Course Description

This course is a survey of the landmark decisions of the U.S. Supreme Court throughout American history. The course covers both cases about the structure of our government and cases interpreting the Bill of Rights and the Fourteenth Amendment. Topics include executive powers, congressional authority under the Commerce Clause, nation-state relations, economic liberties, freedom of the press, the right to privacy, the rights of the criminally accused, civil rights of women and minorities and affirmative action.

I also hope the course will familiarize students with the inner workings of the Supreme Court and the highly political nature of its decisions. Contrary to the way law is taught in our nation’s law schools, we will see how Supreme Court decisions are rarely based on interpretation of legal precedent, but rather, turn on the personal preferences of the individual justices or the Court as a whole. Hopefully, that will allow students to view future Supreme Court cases through the lens of a political scientist.

Finally, for those of you planning to attend law school, I believe that reading and analyzing these seminal Supreme Court cases will allow you to begin to understand the “legalese” with which the Supreme Court speaks to its audience and put you in a better position tackle difficult case law once getting to law school.

Class Format

This class will meet twice a week; the class meetings will consist of a combination of lectures and discussion. Each student will also be required to present two assigned cases to the class during the course of the semester. It is expected that you will have read the reading material prior to each class meeting so that you can actively participate in discussions.

Contacting the Professor

I encourage students to attend my office hours to discuss not only issues arising in this class, but more generally, questions about law school and the practice of law. I am happy to share insights about my own law school experience as well as my experience as a litigator in a big NY City law firm. You should also feel free to e-mail me with questions and concerns. If you cannot make my office hours, please e-mail me to set up an appointment. However, I want to warn students that I check my e-mail very and my voice mail very irregularly in the evenings or on weekends so
please do not be offended if I do not respond during my off-hours.

**Policy on Extensions**

If a religious observance will limit you from sticking to the class schedule, you MUST see me at the beginning of the semester. If you want other extensions, please do not ask me if you can have an extension. Instead, follow the policy below.

**Excused extensions**

There are only two contingencies which are acceptable for the excused postponement of a test or final paper: personal illness or family crisis. If either of these contingencies prevents you from taking an exam or turning in the final paper, you are entitled to an excused extension. The following steps must be taken:

1. PRIOR to the class period in which the work is due or the exam is to be given, you must notify me that you will not be present at the exam or that you cannot submit the assignment. This notification must be made before the actual class begins.

2. You MUST contact me by 5 pm of the following day to arrange when the work will be completed.

3. You MUST submit to me at the time of your make-up exam, or at the time your final paper is submitted, a signed, written statement indicating that you are acting in accord with Wellesley’s Honor Code. The signed statement may be brief and needs only to indicate; (1) that you are requesting an excused extension; (2) that the reason for the extension is consistent with the criteria described above; and (3) that you are acting in accord with Wellesley’s honor code.

**Unexcused Extensions**

I will assume that any work submitted without a written statement is an unexcused extension, and will be subject to the following penalties:

1. Missed exams must be made up within one week of the date of the exam. The exam will be reduced by a third of a letter grade for each late day (A to A- the first day, A- to B+ the second dat, etc). After one week, the student will receive a zero.

2. If you turn the final paper in late, your overall grade on the paper will be docked a third of a letter grade for each day late.

**Students with Disabilities**

Students with disabilities who are taking this course and who need disability-related accommodations are encouraged to work with Jim Wice, the Director of Disability Services to arrange these accommodations. His office is located in the Pforzheimer Learning & Teaching
center in Clapp Library.

**Religious Observances**

I am, of course, glad to accommodate any student’s need to miss a class because of a religious observance. You must see me at the beginning of the semester so that we can make any necessary arrangements for missed work. **ALSO BE ADVISED THAT DUE TO MY OWN RELIGIOUS OBSERVANCE, WE WILL NOT HAVE CLASS ON MONDAY, OCTOBER 2ND.**

**Course Requirements and Grading**

The requirements for the class are: two in-class tests; a mock Supreme Court simulation; and a final take-home exam.

All in-class exams will consist of five short answer questions in which you are asked to identify and explain key terms introduced in the class and one long essay in which you will be asked to analyze a hypothetical Supreme Court case. One week prior to the exam I will distribute a list of possible short answer terms from which I will choose five for the exam. The first test will count for 20% of the grade. The second test will count for 20% of the grade.

The final exam will be a take-home exam consisting of one long essay question. The exam will be written by the student in the form of a paper (meaning typed), but the only sources to be used are those assigned in class. The take-home final will be no more than ten typed pages. The final exam will count for 30% of the grade. The final exam will be passed out the last day of class (Dec. 11th) and will be due Friday, December 15th.

You will also be responsible for participating in a mock Supreme Court argument and deliberation. Unlike most mock Supreme Court arguments, you will not be playing the lawyer; I will. Instead, each student will play a justice on the Supreme Court. We will schedule as many cases as necessary to accommodate the size of the class. I will assign a future case the Supreme Court will or may hear, and throughout the semester you will be responsible for researching the relevant case law on this issue, and how your justice has voted in past cases on similar issues. Over the course of the semester, I will have you turn in one-page summaries of the research you have thus far completed. I will also help students learn how to do solid legal research on Lexis-Nexis and Westlaw. On the last day of class, I will present the arguments and allow you, as justices, the opportunity to ask me questions, and then I will ask the Court to engage in deliberations and vote on an outcome. You must vote according to the way you believe your justice would vote in the case. You will also turn in a five-page memorandum explaining your vote. The Supreme Court simulation will count for 20% of the grade.

10% of the grade will come from your class participation in discussions throughout the semester.

**Required Books for Purchase from the Bookstore**
Baum, Lawrence, *The Supreme Court*, CQ Press, 8th ed. 2003 (hereinafter, LB)


In addition to these texts, there will be a number of cases assigned that are not in the case book. Accordingly, you can access these cases through the internet. The easiest site to access Supreme Court cases is: [http://www.findlaw.com/casecode/supreme.html](http://www.findlaw.com/casecode/supreme.html).

**Class Reading Assignments**

Class 1:

Introduction

**I. Introduction to the U.S. Supreme Court**

Classes 2-3:

LB, pp. 2-20, 90-106, 112-152, 167-176, 184-189

**II. Institutional Authority**

A. The Judiciary

Class 4:

EW, pp. 57-71

*Marbury v. Madison*

*Eakin v. Raab* (handout)

Class 5:

EW, pp. 71-81

*Ex Parte McCcardle*

B. The Legislature

Class 6:

EW, pp. 82-104

*U.S. Term Limits v. Thornton*

*Mccullough v. Maryland*

Class 7:
C. The Executive

Class 8:
EW, pp. 122-146

Clinton v. City of New York
U.S. v. Nixon
Clinton v. Jones

Class 9:
EW, pp. 146-170

Korematsu v. U.S.
Youngstown Sheet and Tube
Hamdi v. Rumsfeld

Class 10: Exam No. 1

III. Federal-State Relations

A. Federalism

Class 11:
EW, pp. 179-193

McCullough v. Maryland
Dred Scott Decision
Hammer v. Dagenhart
U.S. v. Darby

Class 12:
EW, pp. 193-204

Garcia v. San Antonio
Printz v. U.S.
B. Commerce Power

Class 13:
EW, pp. 205-230

*Gibbons v. Ogden*
*Schechter Poultry v. U.S.*
*NLRB v. Jones*

Class 14:
EW, pp. 231-242

*U.S. v. Lopez*
*Heart of Atlanta Motel v. U.S.*

**IV. Economic Liberties**

A. Economic Substantive Due Process

Class 15:
EW, pp. 292-314

*Slaughterhouse Cases*, 83 U.S. 36 (1873)(available on findlaw.com)
*Lochner v. New York*
*Adkins v. Children’s Hospital*
*West Coast Hotel v. Parrish*

**Class 16: Exam No. 2**

**V. Civil Liberties**

A. Right to Privacy

Class 17:
EW, pp. 481-500

*Griswold v. Connecticut*
*Roe v. Wade*

Class 18:
EW, pp. 500-509

B. Rights of the Criminally Accused

Class 19:
EW, pp. 527-545

_Mapp v. Ohio_

Class 20:
EW, pp. 545-560

_U.S. v. Leon_
_Miranda v. Arizona_

Class 21:
EW, pp. 562-569, 573-588

_Gideon v. Wainwright_
_Gregg v. Georgia_
_Atkins v. Virginia_

VI. Civil Rights

A. Race Discrimination

Class 22:
EW, pp. 600-612

_Plessy v. Ferguson_
_Brown v. Board of Education_

B. Gender Discrimination

Class 23:
EW, pp. 612-621

_Reed v. Reed_
_Craig v. Boren_

C. Affirmative Action

Class 24:
EW, pp. 632-649
Grutter v. Bollinger

Class 25:
Supreme Court argument and deliberation
5-page memorandum due