Estate v. McNary*.....506-511
- Notes 1,2,4,5,8,9..... 511-514

Section 3. Injunctions Against Suit

- *Mitchum v. Foster*..... 514-520
- Notes 1,4,5,7,9,10,11..... 520-528
- *Younger v. Harris*..... 528-534
- Notes 1,3,4,6,7,9..... 534-540
- *Steffel v. Thompson*..... 540-547
- Notes 1,4,5,6,7,9..... 547-551
- Notes 1,2,3,4,5,6,7 "Read Only"..... 551-556
- ***Smith v. Bayer Corp.*, 131 S.Ct. 2368 (2011).**

Section 4. Pending Actions and Other Problems

- *Colorado River District v. U.S.*..... 556-563
- Note 4..... 567-568
- Notes 1 through 8, "Read Only"..... 568-572

- *Exxon Mobil v. Saudi Basic Indus.*, 126 S.Ct. 990 (2005)

## CHAPTER VII APPELLATE AND COLLATERAL REVIEW

### Section 1. Direct Appellate Review

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- *Cox Broadcasting v. Cohn*.....587-592
- Notes 1,2,4,5,6,7,8,9,10,11,12..... 592-600
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### Section 3. Habeas Corpus and Post Conviction Review

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- Notes 1 through 6, "Read Only"..... 625-629
- *Preiser v. Rodriguez*..... 633-639
- Notes on Exhaustion: 6,7,8..... 641-642
- *Jones v. Cunningham*.....643-646
- *Peyton v. Rowe*..... 647-650
- Notes on Custody: 1,2,3,4,7,8..... 650-654

## CHAPTER I CONGRESS, FEDERAL COURTS, ETC.

### Section 5. Judicial Power Outside Article Three

- *Northern Pipeline v. Marathon*..... 114-125
- Notes on Legislative Courts..... 125-128
- *National Mutual Ins. v. Tidewater*..... 128-136
- Notes 1,5,6,7..... 136-138
- ***Stern v. Marshall*, 131 S.Ct. (2011),**

**"Read Only"** materials are assigned for student review, materials will only be summarized for in-class discussion. Examination will only cover "Read Only" materials discussed in class.

**IMPORTANT NOTE:** This Case Book is updated by citation to more recent decisions. It is **most important** that the student coordinate these materials into the text as detailed above.