

Spring 2017  
**LAW AND POLITICS**, 790-106-90  
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Office hours available by appointment on the phone, via Chat Room on Mondays at 8:00pm, and on Douglas Campus at Rutgers in New Brunswick. Chat Room office hours do not need to be scheduled in advance. Please email me to set up all other meetings.

Please read this syllabus carefully, as taking an online class can be a complex undertaking at first. You are responsible for the content of this syllabus. Please take note of due dates.

**COURSE OVERVIEW AND OBJECTIVES:**

The language of the U.S. Constitution is unequivocal: “All legislative Powers herein granted shall be vested in a Congress of the United States.” It would seem clear, then, that Congress, and only Congress, has authority to make law. Yet, in practice, policy making in the United States has been anything but a “one-branch show.” The executive, through both its formal powers (granted in the constitution) and less formal political advantages (which have evolved as a matter of practice) has become a major, if not *the* major, force in federal policy development. While the policy making influence of the executive branch has clearly grown, the role of the judiciary is less clear. Nonetheless, there is a strong body of evidence that indicates our courts have been consistently and deeply involved in national policy development and that at least some opinions have been influenced by the existing political environment(s).

During the next several months we will examine the Court in the context of three core issues/questions: 1) Do courts make policy? 2) Are courts affected by national politics? 3) If the answer(s) to the preceding questions are “yes,” are we comfortable with these answers? To assist us in examining these and related questions we will consider the roles of key participants in the judicial forum—litigants, interest groups, government(s), and judges/justices. We will look at and evaluate the factors that influence agenda setting, and decision-making in the U.S. Supreme Court. Special attention will be given to the relationships—some formal, some informal; some obvious, some subtle; some broadly conceded, some hotly contested—that exist between and among elected officials and jurists. You should also understand the basic structure and operation of the court system in the United States, especially the Supreme Court.

It is not the purpose of this course to supply answers - certainly, not many of them. Rather, our goal will be to raise and discuss key questions that bear upon and bring added dimension to the core issues noted above. Highly regarded scholars—some jurists, many not—have argued with great passion about the subject matter of this course. Among the debated issues have been the “Strict Construction” versus “Living Constitution/Activist Court” conflict; the matter of who gets access to the courts and what difference that makes; and what factors drive the judicial agenda. By the end of the semester, each student should know how to read and to understand Supreme Court decisions; should have developed some threshold opinions about the extent to which policy goals and the political environment affect, and/or are affected by, court decisions; and have an appreciation for the range of thinking about what the proper role of the court should be.

## **COURSE OBJECTIVES**

Upon conclusion of this course, students should:

1. Understand federalism, the basic operation of the Supreme Court, and the Constitution (especially Article III).
2. Be able to summarize a Supreme Court decision in case brief format.
3. Have developed some threshold opinions about the extent to which policy goals and the political environment affect, and/or are affected by, court decisions
  - 3A. Express these opinions in written format. College-level writing is essential to success in this course.
4. Explain different legal philosophies regarding the role of the Supreme Court in society and government.
5. Be able to define key terms including: equal protection, procedural due process, substantive due process, commerce, necessary and proper, supremacy clause, judicial review, precedent, and legal reasoning and locate these terms in the Constitution if applicable.
6. Describe how race, class, gender, and socio-economic status are related to individuals' experiences with the court system and the law.
7. Explain the push and pull between individual rights and federal powers; understand the conflict between states rights and the powers of the federal government.

Note that there are separate weekly objectives listed on the same page as each week's lesson.

## **ASSIGNED TEXTS:**

**Lawrence, Susan E., ed.** Law and Politics in the Supreme Court: Cases and Readings, 2<sup>nd</sup> Edition, Kendall/Hunt Publishing, 1993

**Baum, Lawrence.** The Supreme Court, 2012 edition.

**Scalia, Antonin.** A Matter of Interpretation, 1997.

These books can be found online and in the Rutgers bookstore.

## **IMPORTANT DATES:**

Start date: January 17, 2017
End date: May 10 <sup>th</sup> 2017
Drop w/o W date: January 24, 2017

## **TECHNOLOGY REQUIREMENTS:**

- 1 Basic computer and web-browsing skills
- 2 Navigating Sakai
- 3 Collaborating on VoiceThread

## **Required Equipment**

- Computer: current Mac (OS X) or PC (Windows 7 or newer) with high-speed internet connection
- Webcam: built-in or external webcam, fully installed
- Microphone: built-in laptop or tablet mic or external microphone – you must use the microphone for VoiceThread. Text submissions not accepted!

- Required Software: Microsoft Word

**Time Commitment:**

To be successful in this course, you should plan to dedicate approximately 8-10 hours per week.

**GRADING:**

25% Weekly Forums (or VoiceThread during Weeks 1, 6, and 14)
0% One Pass/ Fail Practice Brief
20% Graded Case Briefs (2 briefs worth 10% each)
0% One Pass/ Fail Quiz
15% Midterm
20% Final
20% Short Paper

**Office hours and live sessions:**

All live, scheduled events for the course, including my office hours, are optional. Office hours occur every Monday from 8:00pm to 9:00pm and by scheduled phone meeting. Office hours occur online in the Chat Room. If you cannot attend the live session, please do not post to the chat. Post to the Q&A Forum Thread instead. I check it regularly.

**Professor Feedback:**

- The professor will respond to forum posts within two days.  
The professor will grade forum posts and responses by the end of the week for which they were posted.
- The professor will grade assignments within 5 calendar days.
- The professor will answer emails within 24 hours during week days.
- The professor will only be present in the ChatRoom during live office hours and will not check this location for off-hours posts.
- The professor will check the General Q&A Forum tab at least 3 times during the week and will answer all questions as soon as they are read.

**Discussion and Communication Expectations:**

The following are my expectations for how we should communicate as a class. Above all, please remember to be respectful and thoughtful.

- **Writing style:** While there is no need to participate in class discussions as if you were writing a research paper, you should remember to write using good grammar, spelling, and punctuation. Informality (including an occasional emoticon) is fine for non-academic topics. Please also refrain from using all CAPITAL LETTERS, as this is often interpreted as shouting.
- **Tone and civility:** Let's maintain a supportive learning community where everyone feels safe and where people can disagree amicably. Remember that sarcasm doesn't always come across online. Treat your instructor and fellow students with respect at all times, and in all

communications.

- **Citing your sources:** When we have academic discussions, please cite your sources to back up what you say. (For the textbook or other course materials, list at least the title and page numbers. For online sources, include a link.)
- **Backing up your work:** Consider composing your academic posts in a word processor, where you can save your work, and then copying into the Sakai discussion.

### **Late Work and Make-up Exams:**

Late work is generally not accepted unless required by University guidelines. Exceptions will be in the case of emergencies, and late penalties will be made on a case-by-case basis. Notify the instructor, via email, in the case of an emergency.

Forum posts and assignments take the place of attendance requirements in a face-to-face course. As such the Rutgers lateness/ attendance policy applies to forum posts and VoiceThreads.

In accordance with Rutgers University regulations, absences (late work) due to religious observance, participation in university-sponsored events or activities such as intercollegiate athletics, or documented chronic illness are treated as authenticated absences. Authenticated absences do not waive the overall policy for attendance (posting).

### **Academic Integrity:**

The consequences of scholastic dishonesty are very serious. Please review the [Rutgers' academic integrity policy](#).

Academic integrity means, among other things:

- Develop and write all of your own assignments.
- Show in detail where the materials you use in your papers come from. Create citations whether you are paraphrasing authors or quoting them directly. Be sure always to show source and page number within the assignment and include a bibliography in the back.
- Do not fabricate information or citations in your work.
- Do not facilitate academic dishonesty for another student by allowing your own work to be submitted by others.

If you are in doubt about any issue related to plagiarism or scholastic dishonesty, please discuss it with your instructor. Other sources of information to which you can refer include:

*Rutgers' Academic Integrity website*  
*Code of Student Conduct*  
*Eight Cardinal Rules of Academic Integrity*

### **Academic Support Services:**

- Rutgers has a variety of resources for academic support. For more information, check the Academic Support website.
- Rutgers has Learning Centers on each campus where any student can obtain tutoring and other help. For information, check the Learning Center website.
- Rutgers also has a Writing Center where students can obtain help with writing skills and

- assignments. Learn more at the Writing Center website.
- Many library resources are available online. Assistance is available through phone, email, and chat. For information, check the Rutgers Libraries website.

Rutgers Health Services:

Rutgers Health Services is dedicated to health for the whole student body, mind and spirit. It accomplishes this through a staff of qualified clinicians and support staff, and delivers services at a number of locations throughout the New Brunswick-Piscataway area. For more information, check the Rutgers Health Services website.

Accommodations for Accessibility:

Rutgers University welcomes students with disabilities into all of the University's educational programs. In order to receive consideration for reasonable accommodations, a student with a disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation. More information can be found in the Documentation Guidelines section of the Office for Disability Services website.

If the documentation supports your request for reasonable accommodations, your campus's disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the Registration Form on the Office for Disability Services website.

Go to the Student section of the Office of Disability Services website for more information.

Accessibility Statements:

Sakai

**Privacy Policies:**

Sakai

**CLASS ORGANIZATION:** Subject matter in Law and Politics is divided by week. I will post each week's materials under the 'Lessons' tab. Readings will only be posted online in the rare case that they can not be found in one of the required books.

Each week, you will find these items posted under the Weekly Lessons tab:

**(1) Weekly Objectives**

**(2) The week's required readings - ONLY if they cannot be found in the required books.**

**(3) Prezi Lecture Presentation, YouTube Video Lecture, or Power Point Lecture:** I will often post Prezi presentations as lectures. Prezi presentations are dynamic, visual presentations that highlight the most important elements of the reading for this class. Think of them as reading outlines: they are not exhaustive, and they require active reading on the part of the student. I welcome questions and comments on the lecture, which can be found under the "Forum" tab,

titled “Lecture Q and A.” Often, Prezi lectures will be recorded with audio and posted as videos.

- (4) **Weekly Assignments:** This includes all forum posts, VoiceThread assignments, tests and quizzes as well as written assignments such as case briefs and short papers.

I am here to help! If you have questions, concerns, or need extra discussion for readings and assignments, I am your resource. Please email me at [hbjames@gmail.com](mailto:hbjames@gmail.com).

## **CLASS COMPONENTS:**

### **I. Weekly Forums (25%)**

In this course, you are required to participate in a Weekly Forum. The Weekly Forum has two components: (1) a forum statement and (2) a forum response. Each week, I will be posting a question to the class that expands upon the week’s readings. You must make (1) a forum statement (that replies to a question I have posed for that week) and (2) a forum response, which is a reply to **one** of your peer’s forum statements. That means that you need to post to the forums twice per week. You should log on to the course at least twice per week.

To do this, you will go to the “Forums” tab in the Sakai site. You will locate the week’s question by the title of the post.

For example, in Week 2, I will post a weekly forum question under the title “Week 2 Forum.” Click on the title to see my message, which will have a question for you to answer.

**Forum Statement:** After reading my question for the week, you will answer with a forum statement. **Your forum statement must be posted online by 6PM on Tuesday of your week.** A forum statement answers the question to the best of your ability as informed by the week’s readings. Your forum statement must have the following to receive full credit:

- Your forum statement must be 2—3 paragraphs long. This translates to 200 to 300 words.
- Your forum statement must be on topic and respond to the question posed by the instructor.
- Your forum statement must use at least **one** quote or piece of evidence from the readings. Use citations.
- Your forum statement must be checked for grammar and spelling.
- **Your forum statement must be posted online by 6PM on Tuesday of each week.** Late posts will be penalized 5 points each day they are late.

**Forum Response:** After the forum statements have been posted, you will respond to ONE of your peer’s forum statements. **Your response to a peer’s forum statement must be posted online by 6 PM every Thursday. To post a response, simply click on one of your peers' statements and click reply.** Your response must have the following to receive full credit (5 points):

- Your response must be 1—2 paragraphs long. This translates to 100 to 200 words.
- Your response must be on topic and reflect a consideration of your peer’s forum statement.

- Your response cannot be a simple agreement to your peer's forum statement ("I agree with Amy that the unilateral executive is a bad thing!"). Add details, expand the point, and make an argument. Simple agreements will receive no credit.
- Your response must use at least **one** quote or piece of evidence from the readings. Use citations.
- Your response must be checked for grammar and spelling.
- **Your response must be posted online by 6PM on Thursday of each week.** Late responses will be penalized 2.5 points every day they are late.

### **IA. VoiceThread**

During Weeks 1, 6, and 14 VoiceThread will take the place of your usual forum post. To complete the VoiceThread. Good to the appropriate weekly less page, click the VoiceThread assignment and follow instructions. Further instructions on the how to post a VoiceThread can be found here:

<https://oirt.rutgers.edu/video-gallery/>

You must use your computer's microphone to complete Voice Thread assignments. Text submissions will not be accepted. Use a library computer if your microphone does not work.

### **II. Case Briefs: First Brief (P/F); Second Brief (10%); Third Brief (10%)**

You will be assigned three case briefs, two graded briefs and an initial practice brief. The practice brief will not be graded but it is required. It is designed to help you understand how to write briefs before you receive your first grade. Writing briefs is a specialized skill set and can be complicated at first. Briefs should be submitted via Sakai. They should be submitted using the Assignments Tab. The syllabus indicates when briefs are due. No late briefs will be accepted. You will not be able to submit a brief after 6:00pm on Friday of the week that it is due. See the grading rubrics folder for more information.

### **III. Exam1 – Midterm (15%); Exam 2 – Final (20%)**

You will be given a mid-term and a final as indicated by the syllabus. Both exams will be taken online – the first during Week 8 and the second during Week 15 - as specified below. You will have the entire week to take the exams. However, they must be completed by 6:00pm on Friday of the appropriate week. You will have a certain number of hours during which to complete the exams. Once this time period has concluded no changes can be made and the exam will automatically be submitted to me. Both exams will be taken on Sakai and will be found under the "Tests and Quizzes" tab. I will provide specific instructions before the week of the exam.

### **IV. Pass Fail Exam (0%)**

A required but ungraded quiz to help you check your progress.

### **V. Paper (20%)**

See the grading rubrics folder.

**Plagiarism:** Plagiarism and cheating are taken very seriously at Rutgers University. All statutes of the Academic Code of Conduct apply for this course. A detailed discussion of this policy can be found at

<http://cat.rutgers.edu/integrity/policy.html>.

**Remember:** All class work will be submitted on the Sakai website. **DO NOT EMAIL CLASS WORK TO THE INSTRUCTOR.** If it is not submitted on the Sakai website, it will be considered late.

Please see the START HERE page of our Sakai site for more course navigation details, tips on how to be successful, and Rutgers policies including disability accommodations.

### **ASSIGNMENTS:**

Tuesday, January 17th, Week 1: Introduction to the Role of the Constitution in our U.S. representative democracy

**Read:** U.S. Constitution, Articles I, II, III  
Lawrence, American Court System, pp 293-297  
Lawrence, pp 81-87  
Baum, in Chapter 1 “The Court in the Judicial System”, bottom of pp 5- top of pp 20, STOP at “The Court's History”

Tuesday, January 24th, Week 2: Democracy, Constitutionalism, and Liberty: How the Framers Thought About the Supreme Court and Limiting Political Power

**Read:** Lawrence, Chapter 5, STOP at pp 254  
Scalia, pp 3- 47

Tuesday, January 31st, Week 3: Briefing A Case; Understanding the Court’s History

**Read:** Hand out Titled “How to Brief a Case” (posted to Sakai)  
Baum, rest of Chapter 1

Tuesday, February 7th, Week 4: Establishing and applying the power of Judicial Review

**Read:** Lawrence, *Marbury v. Madison* and related material, pp 255 – 280.  
Lawrence: *McCulloch v. Maryland*, Chapter 5, pp 280 – 292

### **Pass/ Fail Quiz Due by 6:00pm on Friday: Understanding Judicial Review**

Tuesday, February 14th, Week 5: Judicial Review of State Legislation

**Read:** Baum, Chapter 2  
Lawrence, 35- 71 (*Gobitis*, *Barnette*, and *Johnson* cases.)

**Suggested Reading:** For a follow up on Baum's Chapter 2 regarding the selection of justices read Lawrence Chapter 8 on the politics of judicial selection. This reading is not mandatory.

Tuesday, February 21st Week 6: Presumption of Innocence for Sale: Bail



**Read:** The Price of Freedom  
Former Inmate Commits Suicide

**First Case Brief for Practice and Feedback Only Due by 6:00pm on Friday:  
US v. Salerno (case brief posted to Sakai – not in book)**

Tuesday, February 28th, Week 7: Lawyers, Your Right to Defense Council

**Read:** Gideon v Wainwright  
Returning Gideon's Trumpet: Telling the Story in Context of Today's Criminal  
Justice Crisis

Tuesday, March 7th, Week 8: Civil Rights Legislation, the Concept of Equal Protection

**Read:** Baum pp 69-85 in Chapter 3  
Lawrence Chapter 7, pp 301 – 319  
Footnote 4, *Carolene Products*

**Midterm Exam – 90 MINUTES Timed Due by 6:00pm on Friday**

**SPRING BREAK!**

Tuesday, March 21st, Week 9: Bringing Equal Protection Claims to Court

**Read:** Lawrence, pp 323-348  
Rosenberg, Part 1: Civil Rights

**Second Brief Due by 6:00pm Friday: Missouri ex rel. Gaines v. Canada (case found in book)**

Tuesday, March 28th, Week 10: Concepts of Incorporation and Due Process

**Read:** Procedural Due Process PDF  
Lockner and Due Process PDF  
Substantive Due Process PDF

Tuesday, April 4th, Week 11: The Commerce Clause: The Link Between Commerce and Civil Rights,  
Determining the Meaning of Commerce

**Read:** *Heart of Atlanta Motel Inc v. U.S.*, Lawrence (see case list in back of book for page  
number)

*U.S. v. Lopez*, Lawrence (not in case law book, see Sakai lesson page)  
Lopez Since Federalism

Tuesday, April 11th, Week 12: 'Court Found' Rights: Privacy; Privacy's Relationship to Family Planning and Reproductive Health Cases

**Read:** Lawrence, Chapter 11  
Finding Privacy PDF  
Griswold v. Connecticut

Tuesday, April 18th, Week 13: Recent Cases: 'Obamacare' and Hobby Lobby

**Read:** Justices rule in Favor of Hobby Lobby – New York Times  
Hobby Lobby Case Summary  
Hobby Lobby Rewrites Religious Freedom

**Third Case Brief Due by 6:00pm Friday: Burwell v. Hobby Lobby**

Tuesday, April 25th Week 14: Citizens United

**Read:** Citizens United Case  
Washington Post: How Citizens United Changed Politics in 7 Charts

Monday, May 1st Week 15: Summary of the Court: Balancing Liberty and Democracy

**Read:** Baum, Chapter 6

Tuesday, May 2<sup>nd</sup> – reading day

**Paper Due by 6:00pm Friday**

STUDY! Exams Begin May 4th

**Second Exam – 3 HOURS Due by 6:00pm on Tuesday, May 9th. You must take the final by this date. Make up finals must be scheduled in advance and can only be taken in person at Rutgers in New Brunswick on the scheduled make up day.**