

**PLS 321 Constitutional Law
Michigan State University
Department of Political Science
Fall 2018
Monday and Wednesday 12:40 – 2:00
114 Berkey Hall**

Instructor: Elizabeth Lane
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Office Hours: 2:00 – 3:00 M&W, or by appointment
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I. PURPOSE

This course is designed to examine the development of individual liberties and protections provided by the Constitution of the United States as interpreted by the U.S. Supreme Court. Specifically, we will focus on how the Supreme Court defines, establishes, and interprets provisions enumerated in the Bill of Rights and ensuing amendments, and how this process has developed over time. Students should leave this class with a fundamental understanding of the Constitution, how the Supreme Court operates in a common law system, and critical knowledge of the Court’s decisions that have defined and shaped the history of the United States. This course is not about the mere recitation of facts or personal opinions. While there will be opportunities for discussion, students should be able to support their views with well-reasoned legal justifications. The writing, analytical thinking, and general topic of this course provides excellent preparation for future legal and government work/studies, and aims to make you a more informed citizen.

II. OBJECTIVES AND LEARNING OUTCOMES

1. Develop a substantive understanding of historical and modern developments in the constitutional law of civil rights and civil liberties.
2. Understand how societal and political factors interact with the law. Particularly, understand how these factors influence Supreme Court justices, and their interpretation of the constitution and decision making on these issues.
3. Develop the ability to read, understand, and interpret U.S. Supreme Court decisions, and effectively summarize their decisions.
4. Apply your understanding gained from course readings and lectures to current and hypothetical legal issues to arrive at a well-reasoned decision that you can clearly articulate with sufficient legal justification.
5. Appreciate different decisions and viewpoints of constitutional interpretation. Be able to explain and apply these different views in your coursework, regardless of which side of the debate you prefer.
6. Enhance your oral and written communications skills through classroom discussion and written assignments.
7. Improve small group work skills including enhancing your listening and communication to better learn from one another and work together.

III. COURSE TEXTS

Required Text

Epstein, Lee and Thomas G. Walker. 2016. *Constitutional Law for a Changing America: Rights Liberties, and Justices*. Ninth Edition. Washington D.C.: CQ Press. ISBN-10: 1483384012.

Although previous editions exist, I will be teaching out of the ninth edition. This means that all assignments, group discussion, and exams will be from the content in this edition, which I expect you to also use. Use earlier editions at your own risk.

Supplemental Text

Additional readings on the course schedule that are not in the textbook will be posted on the course D2L page. You can also locate these texts yourself on LexisNexis. As an MSU student you have full access to this legal database via the library's website. On the library's website select "Electronic Resources" under the Resources tab, and once there click on LexisNexis Academic. Your textbook also includes an online repository of almost all of the supplemental readings.

IV. COURSE REQUIREMENTS & GRADING

Your course grade will be graded on a points system (points earned divided by points possible). The points will consist of class attendance, participation, briefing assignments, quizzes, two exams, and a pre- and post-test. A summary of the points breakdown is as follows:

<u>Assignment</u>	<u>Due Date</u>	<u>Points</u>
Constitutional Law Pre-Test	Wednesday, 9/5	50
Briefing-Discussion Memos	Throughout Semester	100 (~9.10 each)
Quizzes	Throughout Semester	200 (50 each)
Midterm	Monday, 10/15 – Monday, 10/22	200
Constitutional Law Post-Test	Monday, 12/3	50
Final Exam	Monday, 12/3 – Monday, 12/11	200
Attendance & Participation	Throughout Semester	200 (8/class)
Total		1,000

Assignment Description

Constitutional Law Pre- & Post-Tests (100 points)

These multiple-choice tests will be **graded for completion only**. Your grade is not based on how many questions you get right/wrong. These will be used to gauge your knowledge of the Supreme Court and constitutional law prior to taking the class, and evaluate how much you learn/retain by the end of the semester.

Briefing-Discussion Memos (100 points)

These will be **graded for completion and good faith effort**. Each memo will receive a check plus (full credit), a check, or a check minus. Since the Facts Issue Rule Application Conclusion (FIRAC) briefing style is likely new to most of you, everyone is expected to complete the first assignment, due Monday, September 17, 2018. I will provide feedback on this assignment to guide your future work. However, I will not provide feedback if you did not put forth the effort expected of a Briefing-Discussion Memo.

- In addition to the first memo, each student is required to complete 10 additional Briefing-Discussion memos, a total of 11 for the semester. Of the 10 additional memos, you must complete four prior to midterm and the final six after the midterm, prior to the final exam.

- The memos must include the FIC of a FIRAC brief for each case listed on the schedule for that day. This component of this assignment is to help you learn how to organize and clarify Supreme Court decisions. You must also summarize how the cases fit together and share your opinion on the justices' decisions. The goal of the discussion portion is to synthesize the case information and share your perspective. That is, how do these cases fit together, and do you think the justices got these cases "right?"
- Improving your ability to work in small groups is a primary goal of this course. Therefore, each week you will sit with a randomly assigned group of peers. During group time, I expect you to discuss the FIRAC components of a case and be prepared to answer my questions as I call on your group. If your group is unable to answer, your participation will be reduced by 1 point for the day.
- Memos are due at 11:59 am on the day of class on D2L. **All memos must be uploaded as a PDF.** Please see Late Work section of the syllabus if you fail to make this deadline.

Quizzes (200 points)

There will be four quizzes throughout the semester. These quizzes will serve as an assessment to ensure you are keeping up with course content between exams. They will take place at the beginning of the class period for the day that they are scheduled. The quizzes will consist of true or false and multiple-choice questions.

Exams (400 points)

The exams for this class will mirror the Supreme Court's opinion writing process. Students will be assigned to a group with four other students that will represent the Supreme Court. Prior to the week of exams, each group will be provided a hypothetical Supreme Court case. Each student is expected to arrive on exam day with notes prepared as to how the case should be decided. The exams will be a collaborative effort and result in each group crafting a majority and dissenting opinion. More details on exams to follow.

Attendance & Participation (200 points)

You will be awarded eight total points per class period for attendance and participation. Four points are for attendance, this includes being on time and staying the entire class period. Attendance will be tracked with a sign-in sheet. An additional four are for participation. Participation points will be awarded as long as you are not a distraction, I see you taking notes, and participating in group and class discussion, etc. I will also randomly collect short responses before the end of class throughout the semester that will count towards your participation for the day. As the table above shows, eight total points per class period totaling 200 points accounts for your participation grade for the semester. As a result, for full attendance, you must attend 25 of the 29 scheduled lectures. Due to this policy, I will not take/require excused absences in the form of a doctor's note. If circumstances arise during the semester that will result in an extended absence from class that will surpass the four allotted absences, please communicate this with me as early as possible and stay in contact with me. We will arrange a way to stay current on coursework.

Late Work

Late Briefing-Discussion Memos will be dropped by one point each hour they are late. That is, if your memo due at 11:59 pm is handed in at 12:59 am (one hour late), the highest possible grade you can receive is ~ 8.1 points. You must make arrangements in advance if you are going to be absent on a quiz day. Presence is required on exam days due to their collaborative nature.

Grading Scale

4.0 = 90 – 100%	2.5 = 75 – 79.9%	1.0 = 60 – 64.9%
3.5 = 85 – 89.9%	2.0 = 70 – 74.9%	0.0 = < 60%
3.0 = 80 – 84.9%	1.5 = 65 – 69.9%	

V. COURSE POLICIES & RESOURCES

You are solely responsible for your conduct in this course and informing yourself of all relevant departmental, college, and university policies governing your behavior. This includes, but is not limited to, policies regarding academic integrity and plagiarism, accommodations for students with documented disabilities, religious holidays, and student athlete travel.

Spartan Code of Honor & Academic Integrity

The Spartan Code of Honor was adopted in March, 2016. I expect all students in this class to conduct themselves in a manner consistent with this code. Violations of the SCH will be addressed through existing policies, regulations, and ordinances governing academic honesty and integrity. The SCH reads:

“As a Spartan, I will strive to uphold values of the highest ethical standard. I will practice honesty in my work, foster honesty in my peers, and take pride in knowing that honor in ownership is worth more than grades. I will carry these values beyond my time as a student at Michigan State University, continuing the endeavor to build personal integrity in all that I do.”

In upholding the Spartan Code of Honor, you are expected to maintain academic integrity, which MSU defines as, “honest and responsible scholarship. As a student, you are expected to submit original work and give credit to other peoples’ ideas. For more information on academic integrity please visit: <https://ombud.msu.edu/academic-integrity/What%20is%20Academic%20Integrity.html>.

Academic Dishonesty and Plagiarism

MSU General Student Regulation 1.00 states that “no student shall claim or submit the academic work of another as one’s own.” Regardless if plagiarism is accidental or intentional, students are held to the same standards. **Read** MSU’s definition and examples of plagiarism at <https://ombud.msu.edu/academic-integrity/plagiarism-policy.html>. You are responsible for knowing and understanding the University’s policy on plagiarism so to prevent yourself from violating it.

Written assignments for this class may be subject to review by plagiarism detection software. Incidents of dishonesty may also be reported to the Department or University, which can result in further disciplinary action.

WORD OF WARNING: There are several online resources that that summarize the facts of the case, the main issue, and decision. I **strongly** recommend that you **DO NOT VISIT** these websites until after you have written your discussion memo, and even when you do use them, only use them as a reference. I do not want you to be tempted to use these words as you own to summarize the case. Any part of your memo or exams that are plagiarized from one of these websites will be discussed with the student. I have the right to turn them over to the Department or University for academic dishonesty.

Electronics in Class

Laptops: I encourage you to take notes using pen and paper because it forces you to think about what you are hearing, resulting in superior retention and understanding (see [this article](#) for more information).

However, I know some students prefer to use their laptops. If you choose to do so, I ask that you sit on the far-left section (away from the door) of the classroom, or the back four rows of the middle section. The rest of the middle section and the right side of the classroom are reserved for traditional note takers.

Cell Phones: The use of cell phones in class is strictly prohibited. I will make an exception if you have an emergency situation that requires you to take a call during class. If this happens during the semester please inform me via email or come talk to me BEFORE class begins. If your cell phone is a noticeable distraction to me or students around you, I reserve the right to alter your attendance/participation grade for that day.

Course Communication

Class announcements will be posted on the News section of D2L. If you would like to set up D2L notifications so you get an email or text message anytime something is posted, I encourage you to do so. This can be done by logging into D2L, click your name in the top right part of the screen, select “Notifications.” I would suggest checking the boxes for “News – item updated” and “News – new item available.” Therefore, you are responsible for checking your D2L account. If you need to schedule a meeting outside of office hours, have questions regarding course material, or other topics, please feel free to email me. When emailing, please include “PLS 321:” as the first part of the subject line followed by your specific concern. If you have questions regarding due dates or reading assignments **consult the syllabus or a classmate.**

You will also be submitting assignments via D2L. You are responsible for giving yourself enough time to do so. **If you encounter complications with D2L contact them first** (contact information found on your D2L home page on the right-hand side). If the issue remains unresolved after contacting them, then you can email me, but please provide proof of your communication with D2L.

Accommodations for Students with Disabilities

Michigan State University is committed to maximizing ability and opportunity for full participation by persons with disabilities. If you have already made accommodation arrangements, please inform me of your needs at **the beginning of the course** and present me with your VISA form. If you need to request accommodations, you may do so by contacting the Resource Center for Persons with Disabilities at <https://www.rcpd.msu.edu/services/accommodations>. Once your eligibility and accommodation has been determined, you will be issued a verified individual services accommodation (“VISA”) form. Please present this form to me once you receive it, at least **two weeks** prior to the accommodation date (test, project, paper, etc.). I will make all accommodations moving forward from this date. I am unable honor retroactive accommodations.

MSU Writing Center

The majority of your grade in this class is based on writing assignments and exams. I encourage you to visit the MSU Writing Center’s website for online resources at <http://writing.msu.edu/>, or schedule an appointment to get feedback on your writing. The assignments are writing based so that you can practice writing about legal topics and hone this skill throughout the semester. Past experience leads me to believe that most of you will want to go on to graduate school, law school, or work in government/politics in some way. All of these careers require you to communicate effectively through your writing.

Grief Absence Policy

MSU is committed to providing students who have lost a family member or experiencing emotion distress with reasonable accommodations. Information on this policy can be found at <https://reg.msu.edu/ROInfo/Notices/GriefAbsence.aspx> . If you have recently suffered a loss, you are responsible for:

1. Notify the Associate Dean or designee of their college of the need for a grief absence in a timely manner, but no later than one week from the student’s initial knowledge of the situation
2. Provide appropriate verification of the grief absence as specified by the Associate Dean
3. Complete all missed work as determined in consultation with the instructor

To obtain the Grief Absence Request Form, visit <https://reg.msu.edu/Forms/FormsMenu.aspx> and click Grief Absence Request Form. Once the form is submitted and reviewed by the Associate Dean or designee you will receive a confidential message confirming the submission and reminding that you must provide supporting documentation and directions as to where to send it.

Classroom Recording

If you wish to record classroom lecture you must ask the instructor for permission prior to doing so. Any recording **OR** dissemination of classroom content without permission to do so is strictly prohibited and subject to academic disciplinary actions.

VI. SCHEDULE OF TOPICS, READINGS, AND ASSIGNMENTS

I expect to follow this schedule closely. Though I do not anticipate needing to, I reserve the right to modify the syllabus and course schedule as necessary. All changes (if any) will be announced in class and on D2L.

* on schedule below denotes that the reading is on D2L.

PART 1: INTRODUCTON AND INCORPOARATION

Wednesday, August 29

Course Introduction

Syllabus

Pre-Test

Monday, September 3

NO CLASS LABOR DAY

Wednesday, September 5

The United States Supreme Court

Understanding the U.S. Supreme Court

PRE-TEST DUE 12:00 PM

Ch. 1 pgs. 10 – 44

Monday, September 10

The United States Supreme Court Contd.

*Crafting Law on the Supreme Court: The Collegial Game**

Maltzman, Spriggs, and Wahlbeck (2000)

D2L

Wednesday, September 12

Understanding Opinions & Judicial Review

FIRAC Introduction*

Judicial Review

Marbury v. Madison

Ch. 2 – pgs. 45 – 56

D2L

Monday, September 17

Institutional Constraints on Judicial Power

Jurisdiction

Ex parte McCardle

Standing

*Lujan v. Defenders of Wildlife**

FIRST BRIEFING-DISCUSSION MEMO DUE

Ch. 2 – pgs. 56 – 65

D2L

Wednesday, September 19

Incorporation & Fundamental Rights

Ch. 3 – pgs. 66-87

Incorporation of the Bill of Rights

Barron v. Baltimore

Hurtado v. California

Fundamental Rights Analysis

Palko v. Connecticut

Duncan v. Louisiana

PART II: FIRST AMENDMENT RIGHTS – FREEDOM OF RELIGION

Monday, September 24

Free Exercise Clause

Ch. 4 – pgs. 95 – 115

The Compelling Interest Standard

Cantwell v. Connecticut

Sherbert v. Verner

Wisconsin v. Yoder

Wednesday, September 26

Free Exercise Clause Contd.

QUIZ # 1
Ch. 4 – pgs. 115 – 131,
D2L

The Smith Standard

Employment Division v. Smith

RFRA/RLUIPA

City of Boerne v. Flores

*Burwell v. Hobby Lobby**

Monday, October 1

Establishment Clause – Church State Entanglement

Ch. 4 – pgs. 131 – 153

Everson v. Board of Education

School District of Abington Township v. Schempp

Lemon v. Kurtzman

Wednesday, October 3

Establishment Clause – Church State Entanglement Contd.

Ch. 4 – pgs. 153 – 176

Zelman v. Simmons-Harris

Edwards v. Aguillard

Town of Greece v. Galloway

Monday, October 8

Establishment Clause – Displays & Government Involvement

QUIZ # 2
Ch. 4 – pgs. 176 – 190,
D2L

Religious Displays

Van Orden v. Perry

*Lynch v. Donnelly**

Government Involvement in Religious Organizations

Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC

PART III: SECOND AMENDMENT RIGHTS

Wednesday, October 10

The Right to Bear Arms

*United States v. Miller**

District of Columbia v. Heller

McDonald v. City of Chicago

Ch. 9 – pgs. 379 – 389,
D2L

Monday, October 15

MIDTERM WORK DAY 1

Wednesday, October 17

MIDTERM WORK DAY 2

**PART IV: FIRST AMENDMENT RIGHTS – FREEDOM OF SPEECH, ASSEMBLY, &
ASSOCIATION**

Monday, October 22

Development of Legal Standards

Pre-WWII

Schenck v. U.S.

Abrams v. U.S.

Gitlow v. New York

MIDTERM DUE
Ch. 5 – pgs. 191 – 209

Wednesday, October 24

Development of Legal Standards Contd.

Post-WWII

Dennis v. U.S.

Brandenburg v. Ohio

Development of Contemporary Tests

U.S. V. O'Brien

Ch. 5 – pgs. 210 – 228

Monday, October 29

Development of Contemporary Tests

Texas v. Johnson

Chaplinsky v. New Hampshire

Cohen v. California

Ch. 5 – pgs. 228 – 241

Wednesday, October 31

Speech Forum & Context Analysis

McCullen v. Coakley

Snyder v. Phelps

U.S. v. Alvarez

Ch. 5 – pgs. 242 – 258

Monday, November 5

Speech Forum & Context Analysis Contd.

Tinker v. Des Moines Independent Community School District

Morse v. Frederick

West Virginia State Board of Education v. Barnette

Rumsfeld v. Forum for Academic and Institutional Rights, Inc.

Ch. 5 – pgs. 258 – 276

Wednesday, November 7

Commercial Speech & Freedom of Association

Commercial Speech

Bates v. State Bar of Arizona

Central Hudson Gas and Electric Corp. v. Public Service Commission of New York

Freedom of Association

Boy Scouts of America v. Dale

QUIZ # 3

Ch. 5 – pgs. 276 - 292

PART V: FIRST AMENDMENT RIGHTS – FREEDOM OF THE PRESS

Monday, November 12

Prior Restraint

Near v. Minnesota

New York Times v. U.S.

Hazelwood School district v. Kuhlmeier

Ch. 6 – pgs. 293 – 309

Wednesday, November 14

Government Control of Press Content & Media Special Rights

Content Regulation

*Miami Herald v. Tornillo**

Media Special Rights

Branzburg v. Hayes

Ch. 6 – pgs. 309 – 320,
D2L

PART VI: FIRST AMENDMENT RIGHTS – BOUNDARIES OF EXPRESSION

Monday, November 19

Libel & Obscenity

Libel

New York Times v. Sullivan

Hustler Magazine v. Falwell

Obscenity

Roth v. U.S.

Miller v. California

Ch. 7 – pgs. 321 - 347

PART VII: RIGHT TO PRIVACY

Wednesday, November 21

Developing a Right to Privacy

Griswold v. Connecticut

*Eisenstadt v. Baird**

Ch. 10 – pgs. 390 – 401,
D2L

Monday, November 26

Development of Reproductive Rights

Roe v. Wade

Planned Parenthood of Southeastern Pennsylvania v. Casey

Ch. 10 – pgs. 401 – 425

Monday, November 28
Privacy Extended – Sexual Orientation
Lawrence v. Texas
Obergefell v. Hodges

QUIZ # 4
Ch. 10 – pgs. 427 – 448

Monday, December 3
FINAL EXAM WORK DAY 1

POST TEST DUE

Wednesday, December 5
FINAL EXAM WORK DAY 2

Monday, December 11
FINAL EXAM DUE BY 2:45 PM