



# UNIVERSITY of WISCONSIN EAU CLAIRE

## **POLS 338, “Judicial Politics” – Fall 2017**

Mon/Wed/Fri, 2:00 p.m. – 2:50 p.m., 303 Hibbard Hall

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### **I. Overview and Goals**

*“Judges are like umpires. Umpires don’t make the rules; they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules. But it is a limited role. Nobody ever went to a ballgame to see the umpire... I will remember that it’s my job to call balls and strikes and not to pitch or bat.”*

-- Chief Justice John Roberts, Opening statement at Senate confirmation hearings, Sept. 12, 2005

*“The test of an independent judiciary is a simple one – the one you would apply in choosing an umpire for a baseball game. What do you ask of him? You do not ask that he shall never make a mistake or always agree with you, or always support the home team. You want an umpire who calls them as he sees them.”*

-- Justice Robert H. Jackson, Speech before the American Bar Association, Dec. 13, 1951

The two quotes above discuss the role of judges in our system of government. Although each one makes the analogy of a judge to a baseball umpire, the two quotes have subtly different meanings. Chief Justice Roberts emphasizes that judges should be restrained in their rulings and remain largely in the background of American politics. Justice Jackson, on the other hand, uses the umpire analogy to advance the idea that the judiciary should be independent from other branches of government if judges are to be impartial and fair. In each case, these justices are attempting, in a few words, to explain what they view as the proper way for our judicial system to function.

This course will examine the role of the courts and the justice system in American society. We will look at the court system as an institution and how it is used by police, lawyers, judges, politicians, the media, and others. We will also look at law as it exists on the books and compare that to how the law operates in real life. Furthermore, we will examine controversial legal issues, such as the war on terrorism, the war on drugs, rights of the criminally accused, abortion, and the death penalty.

This class is intended for you to learn to think critically about law and courts as both legal and political institutions. For you to be able to do this, I will ensure that there is time for clarification and opportunities to ask questions. This also means that what we do in class will depend on the types of questions and ideas you bring to discuss. Therefore, it is important that you consistently do the readings and pay careful attention during class to maximize your time and receive the greatest educational benefit. Be ready to debate and discuss political and legal issues, and do not be shy about asking questions when you are confused. In that vein, this is a class where we are trying to learn different sides of important issues concerning the courts and law, so please be respectful of others’ opinions and always be prepared to reevaluate your own. For my part, I promise to work to create an environment where issues can be freely discussed and where everyone feels comfortable.

## II. Contacting me

### A. Office Hours

Feel free to ask me questions and discuss issues with me during my office hours:

- Mondays, Wednesdays, & Fridays – 10:00 a.m. to 10:50 a.m., 412 Hibbard Hall
- Mondays – 1:00 p.m. to 1:50 p.m., 412 Hibbard Hall
- By appointment

### B. E-mail ([kasperet@uwec.edu](mailto:kasperet@uwec.edu))

I typically check my email multiple times per day, so feel free to pass along questions to me in this format. Depending on what you are asking, I will work hard to respond within 48 hours. A word of caution thought: Do *not* expect me to reply to your 3:00 a.m. plea for help the night before an exam or assignment is due. Recognize, too, that in some situations it may be more appropriate for me to (1) hold your questions for class if the timing is right and other students could benefit from hearing us discuss them; or (2) ask that you come in during office hours or meet me after class.

I live in Rice Lake and commute to Eau Claire typically only on Mondays, Wednesdays, and Fridays, so email is usually the best and most reliable way to reach me on days when I am not teaching class.

## III. Grading

The grading breakdown for this class will be as follows:

- 2 In-Class Midterm Exams – 50 points each
- 1 In-Class Final Exam – 100 points
- 1 Short Research Paper – 20 points
- 1 Law & Popular Culture Paper – 20 points
- 1 Court Report – 20 points
- Class Participation – 40 points

Your **two in-class midterm exams** will relate to the readings and lectures, and they will be closed-book and closed-notes exams taken in class. Your **one in-class final exam** will also relate to readings and lectures, and it will be closed-book and closed-notes. The final exam will be comprehensive, but it will be weighted more heavily toward the material covered after the second midterm exam.

**One short research paper** is also required. For this paper, you need to choose a legal issue that is discussed in the “Debating Law, Courts, and Politics” pages in the *Judicial Process* textbook (or another issue that I have approved). An example of a “Debating Law, Courts, and Politics” issue is listed on page 37 in *Judicial Process*. For this paper, you should take a side on the issue and compose a typed, double-spaced paper of no more than five pages (not counting your works cited page) defending your position. This paper should be a Word document or PDF with 1-inch margins. Use either Times New Roman 12-point font or Calibri 11-point font. You should cite information from the textbook, but you are also required to cite at least three other academic sources in your paper that help you make your arguments. These citations should be within the text of the paper, and you should create a works cited page. When documenting your sources, use *The Chicago Manual of Style* ([http://www.chicagomanualofstyle.org/tools\\_citationguide.html](http://www.chicagomanualofstyle.org/tools_citationguide.html)). This paper must be turned into the D2L dropbox by the beginning of class on the day it is due.

You must also write a **law and popular culture paper**. This paper is to be based on one of the films or television programs discussed in the *Judicial Process* textbook (you must receive instructor approval to write on a film or program not in the textbook). An example is located on page 29 in *Judicial Process*.

You are to watch either one of these movies or two episodes of one of these television shows. Then write a paper about the movie/TV show that (1) provides a summary of the movie/episodes you watched, and (2) relates what you observed to what is written in the textbook and/or what we have discussed in class (for example, did the movie/TV show accurately depict what you learned in class?). For this paper, you should compose a typed, double-spaced paper of no more than five pages defending your position. Cite to course readings when analyzing what you observed. Papers should be on 8.5” by 11” paper with 1-inch margins. Please use either Times New Roman 12-point font or Calibri 11-point font. This paper must be turned into the D2L dropbox by the beginning of class on the day it is due.

A **court report** is also a component of this class. The report entails each student visiting a county courthouse and sitting in on a court proceeding for at least one hour. If the proceeding lasts less than one hour, you may leave or stay for additional proceedings. These are to be proceedings in which neither you nor a member of your immediate family is a party. You are to then type a report of no more than five double-spaced pages. Reports are to be on 8.5” by 11” paper with 1-inch margins. Please use either Times New Roman 12-point font or Calibri 11-point font. The report should include the caption (name of the case), the type of proceeding, and the names of the county, the presiding judge, the parties, and the attorneys. You should also describe what occurred at the hearing or trial, and you should relate what you observed to the concepts we discussed in class (cite to course readings when explaining this). This assignment must be turned into the D2L dropbox by the beginning of class on the day it is due.

Court schedules are available on the Wisconsin Court System’s “Report” page, located at <http://wcca.wicourts.gov/reportList.xsl?jsessionid=D4615BCFB7EB77A27BE0A71FF3303D9B.render2> On the page, go to “Court Calendar,” select the county court you wish to visit, and click “Go.” On the next page, select the date(s) you would like to visit the court, and click “Search.” You will then be able to view all of the cases scheduled for that county on the day(s) you have chosen. However, since court schedules are subject to change, it is always a good idea to confirm on the day of the case that the proceeding has not been cancelled. You can do this by calling the clerk of court. The Eau Claire County Clerk of Court can be reached at (715) 839-4816. Contact information for court clerks from other Wisconsin counties can be found at <http://www.wicourts.gov/contact/docs/clerks.pdf>. If you do not have transportation to court, please contact me *within the first three weeks of class* to resolve the problem.

There will be many chances for you to earn points toward your **participation grade**. During class, I will ask questions about the readings, I will ask general discussion questions, and I will leave ample opportunity for you to ask questions if you need clarification. I may also have the class do a thematic exercise or group activity. Although I do not expect any of you to dominate class discussions, I do expect that you will be able to volunteer a thoughtful comment or answer a question if called on. You are not required to attend class, but you need to be present in order to earn participation points (authorized absences will not count against your participation grade). If you do not meet these aforementioned expectations, your participation grade will reflect it accordingly. Finally, pop quizzes are an option if there are problems with the entire class doing the readings and participating in discussions, and these quizzes would be factored into your participation grade.

According to university policy on accommodating students’ religious beliefs, if you have a conflict between an academic requirement (such as an exam) and a religious observance, you must explain to me *within the first three weeks of class* the dates and nature of the conflict to schedule an alternative.

You are responsible for all materials whether you attend class or not. If you do miss class, you should obtain missed assignments, notes, announcements, and handouts from a classmate before returning.

#### IV. Grading Scale

The grading scale for individual assignments is as follows:

93% - 100%	A	80% - 82%	B-	67% - 69%	D+
90% - 92%	A-	77% - 79%	C+	63% - 66%	D
87% - 89%	B+	73% - 76%	C	60% - 62%	D-
83% - 86%	B	70% - 72%	C-	0% - 59%	F

Your final grade will be determined out of 300 points as follows:

279-300 points	A	240-248 points	B-	201-209 points	D+
270-278 points	A-	231-239 points	C+	189-200 points	D
261-269 points	B+	219-230 points	C	180-188 points	D-
249-260 points	B	210-218 points	C-	0-179 points	F

#### V. Administrative Information

1. Academic Calendar – Refer to <https://www.uwec.edu/Registrar/calendar/upload/Academic-Registration-Calendar-2017-2018.pdf> for semester registration and withdrawal dates.
2. Special Needs – Any student who has a disability and is in need of classroom accommodations should see me and contact the Services for Students with Disabilities Office in Centennial Hall 2106 at the beginning of the semester.
3. Academic Integrity – As a college student, you are part of an academic community and are expected to behave in a manner that is respectful of that community, in part by being academically honest. According to *The Blugold Student Conduct Code*, examples of academic misconduct include, but are not limited to “cheating on an examination,” “submitting a paper or assignment as one’s own work when a part or all of the paper or assignment is the work of another,” and “submitting a paper or assignment that contains ideas or research of others without appropriately identifying the sources of those ideas.”

According to UWS 14.04, potential consequences for such misconduct include the following:

- (a) An oral reprimand;
- (b) A written reprimand presented only to the student;
- (c) An assignment to repeat the work, to be graded on its merits;
- (d) A lower or failing grade on the particular assignment or test;
- (e) A lower grade in the course;
- (f) A failing grade in the course;
- (g) Removal of the student from the course in progress;
- (h) A written reprimand to be included in the student’s disciplinary file;
- (i) Disciplinary probation; or
- (j) Suspension or expulsion from the university.

Please refer to *The Blugold Student Conduct Code* for further details:

<http://www.uwec.edu/DOS/upload/Blugold-Student-Conduct-Code-2016-2.pdf>.

4. Class Demeanor – As noted above, your course grade depends in part on your attendance and participation in class. In addition, you will be expected to behave professionally. I will not tolerate disruptive behavior, including, but not limited to, reading newspapers, playing on a computer or phone, conversing out of turn, or insulting classmates or the instructor.

5. Late Policies – Typically, if you miss a class when an exam is scheduled, you will receive a zero on the exam. If you know ahead of time that you cannot be in class on an exam day, please contact me before that class date to schedule a make-up exam *before* the exam date. Make-up exams after an exam date will be given only if there is a major and substantiated complication which prevents timely completion, and that determination will be made solely at my discretion. Each written class assignment must be turned into the D2L dropbox before the start of class on the day it is due. To be fair to the rest of the class, your grade on a late written assignment will be reduced by one full letter grade if it is late and an additional full letter grade for every class period thereafter that it is late.

## VI. General Statement on Written Assignments

For any written assignments in this class, please keep in mind the following guidelines. The more of these guidelines that you follow, the better your grade will be on a given written assignment.

- 1) Explain “why” you believe your claim is the best one. In other words, arguments should be fully developed, not just rhetoric and talking points.
- 2) Cite specific evidence to back up arguments made in the assignment. This means going beyond general statements like “many people believe . . .” or “most Americans think . . .” and offering quotes, statistics, public opinion poll data, etc. to back up your arguments.
- 3) Provide analysis to information cited. In other words, the written work should interpret the quotes or statistics that it cites.
- 4) Concede points to the opposition. The topics for written assignments in this class deal with debatable, sometimes controversial, issues. Reasonable people can, and do, disagree on them.
- 5) Properly cite reputable sources. For this class, that includes articles in academic journals (including law reviews), and/or scholarly books; it may also include government publications or major media outlets. If you have questions about whether a source is reputable, contact me.
- 6) Edit for grammar, punctuation, capitalization, and spelling.

## VII. Legal Disclaimer

NOTHING THAT I STATE IN THE COURSE OF TEACHING THIS CLASS CONSTITUTES LEGAL ADVICE TO ANY STUDENT(S) IN THE CLASS OR TO ANY OTHER PERSON(S). I am a member of the Wisconsin State Bar, but I am in no way creating an attorney-client relationship with anyone in this class to advise anyone on any legal matters.

In a college classroom setting we are discussing general situations and hypotheticals for academic purposes. Legal questions such as the ones we will be discussing are often decided by courts after fact-intensive inquiries. Obviously, we do not have time to cover all of the relevant law that would be necessary to litigate such cases (that is what law school is for). If you have specific legal questions, I would encourage you to consult with an attorney.

## VIII. Texts

The following textbook is required for the course. It is available at the UW-EC Bookstore.

- Neubauer, David W. and Stephen S. Meinhold, 2013, *Judicial Process: Law, Courts, and Politics in the United States*, Belmont, CA: Wadsworth/Thomson Learning.

Also, there is a course reading packet of “classic” cases and articles. It is available on D2L.

- Reading Packet (RP)

## IX. Schedule

WEEK	TOPICS	READINGS	WORK DUE
<b>A. Introduction &amp; Legal Institutions</b>			
One (9/6)	Introduction to the Class; Law, Courts, & Politics	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 1)</li> <li>• <i>RP</i> (pp. 1-8)</li> </ul>	
Two (9/11)	Law & Legal Systems	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 2)</li> <li>• <i>RP</i> (pp. 9-20)</li> </ul>	
Three (9/18)	Federal Courts	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 3)</li> <li>• <i>RP</i> (pp. 21-30)</li> </ul>	<b>Short Research Paper Due (9/22)</b>
Four (9/25)	State Courts	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 4)</li> <li>• <i>RP</i> (pp. 31-33)</li> </ul>	
<b>B. Interpreting &amp; Consuming the Law</b>			
Five (10/2)	Lawyers & Legal Representation	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 5)</li> <li>• <i>RP</i> (pp. 34-43)</li> </ul>	
Six (10/9)	Judges	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 6)</li> </ul>	<b>Midterm Exam I in Class (10/13)</b>
Seven (10/16)	Litigants, Interest Groups, & the Media	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 7)</li> <li>• <i>RP</i> (pp. 44-59)</li> </ul>	
<b>C. Trial Courts</b>			
Eight (10/23)	Preliminary Stages in Criminal Cases	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 8)</li> </ul>	
Nine (10/30)	Bargaining & Sentencing in Criminal Cases	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 9)</li> <li>• <i>RP</i> (pp. 60-68)</li> </ul>	<b>Law &amp; Pop Culture Paper Due (11/3)</b>
Ten (11/6)	Preliminary Stages in Civil Cases	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 10)</li> <li>• <i>RP</i> (pp. 69-74)</li> </ul>	
Eleven (11/13)	Dispositions in Civil Cases	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 11)</li> </ul>	<b>Midterm Exam II in Class (11/17)</b>
Twelve (11/20)	Trials & Juries	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 12)</li> </ul>	
11/22-11/26	<b>THANKSGIVING BREAK</b>		
<b>D. Appellate Review</b>			
Thirteen (11/27)	The Appellate Process	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 13)</li> <li>• <i>RP</i> (pp. 75-78)</li> </ul>	
Fourteen (12/4)	The U.S. Supreme Court	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 14)</li> <li>• <i>RP</i> (pp. 79-89)</li> </ul>	<b>Court Report Due (12/8)</b>
Fifteen (12/11)	The U.S. Supreme Court	<ul style="list-style-type: none"> <li>• <i>Judicial Process</i> (Ch. 15)</li> <li>• <i>RP</i> (pp. 90-100)</li> </ul>	
Final Exam	<b>Final Exam</b>	Check registrar's website for final exam time (Likely exam time: Fri., 12/22 at 3:00 p.m.)	<b>Final Exam</b>