

**POLS 3352-01 | Spring 2020****U.S. Constitutional Law****Dr. Marcus E. Hendershot,  
Assistant Professor****Schreiner University****Humanities Division****W.C. Weir #205****mhendershot@schreiner.edu****@su\_politics** (Twitter)**(830) 792-7325**Class Hours

Monday:

Tuesday:

1:40 to 2:55pm-Weir 109

Wednesday:

Thursday:

1:40 to 2:55pm-Weir 109

Friday:

Office Hours

Monday:

11:00 to 12:30pm

Tuesday:

12:05 to 1:00pm

Wednesday:

11:00 to 12:30pm

Thursday:

12:05 to 1:00pm

Friday:

*By Appointment***I. Course Description**

This course represents a typical constitutional law offering and is intended to help our pre-law students prepare for the law school environment. The legal academy emphasizes the case study approach and the Socratic method, so this course will act as your introduction to those techniques.

To earn a Juris Doctorate (JD), one must take numerous classes in different areas of the law. We cannot offer that type of breadth within a single semester, but we are going to touch on some essential areas of constitutional law, such as Separation of Powers (SOP), Economic Regulation (ER) and Civil Liberties and Rights (CLR). We will begin with some landmark precedents related to the authority of the different branches of government and then transition to the changes in economic regulation that were ushered in by the New Deal. To close out the course, we will roughly follow the sequence of landmark precedents that furthered the incorporation of the Bill of Rights and the establishment of Civil Rights.

While covering this material, you will be introduced to some essential tasks that you will need at the next level, such as: 1) reading common law cases (i.e., opinions or precedents); 2) writing briefs of opinions; and 3) evaluating hypothetical scenarios and applying precedents to them.

We will introduce and work on these aspects throughout the semester at a level that is below the full measure. For example, we will be working with shorter edited opinions and doing fewer cases than you would normally take on in a session. You will be responsible for reading and responding to questions on these cases, meaning that we will mix in some Socratic method. However, we will not exclusively rely upon that technique.

Our learning objectives are four-fold this semester:

- 1) Develop the analytical/critical-thinking skills that will allow you to apply abstract legal precedents to concrete cases and controversies
- 2) Develop the writing skills necessary to construct briefs of legal precedents and applications of those precedents.
- 3) Gain a broader knowledge of the development of constitutional authority in the areas of SOP, ER and CLR

## II. Required Text and Readings

The required text for the course is a volume of edited Supreme Court opinions:

Epstein, Lee and Thomas G. Walker. 2012. *Constitutional Law for a Changing America (A Short Course)*, 5<sup>th</sup> Ed. Washington DC, CQ Press.

ISBN: 9781608716975

It will be supplemented by other readings that will be made available to students in Adobe PDF format through the Canvas system, which provides a web-based resource for the course that will act as the current calendar of readings/lectures:

Schreiner Canvas System

<https://schreiner.instructure.com/>

Please make note of the help button on the lower left-hand menu. It will be useful for issues specific to the Canvas system. For other Schreiner technical issues, such as user accounts, email and passwords, you can utilize:

Schreiner Help Desk

(830) 792-7344

[helpdesk@schreiner.edu](mailto:helpdesk@schreiner.edu)

## III. Calendar of Topics

Tuesday	01/14/20	<u>Lecture / Discussion</u> <b>Introduction to the Course</b>
Thursday	01/16/20	<u>Lecture / Discussion</u> <b>Social Contracts &amp; The Constitution</b> Epstein & Walker. 2012 – Ch. I &1
Tuesday	01/21/20	<u>Lecture / Discussion</u> <b>U.S. Supreme Court Context</b> Epstein & Walker. 2012 – Ch. 2 <b>Drop-Add deadline (1/22)</b>

Thursday	01/23/20	<u>Discussion</u> <b>SOP – Judicial Authority</b> Epstein & Walker. 2012 – Ch. II & 3 (-75) <i>Marbury v. Madison</i>
Tuesday	01/28/20	<u>Discussion</u> <b>SOP – Judicial Authority</b> Epstein & Walker. 2012 – Ch. 3 (75-85) <i>Exparte McCardle</i>
Thursday	01/30/20	<u>Discussion</u> <b>SOP – Legislative Authority</b> Epstein & Walker. 2012 – Ch. 4 (-109) <i>McCulloch v. Maryland</i> <b>Brief Due – Marbury v. Madison</b>
Tuesday	02/04/20	<u>Discussion</u> <b>SOP – Legislative Authority</b> Epstein & Walker. 2012 – Ch. 4 (109-120) <i>US v. Curtis Wright</i> <i>Mistretta v. US</i>
Thursday	02/06/20	<u>Discussion</u> <b>SOP – Legislative / Executive Authority</b> Epstein & Walker. 2012 – Ch. 4 (120-125) <i>INS v. Chadha</i> Epstein & Walker. 2012 – Ch. 5 (-138) <i>Clinton v. City of New York</i>
Tuesday	02/11/20	<u>Discussion</u> <b>SOP – Executive Authority</b> Epstein & Walker. 2012 – Ch. 5 (138-152) <i>US v. Nixon</i> <i>Clinton v. Jones</i>

Thursday	02/13/20	<p><u>Discussion</u></p> <p><b>SOP – Executive Authority</b></p> <p>Epstein &amp; Walker. 2012 – Ch. 5 (-165)</p> <p><i>Korematsu v. US</i></p> <p>Medina, Jennifer, “For survivors of Japanese internment camps, Court’s Korematsu ruling is ‘bittersweet’” <i>New York Times</i>, 28 June 2018. (SC)</p> <p><i>Four week grades due (02/13)</i></p>
Tuesday	02/18/20	<p><u>Discussion</u></p> <p><b>SOP – Executive Authority</b></p> <p>Epstein &amp; Walker. 2012 – Ch. 5 (165-177)</p> <p><i>Youngstown Sheet &amp; Tube v. Sawyer</i></p> <p><i>Hamadi v. Rumsfeld</i></p> <p><b>Brief Due – US v. Nixon</b></p>
Thursday	02/20/20	<p><u>Discussion</u></p> <p><b>SOP – Federalism</b></p> <p>Epstein &amp; Walker. 2012 – Ch. III &amp; 6 (-198)</p> <p><i>McCulloch v. MD</i></p> <p><i>Hammer v. Dagenhart</i></p>
Tuesday	02/25/20	<p><u>Discussion</u></p> <p>Epstein &amp; Walker. 2012 – Ch. II &amp; 6 (198-210)</p> <p><i>US v. Darby</i></p> <p><i>Garcia v. SAMTA</i></p> <p><i>Printz v. US</i></p>
Thursday	02/27/20	<b>Midterm Exam</b>
Tuesday	03/03/20	<b>Midterm Exam</b>
Thursday	03/05/20	<p><u>Discussion</u></p> <p><b>ER - Commerce Clause</b></p> <p>Epstein &amp; Walker. 2012 – Ch. 7 (-231)</p> <p><i>Gibbons v. Ogden</i></p> <p><i>Schechter Poultry v. US</i></p> <p><b>Drop deadline (03/05)</b></p>

Tuesday	03/10/20	<u>Discussion</u> <b>ER – Commerce Clause</b> Epstein & Walker. 2012 – Ch. 7 (231-242) <i>NLRB v. Jones &amp; Laughlin Steel</i> <i>US v. Lopez</i>
Thursday	03/12/20	<u>Discussion</u> <b>ER – Commerce Clause</b> Epstein & Walker. 2012 – Ch. 7 (247-255) Heart of Atlanta Motel v. US Cooley v. Board of Wardens <i>Midterm grades due (03/12)</i>
Tuesday	03/17/20	Spring Break
Thursday	03/19/20	Spring Break
Tuesday	03/24/20	<u>Discussion</u> <b>The Civil Liberties &amp; Rights Agenda</b> Pacelle, Richard L., Jr. 1991. <i>The Transformation of the Supreme Court's Agenda: From the New Deal to the Reagan Administration</i> . Boulder: Westview. Chs TBA (SC) <i>US v. Carolene Products (SC)</i>
Thursday	03/26/20	<u>Discussion</u> <b>CLR - First Amendment (Speech)</b> Epstein & Walker. 2012 – Ch. 13 (-418) <i>Gitlow v. New York (SC)</i> <i>Schenck v. US</i> <i>Texas v. Johnson</i> <i>Brief Due – Gonzalez v. Raich</i>
Tuesday	03/31/20	<u>Discussion</u> <b>CLR - First Amendment (Press)</b> Epstein & Walker. 2012 – Ch. 14 (-473) <i>Near v. MN</i> <i>Miller v. CA</i> <i>New York Times v. Sullivan</i>

Thursday	04/02/20	<u>Discussion</u> <b>CLR - First Amendment (Establishment)</b> Epstein & Walker. 2012 – Ch. 12 (-374) <i>Sherbert v. Verner</i> <i>Employment Division v. Smith</i> <i>Lemon v. Kurtzman</i>
Tuesday	04/07/20	<u>Discussion</u> <b>CLR – Civil Rights</b> Epstein & Walker. 2012 – Ch. VII & 19 (-609) <i>Plessy v. Ferguson</i> <i>Shelley v. Kraemer (SC)</i>
Thursday	04/09/20	<u>Discussion</u> <b>CLR - Civil Rights</b> Epstein & Walker. 2012 – Ch. VII & 19 (609-614) <i>Sweatt v. Painter (SC)</i> <i>Brown v. Board of Education</i>
Tuesday	04/14/20	<u>Discussion</u> <b>CLR - Civil Rights</b> Epstein & Walker. 2012 – Ch. 19 (614-622) <i>Reed v. Reed</i> <i>Craig v. Boren</i> <i>Obergefell v. Hodges (SC)</i>
Thursday	04/16/20	<i>Student Achievement Showcase</i>
Tuesday	04/21/20	<u>Discussion</u> <b>CLR - Criminal Justice</b> Epstein & Walker 2012 – Ch. VI & 17 <i>Mapp v. Ohio</i> <i>Miranda v. Arizona</i>

Thursday	04/23/20	<u>Discussion</u> <b>CLR - Criminal Justice</b> Epstein & Walker 2012 – Ch. 18 (-575) <i>Gideon v. Wainwright</i> <i>Escobedo v. IL (SC)</i>
Tuesday	04/28/20	<u>Discussion</u> <b>CLR - Criminal Justice</b> Epstein & Walker 2012 – Ch. 18 (575-584) <i>Gregg v. Georgia</i>
Tuesday	05/05/20	<b><u>Final Exam</u></b> 10:30 to 12:30pm

#### IV. Course Requirements / Grading

During this course you will construct 3 legal briefs and together those briefs will constitute 36% of your grade. You will also complete midterm and final examinations that will constitute 52% of your final grade. These exams will take an essay form and will require you to construct briefs, explain different aspects of legal development and/or apply legal precedents to a hypothetical scenario.

Because this is a constitutional law course, attendance and participation is extremely important to the course. You must read and be prepared to cover cases during the class sessions. To insure that people are doing that work, attendance and participation will account for 12% of your grade. If you are called upon and are not prepared to cover the assigned material, then you will receive half credit for attendance for that day.

Physical attendance will be recorded for each class session. An excused absence will be allowed per university guidelines. Typically, universities allow for a number of acceptable reasons to miss a class session, such as illness, family emergencies, religious holidays, and participation in athletic or academic events. In these cases, you will be granted an excused absence that will not count against your grade. The prerequisite for an excused absence, however, is prior notification. That means you must send an email to me before the missed class period (send to [mhendershott@schreiner.edu](mailto:mhendershott@schreiner.edu)) Attendance will begin with the first class session.

Occasionally, a student will be traveling for academic or athletic events during a regularly scheduled examination period. Please contact me the week before the examination, so that we can arrange an alternative time or format.

Students with a documented medical excuse that conflicts with a course assignment should likewise contact me to establish an alternative time for submission / completion. All others that miss an assignment or exam deadline potentially are subject to a late penalty. Typically, I will assess a 5% penalty for each school day that it is delayed.

The breakdown of the course grade will be the following:

	<b>Requirement</b>	<b>Weight</b>
1.	Attendance / Participation	12%
2	Legal Briefs (3)	36%
3.	Midterm Exam	26%
4.	Final Exam	26%
		100%

<b>Numerical</b>	<b>Letter</b>
100-90	A
89-80	B
79-70	C
69-60	D
59-0	F

## **V. Policies and Guidelines**

### ***Academic Integrity and Student Conduct Policies***

Activity in this course is subject to the *Schreiner University Academic Code of Conduct* and the *Student Code of Conduct*, both of which are located within the *Student Handbook*:

<http://www.schreiner.edu/student-life/student-handbook.aspx>

#### *Schreiner University Academic Code of Conduct*

These rules govern the standards and penalties for violations of academic integrity, such as cheating, plagiarism, fabrication, collusion and other questionable practices. Broadly speaking, an incident of *academic dishonesty* occurs when a student presents another's work (in whole or part) as his or her own. More specifically, *plagiarism* is the act of stealing or using the ideas or written text of another and representing them as one's own.

These types of behaviors can occur within exam answers, research papers, and other course assignments.

You should know that plagiarism and any other forms of cheating will not be tolerated and it will be handled according to the appropriate provision within these university regulations. Student papers are subject to review by a plagiarism checking service (e.g., turnitin.com). Violations will be pursued and may result in an F grade for this course and possible expulsion from the University.

#### *Student Code of Conduct*

The *Student Handbook* also addresses more general matters of personal conduct, such as violations of criminal law, fraud, alcohol/drug use, student hazing, and sexual misconduct or violence (see also, Title IX below). Although these particular items are less likely to be encountered within a classroom setting, an issue could present itself. To the extent that this set of policies become relevant, we will abide by the intent and purpose of Schreiner University's *Student Code of Conduct*.

### ***Title IX: Sexual Discrimination/Harassment/Misconduct/Assault***

Schreiner University is committed to maintaining a learning environment that is free from inappropriate conduct based on gender. As required by *Title IX*, the University does not discriminate on the basis of sex in its education programs and activities, and it



encourages any student or employee who thinks that he or she has been subjected to sex discrimination, sexual harassment (including sexual violence) or sexual misconduct by another student, member of the faculty or staff, or campus visitor or contractor, to immediately report the incident to any of the individuals or offices listed below:

<https://schreiner.edu/campus-life/title-ix/>

Dr. Travis Frampton (Title IX Coordinator)  
Provost & VP for Academic Affairs  
830-792-7351  
[provost@schreiner.edu](mailto:provost@schreiner.edu)

Wendy L. Blaettner (Deputy Coordinator)  
Director of Human Resource Services  
(830) 792-7375  
[wblaettner@schreiner.edu](mailto:wblaettner@schreiner.edu)

Dr. William Davis (Deputy Coordinator)  
Dean of the Faculty  
830-792-7415  
[wdavis@schreiner.edu](mailto:wdavis@schreiner.edu)

Dr. Charles Hueber (Deputy Coordinator)  
Dean of Students  
(830) 792-7278  
[cmhueber@schreiner.edu](mailto:cmhueber@schreiner.edu)

Schreiner University takes acts of sexual violence and sexual harassment seriously. In an effort to comply with the *Violence Against Women Act* and the Office for Civil Rights federal guidelines, all students are required to complete training on sexual violence prevention. Along these lines, you are already aware of these policies and understand that you are expected to abide by them.

For those who have confidentiality concerns regarding a Title IX report, you should know that faculty and staff are *Mandatory Reporters* under this act. If you discuss a potential violation with a professor, then she *must* report it.

You do have a couple of other options for consultation. First, you may take advantage of Schreiner University Counseling Services, which has stronger confidentiality protections. You may also utilize the Campus Conduct Hotline as an anonymous means of reporting questionable conduct:

Kim Woods  
Director of Counseling Services  
Mountaineer Fitness Center | CMB 6220  
(830) 792-7279 | [kjwoods@schreiner.edu](mailto:kjwoods@schreiner.edu)  
<https://schreiner.edu/campus-life/campus-services/health-services/>

Campus Conduct Hotline  
(866) 943-5787

Given this course is in the discipline of political science we will throughout the semester be discussing issues and policies that are discomfoting or controversial in some manner. We will make every attempt to take an academic orientation toward these topics, but students and faculty can and do make errors that can be insulting or off putting to others. Feel free to contact me in a confidential manner and we will address any such issue.

### ***Matters of Accommodation***

Schreiner University supports the Americans with Disabilities Act (ADA) and welcomes requests for reasonable accommodation. The University in compliance with Title VI and VII of the Civil Rights Act of 1964, Executive Order 11246 as amended, Title IX of the Education Amendments of 1972, Americans with Disabilities Act of 1990, and other federal laws and regulations, does not discriminate on the basis of race, color, national

origin, sex, age, religion, disability or status as a veteran in any of its policies practices or procedures. This includes but is not limited to admissions, employment, financial aid and educational services.

Every effort will be made to make accommodations for those who fall under the *Americans with Disabilities Act of 1990* and the *Rehabilitation Act of 1973*. Students desiring academic adjustments/auxiliary aids should contact:

Dr. Jude Gallik

Director of Learning Support Services/Section 504 Coordinator  
(830) 792-7258 | [jgallik@schreiner.edu](mailto:jgallik@schreiner.edu)

In terms of accommodations and this particular course, please contact me directly and we will handle it in a discrete manner according to University guidelines.

### ***Unanticipated Events, Incomplete Grades & Withdrawals***

On some occasions, a student will come down with an extended illness, or get called up for military duty, etc. These situations will be dealt with on a case by case basis and are often resolved through withdrawal from the course or through an incomplete grade agreement between the student, academic advisor and professor. I am extremely reluctant to go forward with an incomplete grade in any course. In the event that a substantive cause is present to do so, we will proceed through the guidelines found in the *Student Handbook*.

Withdrawal from this course will be governed by the University's procedure and applicable deadlines. Students contemplating withdrawing from the university during the term, or not returning after a break, should contact the Registrar. In addition to discussing reasons for withdrawing, it is very important that the withdrawal policy be followed, so that severe financial problems can be avoided. Please refer to the *Schreiner University Catalog* for more information about withdrawals.