

SYLLABUS

CONSTITUTIONAL LAW

- PROFESSOR:** Rex Grady
jrg@classattorneys.com
- WHEN:** Thursdays, 6 p.m. to 9 p.m. (September 3, 2009 to April, 2010)
- UNITS:** 6
- PREREQUISITE:** Completion of Second Year Course Work
- REQUIRED TEXT:** Ronald D. Rotunda. *Modern Constitutional Law: Cases and Notes* (9th Edition). St. Paul, MINN: Thompson & West, 2007. ISBN 978-0-314-19566-1.
- ASSIGNMENTS:** Approximately sixty pages from the required text will be assigned each week. Students must be prepared for presentations and be able to articulate issues, respond to questions and take part in general discussions related to the assigned material.
- ATTENDENCE:** The Law School and the California Bar Association require law students to attend a certain number of class sessions per semester. Attendance, however, has further significance in that it is an opportunity to reinforce understanding of readings and to acquire *additional* knowledge from lectures and discussions that may prove useful and necessary at the time of examination and beyond.
- GRADING:** Grading will be based on exams and participation. Five percent of a student's grade will be based on participation, which itself will be determined at the Professor's discretion, relying on attendance and apparent preparedness to discuss assignments. Thirty percent of a student's grade will be based on performance on the mid-term's three essay questions. Sixty-Five percent of a student's grade will be based on performance on the final exam's three essay questions.
- To receive a passing grade in the course, a student must receive no less than sixty-five percent of all points possible once all calculations have been made.
- OBJECTIVE:** To acquire a rudimentary understanding of the Constitution of the United States and the jurisprudence arising from it, with a primary focus on the doctrines devised to interpret and construe *Articles I, II, III, IV, and VI*, the *Bill of Rights* and the *Thirteenth, Fourteenth and Fifteenth Amendments*.

SEMESTER ONE

Week 1: September 3, 2009

The Origin and Nature of the *Constitution of the United States*, and the Meaning of *Article III*, including a Discussion of the Doctrines of Justiciability
Assigned reading: pp. li-lxxiv (*The Constitution*), and pp. 1-70

Week 2: September 10, 2009

Article III and the Doctrines of Justiciability; and *Article I* and the 10th Amendment: the Doctrines of Implied and Enumerated Powers.
Assigned reading: pp. 1431-1491 and pp. 70-97

Week 3: September 17, 2009

Article I, Article VI and the *Tenth Amendment*: limitations on State Power-- the "Dormant Commerce Clause," the Privileges & Immunities Clause, and the Supremacy Clause.
Assigned reading: pp. 97-172.

Week 4: September 24, 2009

Article I: Modern Development of the Commerce Power, With Some Consideration of the Taxing and Spending Powers.
Assigned reading: pp. 173-225

Week 5: October 1, 2009

Article I and the *Tenth Amendment*: Federalism and the Clash of Dual Sovereignties.
Assigned reading, pp. 250-288.

Week 6: October 8, 2009

Article I and *Article II*: Separation of Powers between Congress and the Executive—Foreign Relations (War Powers & Treaty Power).
Assigned reading: pp. 289-304 and pp. 345-372

Week 7: October 15, 2009

Article I and *Article II*: Separation of Powers between Congress and the Executive—Naturalization Power, Citizenship & Alienage
Assigned reading: pp. 304-345 and pp. 372-388

Week 8: October 22, 2009

Article I and *Article II*: Separation of Powers Between Congress and the Executive—the Control Over the Executive Departments, Executive Privilege and the Appointment and Removal Powers.
Assigned reading: pp. 398-428 and pp. 442-465

Week 9: October 29, 2009

Article I, Article II, and Article V: Separation of Powers between Congress and the Executive—the Control Over Legislation, the Legislative Power (Presentment, Veto and Qualification of Members), Congressional Privilege, and Term Limits.
Assigned reading: pp. 52-57, pp. 389-398, 428-442, 465-482.

Week 10: November 5, 2009

Civil Rights Under the Original Constitution: *Article I, Sections 9 and 10, Article IV, and the Fifth Amendment*—Bills of Attainder, Contract Impairment, Ex Post Facto Laws, Habeas Corpus, Privileges and Immunities, Takings and Due Process of Law, with Special Consideration of the Bill of Rights & the Second Amendment.
Assigned reading: pp. 538-593

Week 11: November 12, 2009

The Civil War Amendments: Precedents, Framing and Early Jurisprudence, with Special Consideration of the Emergence of Substantive Due Process and the Incorporation Doctrine.
Assigned reading: pp. 483-507

Week 12: November 19, 2009

Procedural Due Process under the *Fifth and Fourteenth Amendments.*
Assigned reading: pp. 507-538

Week 13: November 26, 2009

The Fourteenth Amendment and Modern Substantive Due Process
Assigned reading: pp. 594-658

Week 14: TBA

Review: The Constitution as a Grant of Power by the People and a Statement of Limitations on the Exercise of Power by the Government

Mid-Term Exam: TBA

SEMESTER TWO

Week 1: January 7, 2010

Introduction to Equal Protection: History and Early Jurisprudence—the emergence of Suspect Classes
Assigned reading: pp. 659-700

Week 2: January 14, 2010

Equal Protection: Discrimination, Reverse Discrimination and Special Classifications

Assigned reading: pp. 700-741

Week 3: January 21, 2010

Equal Protection: Special Classifications Continued, including a discussion of deFacto v. deJure discrimination

Assigned reading: pp. 741-790

Week 4: January 28, 2010

Equal Protection: Fundamental Rights

Assigned reading: pp. 790-852

Week 5: February 4, 2010

Equal Protection: Fundamental Rights Continued (contraception)

Assigned reading: pp. 853-896

Week 6: February 11, 2010

Equal Protection: Fundamental Rights Continued and *Fourteenth* and *Fifteenth Amendments*-based Statutes

Assigned reading: pp. 896-970

Week 7: February 18, 2010

Introduction to the *First Amendment*: the Establishment, Free Exercise, Speech, Press, Assembly and Petition Clauses, with Some Consideration of the *Amendment's* History and Early Jurisprudence

Assigned reading: pp. 971-1000

Week 8: February 25, 2010

The *First Amendment* Speech Clause: Time, Place and Manner Restrictions on Speech

Assigned reading: pp. 1000-1059

Week 9: March 4, 2010

The *First Amendment*: Fighting Words and the Press Clause

Assigned reading: pp. 1059-1114

Week 10: March 11, 2010

The *First Amendment*: Protection of Commercial Speech and Constitutional Limitations on Tort Law— Defamation and Privacy

Assigned reading: pp. 1114-1169

Week 11: March 18, 2010

The *First Amendment*: Symbolic Speech, Political Campaigns as Speech, and Obscenity.

Assigned reading: pp. 1217-1316

Week 12: March 25, 2010

The *First Amendment*: the Implied Freedom of Association

Assigned reading: pp. 1169-1217

Week 13: April 1, 2010

The *First Amendment*: The Establishment Clause

Assigned reading: pp. 1317-1400

Week 14: April 8, 2010

The *First Amendment*: The Free Exercise Clause & Review

Assigned reading: pp. 1410-1430

Final Exam: TBA

Date: _____

Rex Grady, Professor

Date: _____

Patrick M. Broderick, Dean