

PLSI 314 (Spring 2007)
Judicial Power and the Constitution (5 units)

MW, 6pm – 8:05pm (CRN: 21274);

Location: MUSIC Room 113

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Office Hours: Tuesdays 12:30pm – 5:00pm & Wednesdays, 4:30pm – 6pm, or by appt.

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Course Purpose/Objectives: This is a course in American Politics. The major purpose is to illuminate the role and functions of courts, primarily the U.S. Supreme Court, in the American political system. Put another way, the key objective is to conceptualize and discuss courts and law as **part of**, not apart from, the political process.

The central focus of the course is on the Supreme Court and its role in dealing with major problems and issues of constitutional law. Principally, these problems and issues will be examined in two major areas: 1) the nature and operation of separation of powers; and 2) the nature and operation of the federal system. While the civil rights and liberties of individuals will be discussed in the context of these two major areas, detailed treatment of these issues are reserved for PLSI 315 – Civil Liberties (offered again in 2007-08).

Particular attention is given to: a) the nature, capacity, and limitations of courts and the judicial process in dealing with policy issues; b) the substance of judicial policies and factors that might account for policy continuity and change over time; c) the role of the judicial function in the resolution/management of policy conflict; and d) the relation and interaction of the judiciary with other governing institutions, i.e., the Congress and the President, in the formulation of public policy and in the political system generally.

Course assignments and required participation in classroom discussions are designed to enhance students' oral presentation and writing abilities.

Required Texts: The required texts for the course, Epstein and Walker, *Constitutional Law for a Changing America – INSTITUTIONAL POWERS AND CONSTRAINTS*, Sixth Edition (E&W) and Robert G. McCloskey's *The American Supreme Court*, Fourth Edition (McCloskey) are available at the University Bookstore. Mandatory supplementary readings will be announced in class, and will generally be available via our WebCT course page, or on the online supplement to E&W.

Course Format/Expectations: Generally, the class will be conducted in an informal lecture-discussion format, designed to stimulate continuous active engagement and dialogue between the instructor and students and between and among students

themselves. Each week, to stimulate preparation and enrich class participation, a selected panel of one-third of the students (Group A, B, or C) will be responsible for answering questions of fact and opinion regarding cases and materials assigned for that week (these students will also be responsible for turning in original, typed case briefs at the start of each class that week). This should in no way discourage other students from participating, but priority will be given to those students “on call.” As noted below, class participation is an important component of your overall course grade.

Grading

Class Participation & Written Briefs..... 25%
 Mid-Term Examination35%
 Final Examination/Paper.....40%

Course Outline (subject to change):

WEEK OF	TOPIC(S)
March 26	<i>Course Orientation</i> <i>The U.S. Constitution and Judicial Power</i> E&W, Part I (p. 3-12) McCloskey, Chapter One E&W, Ch. 1 (p. 13-25) E&W, Part II (p. 55-61)
April 2	<i>Supreme Court Decision-making</i> E&W, Ch. 1 (p. 25-52) <i>Judicial Review</i> McCloskey, Chapter Two E&W, Ch. 2 (p. 62-94) <i>Constraints on Judicial Power</i> E&W, Ch. 2 (p. 94-122)
April 9	<i>Legislative Power</i> McCloskey, Chapter Three E&W, Ch. 3
April 16	<i>Executive Power</i> E&W, Ch. 4
April 23	<i>Separation of Powers</i> E&W, Ch. 5
April 30	Review & Midterm Examination

- May 7 *Federalism*
 E&W, Part III (p. 339-343)
 McCloskey, Ch. 4 and 5
 E&W, Ch. 6
- May 14 *The Commerce Clause*
 McCloskey, Ch. 6 (p. 91-100)
 E&W, Ch. 7
- May 21 *The Contract Clause*
 E&W, Ch. 9
Economic Substantive Due Process
 McCloskey, Ch. 6 (p. 100-120)
 E&W, Ch. 10
- May 28 *Takings Clause*
 E&W, Ch. 11
 (No class Monday, May 28 - Memorial Day)
- June 4 Last Day of Classes
 Course Wrap-up
 McCloskey, Ch. 9, Epilogue, Coda

Final Examination – Wednesday, June 6 – 5pm – 7:30pm