SCLA 200: Cornerstones in Constitutional Law Syllabus

**Instructors**
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**Description and aims**
In this interdisciplinary course, students read case law to understand legal reasoning and constitutional doctrines and identify major constitutional conflicts. It explores how the forces of technology, economics, politics, environmental change, scientific development, and medicine transform constitutional law.

This course will provoke exciting debates and serious thinking about how a constitutional democracy should resolve the varied and changing issues which make their way to the courts. Students majoring in science, agriculture, and engineering as much as those majoring in the humanities and social sciences need to confront problems that push us to make sense of intractable issues that confront decision-makers and require us all to consider what are just and moral responses under the rule of law. I invite students to wrestle with the legal, ethical, social, political, and historical dimensions of a range of issues related to science and technology, environment and sustainability, health and medicine, management and organizations, and governance, justice, and conflict resolution.

The particular issues will change from one instructor to the next, but possible topics include:
- Endangered species
- Global warming
- Patent rights related to genetically modified organisms
- World hunger, agricultural trade, and relief efforts
- Cloning, IVF, and surrogacy
- Whether corporations are “persons” covered by the U.S. Constitution
- Immigration and the status of undocumented immigrants

In addition to its topical focus, the course will provide a thorough introduction to political and legal institutions in the United States and consider why the U.S. is so apt to translate political and policy issues into legal ones. Even students who do not take any other courses in the humanities
or social sciences will learn enough here to be more effective citizens, able to confront intransigent issues and debate them seriously and civilly.

**Learning outcomes**

1. Identify the key principles and doctrines of U.S. constitutional law through engaging with case law in written and oral communication.

2. Effectively apply these key constitutional principles and doctrines to issues related to each of the five Cornerstone tracks.

3. Consider and assess constitutional arguments and counterarguments and demonstrate the ability to develop and articulate arguments from different positions.

4. Analyze how constitutional law decisions affect the development of political, social, economic, technological and medical institutions.

**Required text**

There is one required text for the course. It is a custom casebook from West Publishing including edited versions of the assigned cases. Other required readings will be available on Blackboard.

**Assignments: exams, briefs, participation, etc.**

Five case briefs (4% ea, count best 5 out of 8).......................... 20%
Group Discussion assignment...........................................10%
Class participation (being prepared, responses in class & disc.).....10%
In class midterm, October 4.................................................. 25%
Final Exam (during finals week)............................................. 35%

**Class policies**

- Names and pronouns: If you have a preferred name and/or pronouns that you would like me to use, please let me know. Preferred names should appear in the database I receive from the Registrar and I will use those. If your preferred name does not appear in the database or if you have questions, please see me.
- Participation is important in this course, where a lot of the learning and instruction occurs through Socratic style questioning and class discussion. You will be called on often to answer questions and to offer analyses and opinions of readings and cases. I recommend that you prepare for class by doing the assigned reading, taking notes on the reading materials and briefing the cases. When you’re called upon, don’t be afraid to express your views or play the devil’s advocate—but being prepared is key!
- Group discussion assignment: I will assign you to small discussion groups (around 4-5 students) that stay the same for the whole semester. Each of you will take turns being the discussion leader during breakout sessions during the class. When it’s your turn, you will be responsible for preparing something brief in writing before class, which you will use to help lead small group discussion during the breakout period, and then turn in to me for grading. Ordinarily that assignment will be to write briefs of the day’s cases, and to generate a list of 3 or 4 questions to spur group discussion.
• Regular attendance is important for getting the most out of this class. You are responsible for initialing the roll sheet each day during class to indicate that you are present. For the most part, I do not need to hear your excuses or reasons for missing class, as I anticipate that everyone will have his or her share of absences for all kinds of reasons (illness, family emergencies, deadlines in other classes, away trips for sports or interviews, etc.), and will plan accordingly for the likelihood of missing a few classes over the course of the semester. Generally, missing more than two weeks’ worth of class (4 absences) is likely to hurt you with respect to learning the course material and style of thinking, so please treat that as a ceiling. Having said that, if you have a major medical or personal emergency (e.g., you come down with the flu, are hospitalized, there’s a death in the family, that sort of thing), you should let us know, and I’ll do what I can to accommodate your needs. Please don’t come to school when you’re ill—that’s not good for anyone.

• Accommodations: Purdue encourages qualified people with disabilities to participate in its programs and activities and is committed to the policy that all people shall have equal access to programs, facilities, and admissions without regard to personal characteristics not related to ability, performance, or qualifications as determined by University policy or by state and federal authorities. Please notify me privately if you require any accommodations, technology-related or otherwise. I am glad to do anything I can to ensure universal access and inclusion for all students. Those requesting accommodations related to a disability or other condition should contact the Disability Resource Center (https://www.purdue.edu/studentsuccess/specialized/drc/) and provide me with an accommodation notification. A DRC accommodation letter is required before I can provide academic accommodations.

• Respectful discourse: Legal and political discussions involve issues that can be contentious or upsetting. There may be times when the topics of readings, lectures, or discussions are uncomfortable for you or other students. Even if you do not find a particular subject controversial or distressing, please keep in mind that others in class may not have the same reaction. Open discussion and critical exchange are central to our objectives in this course and the larger mission of the University. As such, it is essential that all students have the opportunity to express their perspectives on the subjects of this course in an environment of thoughtfulness, intellectual curiosity, rigor, and mutual respect.

I share Purdue University’s commitment to diversity in people and perspectives and equality of participation in educational experiences. Please comport yourself at all times in a manner that demonstrates respect for the different experiences, beliefs, and values of others. I will not tolerate behaviors that threaten, harass, discriminate, or that are disrespectful of others. Inappropriate or inflammatory words or actions will be subject to disciplinary action, including referral to the Office of the Dean of Students. Please review the Nondiscrimination Policy Statement for more information: http://www.purdue.edu/purdue/ea_eou_statement.html.

**BRIEFS:** I will teach you how to brief cases, and expect you to become competent at identifying relevant facts, legal issues, holdings, and the most germane arguments supporting the holdings. I will collect and grade 8 briefs for each student—but you won’t necessarily all write briefs on the same cases. I strongly recommend that you brief all the cases that appear on the syllabus. Briefing cases serves two important purposes, helping you learn the material well and helping
you prepare for exams. There is an explanation of how to brief cases later in the syllabus, and a reading on how to read a legal opinion assigned during the first week of classes.

EXAMS: There will be one midterm and one final for this class. Both will have objective (usually multiple choice or T/F) questions, and essay questions, including short essays, IDs, and possibly a hypothetical case where you will be asked to write a reasoned decision drawing on relevant case law. The midterm is October 4, the final during finals week, exact date TBA.

ACADEMIC DISHONESTY: Any form of plagiarism--presenting someone else’s work as your own, copying from other students’ work, or failure to cite references to books or other sources--is considered academic dishonesty. Those who are found cheating in such ways will receive a zero for the assignment involved, and be reported to the Dean of Students’ office. I am aware that you can find briefs of cases online—but there isn’t much point to doing this, and when I detect this kind of plagiarism, you will get no credit for the brief. Please do your own work.

In addition, the Office of the Provost wishes to make students aware that they can report issues of academic integrity that they observe, either through the Office of the Dean of Students (purdue.edu/odos), call 765-494-8778 or email integrity@purdue.edu.

Schedule of classes (T-Th schedule)

Week One - Legal Foundations and Constitutional Principles
Aug. 21, 2018 - Introductions and Syllabus (foundations of constitutional law)

Aug. 23, 2018 (Reading cases and judicial review)
Marbury v. Madison (1803)

Week Two - Legal Foundations and Constitutional Principles
Aug. 28, 2018 (Supremacy clause and vested property)
McCulloch v. Maryland (1819)
Dartmouth v. Woodward (1819)

Aug. 30, 2018 (Citizenship)
Slaughterhouse Cases (1873)
Hoyt v. Florida (1961)

Week Three - Management, Organizations, and Ethics
Sept. 4, 2018 (Property, innovation, and corporations)
Charles River Bridge v. Warren River Bridge (1837)

Sept. 6, 2018 (Liberty of contract)
Lochner v. New York (1905)
Adkins v. Children's Hospital (1923)

Week Four - Management, Organizations, and Ethics
Sept. 11, 2018 (Separation of powers)
NLRB v. Jones and Laughlin Steel Corp.

Sept. 13, 2018 (Eminent domain)
Berman v. Parker (1954)

Week Five - Management, Organizations, and Ethics
Sept. 18, 2018 (Campaign finance)
Tribe and Matz, Uncertain Justice, Ch. 3
  Film tie-in: The Corporation (2003)

Sept. 20, 2018 (Religious free exercise and class action suits)
Walmart Stores v. Duke (2011)
Burwell v. Hobby Lobby Stores (2014)

Week Six - Health, Medicine, and Society
Sept. 25, 2018 (Due process and the right to privacy)
Griswold v. Connecticut (1965)
Roe v. Wade (1973)

Sept. 27, 2018 (“Undue burden” standard, beginning of life)
Planned Parenthood v. Casey (1992)
Whole Women’s Health v. Hellerstedt (2016)

Week Seven - Health, Medicine, and Society
Oct. 2, 2018 (End of life, assisted suicide, “right to die”)
Gonzales v. Oregon (2006)
  Related: Terri Schiavo reading/Peter Singer

Oct. 4, 2018 MIDTERM EXAM

Week Eight - Health, Medicine, and Society
Oct. 9, 2018 – October break, no class

Oct. 11, 2018 (Healthcare in jails & prisons)
Estelle v. Gamble (1976)
Week Nine - **Conflict Resolution and Justice**
Oct. 16, 2018 (5th/14th amendment/due process in criminal justice)
*Mapp v. Ohio* (1961)
*Gideon v. Wainwright* (1963)
  Film tie-in: *Gideon’s Trumpet* (1980)

Oct. 18, 2018 (Death penalty/cruel and unusual punishment)
*Furman v. Georgia* (1972)
*Gregg v. Georgia* (1976)

Week Ten - **Conflict Resolution and Justice**
Oct. 23, 2018 (14th Amendment/equal protection part 1)
*Plessy v. Ferguson* (1893)
*Korematsu v. United States* (1944)
*Brown v. Board* (1954)

Oct. 25, 2018 (14th Amendment/equal protection part 2)

Week Eleven - **Conflict Resolution and Justice**
Oct. 30, 2018 (Voting rights, race, and strict scrutiny)
*South Carolina v. Katzenbach* (1966)
*Shelby County v. Holder* (2013)

Nov. 1, 2018 (Affirmative action)
*Schuette v. Coalition to Defend Affirmative Action* (2014)

Week Twelve – **Science and Technology**
Nov. 6, 2018 (Evolution & creationism)
*Epperson v. Arkansas* (1968)
  Related: Selections from the Scopes Monkey trial transcripts -
  [http://faculty.smu.edu/jclam/science_religion/trial_transcripts.html](http://faculty.smu.edu/jclam/science_religion/trial_transcripts.html)
  Autobiography of Clarence Darrow

Nov. 8, 2018 (The internet & free speech)
Reno v. ACLU (1997)
Ashcroft v. ACLU (2002)
   Related: Jacobellis v. Ohio (1964), Miller v. California (1973)
   Film tie-in: The People vs. Larry Flynt (1996)

Week Thirteen - **Science and Technology**
Nov. 13, 2018 (GMOs and intellectual property)
Diamond v. Chakrabarty (1980)
Bowman v. Monsanto Co. (2013)

Nov. 15, 2018 (Human genetics in criminal justice and business)
Maryland v. King (2013)
Association for Molecular Pathology v. Myriad Genetics, Inc. (2013)
Sunstein, Cass R. “The Constitution and the Clone”
   Related: Reproductive technology issues, IVF, surrogacy

Week Fourteen - **Science and Technology**
Nov. 20, 2018 (Surveillance technology & unreasonable searches)
   Related: Olmstead v. US (1928)
   Riley v. California (2014)

Nov. 22, 2018 – No class, Thanksgiving

Week Fifteen – **Environment and Sustainability**
Nov. 27, 2018 (Standing in environmental cases)
Excerpt from Stone, Christopher D. 2010. Should Trees Have Standing? (3rd ed.)
Sierra Club v. Morton (1972)

Nov. 29, 2018 (Animal rights/endangered species)
Tennessee Valley v. Hill (1978) (snail darter case)
   Related: Covertly filmed meat processing & concentrated animal feeding operations
   Church of the Lukumi Babalu Aye v. City of Hialeah (1993)

Week Sixteen – **Environment and Sustainability**
Dec. 4, 2018 (Corporations and pollution)

Dec. 6, 2018 (Global warming)
Massachusetts v. EPA (2007)

**Advice and FAQ:**
• All items in this syllabus are subject to change, as events get in the way of the best laid plans. It is your responsibility to keep up with any changes to this syllabus by listening for announcements in class and regularly checking for course-related email messages and changes posted on Blackboard.

• In the event of a major campus emergency, course requirements, deadlines and grading rubrics are subject to change as needed. I’ll post changes in schedule and assignments on Blackboard.

• What should you call your instructors? Please call me Professor ______.

• All electronica should be turned OFF during class. Please bring hard copies of briefs and notes to class with you every day, along with your casebook. (Sometimes I will make exceptions when I are discussing readings that are only available on Blackboard).

• I will be engaging in face-to-face discussion often in this class, so pay attention when other students are speaking: that’s where you’ll learn much of the course material.

• Purdue University has an Emergency Preparedness Plan which is attached to this syllabus. Further information: http://www.purdue.edu/ehps/emergency_preparedness/. Please familiarize yourself with these policies.

• Grading scale:

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<th>Total Percent</th>
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<tr>
<td>&gt;93</td>
<td>A</td>
<td>77-79.9</td>
<td>C+</td>
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<tr>
<td>90-92.9</td>
<td>A-</td>
<td>73-76.9</td>
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<td>87-89.9</td>
<td>B+</td>
<td>70-72.9</td>
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<td>83-86.9</td>
<td>B</td>
<td>60-69.9</td>
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<td>80-82.9</td>
<td>B-</td>
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Briefing a Case

A case brief is a short summary of the important facts and analysis in a court decision. A case brief follows a specific format. It should be short, concise, and specific. Use the sub-headings outlined below.

1. Title of Case and/or Parties Involved.
This element includes the names of the parties or the litigants. In a civil case, this would be the plaintiffs and defendants (or appellants and appellees). In a criminal case, this would be the government (state or federal, or name of government official bringing the case) and the defendant. You should also list the name of the court hearing the case if it is not clear from the citation.

For example:
Smith v. Smith, 2 U.S. 100 (2007) – Civil case, followed by case citation (if available).

2. Facts.
Include a short – no more than 2-4 sentences – specific description of the situation, crime, or dispute that brought the case to court. This information should be apparent from reading the case.

3. Issue.
What is the legal issue or the legal question upon which the court is being asked to rule? For example, in Brown v. Bd. Of Education (1954) the issue was:
Does the 14th Amendment’s Equal Protection clause prohibit segregation on the basis of race in public education?

4. Holding.
What did the court decide? Did the Court uphold or overturn a statute? Did the court overturn a lower court’s decision? Did the court find in favor of one party or the other?

5. Reasoning.
How does the court explain their verdict or holding? Is there a specific legal rule the court has applied? Does the court use other cases to justify its ruling?

6. Dissenting Opinions.
Did anyone disagree with the main opinion? Why? There may not be a formal dissenting opinion. If there is no opinion, write “No opinion” or just the names of the dissenters if the opinion itself is not included.

For more information, see:
http://www.lib.jjay.cuny.edu/research/brief.html