Syllabus—Civil Rights
Law 619, Section 001
Professor Dawson

Course Time and Room: Tuesday And Thursday, 1:30-2:20, Room 104i

Office Hours Time and Room: Monday-Thursday 11:00-12:00, Office 252

Professor's Information and Availability:

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My office hours are Tuesday, Wednesday, and Thursday from 11:00-12:00; you don’t need to make an appointment to come see me during office hours. You may also request an appointment outside office hours by email. You can also send me questions by email, but I may ask you to come by if the question isn't easily answered by email. I check my email regularly during business hours (9 am-6 pm) during the week; outside of those times I may not respond the same day.

Required Course Book:

• Nahmod, Wells, and Eaton, Constitutional Torts (4th ed. 2015)

Course Overview and Learning Objectives:

This course focuses on litigating civil rights claims under 42 U.S.C. section 1983, in lawsuits by individuals suing government officials for violations of federal constitutional rights. The course’s learning objectives are that, by the end of the semester, a student should:

• Understand that 42 U.S.C. 1983 is a vehicle to vindicate individuals’ constitutional rights;
• Know the elements of the §1983 cause of action and be able to analyze new facts to determine whether they meet those elements;
• Know and be able to apply to new facts substantive liability standards for specific constitutional claims, including government-employee termination, unlawful search, excessive police force; unconstitutional prison conditions, denial of due process, and unlawful discrimination
• Know and be able to analyze defenses and immunities in §1983 litigation, and understand how current Supreme Court doctrine limits plaintiffs’ ability to recover under §1983;
• Form and be able to defend an opinion about whether current doctrine under §1983 properly balances plaintiffs’ rights against the public interest in officers’ performing official functions;
• Understand the procedural requirements and rules that apply to §1983 suits in federal court, as well as strategic and tactical considerations about how to litigate these lawsuits;
• Explain how courts’ interpretation of §1983 compares to how courts interpret “normal” statutes.
Reading:

For each class, you are expected to do the assigned reading, and I will ask you questions about the reading in class. The reading will include readings from the course book, and in a few places on the syllabus I assign supplementary reading that will be available on TWEN.

Oral Argument Audio:

For many class sessions, I include a link to the oral argument audio for a case assigned in the reading. Listening to the audio is not required unless the syllabus expressly says otherwise. Also, listening to arguments is not a substitute for doing the reading, but I include the audio links because they often provide additional interesting perspective on the cases.

Attendance:

You are allowed four absences for this course. Since the material for this course is challenging, I recommend you not miss class unless it is truly necessary.

Workload Expectations:

As a reminder, ABA and SIU standards define a “credit hour” as one hour of direct instruction, and at least two hours of out-of-class student work. This means that for a two-hour class, like this class, you should expect each week to spend four hours on class preparation, which includes reading and preparing any required assignments.

Recording Policy:

The course sessions will not be recorded, unless required for a disability accommodation.

Call and Participation Policy:

I will call on students in class, in alphabetical order. You get 3 “passes” for the semester—you can pass when called on. Once you’ve used your passes, if you haven’t done the reading or are unprepared when I call on you, I will deduct .1 from your final grade; this deduction can “stack” if you are repeatedly unprepared.

Grading Policy:

Your grade will be determined by the combination of your performance on our class writing assignment, and your performance on the final exam. The writing assignment will count for 25% of your grade, and the exam for 75% of your grade. Grades for the course will be assigned based on the law school grading policy, which is available at http://www.law.siu.edu/_common/documents/rules-code/grading.pdf
Writing Assignment:

Your writing assignment will require you to draft a memorandum or pleading relating to a hypothetical case or potential case under section 1983. I will provide more information on the assignment and the due date later in the semester—the due date will be some time after the end of Spring Break.

Final Exam:

The final exam will be on Wednesday, May 11, at 8:15 a.m.

TWEN Page:

There is a TWEN page for this course, and you should sign up for it. On that page I will post course documents such as this syllabus, handouts, additional reading when assigned, and any powerpoint slides I use in class.

Emergency Procedures:

Emergency Procedures. Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Disability Support Services:

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. http://disabilityservices.siu.edu/. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares:

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By
working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.
Weekly Schedule and Outline

Below is a list of the reading assignments and topics for each course session. The sessions are organized within an outline format that is intended to give you an overview of how each session fits into the larger structure of the course.

For the reading assignments, “Nahmod” means the course casebook. You should read both the lead cases and “notes” assigned. In our book, the notes contain important information about how these topics have been handled by federal circuit courts, and they are fair game for both class discussion and the exam. The schedule also lists other assigned materials, which I will post on TWEN; if you have a question about how to find assigned reading please ask. Finally, for many class sessions, I include a link to oral argument audio—this links should be clickable if you download the syllabus and open it in Word. Listening to the audio is optional, but interesting.

I. Introduction and Basics

1. Tuesday January 19

   **Topic:** Introduction to Course and 42 USC §1983
   **Assignment:** Take the text of 42 USC §1983 (Nahmod p. 2), from the beginning through to “proper proceeding for redress,” and identify the elements of the cause of action.
   **Reading:**
   - Nahmod pp. 1-3 (stop @ heading III.)
   - U.S. Constitution Article III, Ams. 1, 2, 4, 5, 8, 14 (available in many places, e.g., [link])
   - Browse these articles, all recent news stories about civil rights issues or lawsuits, to get a sense of the breadth of issues that can be litigated under section 1983:
     - Lawsuit pending before Supreme Court about whether teachers have a First Amendment right to not pay money to teachers’ union, [link]
     - Supreme Court case on firing government employee for political speech, [link]
     - Challenge to Austin, TX restrictions on campaign contributions, [link]
     - Kentucky court clerk sued to force compliance with Obergefell (same-sex marriage) decision; she sues KY’s governor for religious freedom, [link]
     - Chicago gun restrictions struck down as unconstitutional, [link]
     - Allegations of Chicago cover-up relating to Laquan Macdonald shooting [link]
     - Senior lawyer for Chicago resigns after federal judge finds lawyer withheld evidence in civil suit over police shooting, [link]
     - Summary of controversial police shootings of unarmed black men officers, [link]
     - Lawsuit over Waco biker shootout, [link] (longer article here [link])
     - DOJ investigation and settlement over police shootings in Albuquerque [link]
     - New York City’s stop-and-frisk policy found to be racially discriminatory, [link]
     - Debate between President and his FBI director over whether focus on police shootings is causing police to under-enforce the law, [link]
     - Shooting of two NYC police officers, [link]
     - Alleged abuse by prison guards in Menard Correctional Center, which is about 1 hour away from the law school [link]
     - Lawsuit over death of Sandra Bland while in police custody, [link]
2. **Thursday January 21**  
   **Topic:** *Monroe v. Pape* and the birth of modern 1983 litigation  
   **Reading:** Nahmod pp. 3-22 (stop @ heading VI.)  

3. **Tuesday January 26**  
   **Topic:** *Bivens* actions compared and contrasted with 1983  
   **Reading:** Nahmod pp. 22-42  

II. Under Color of Law

4. **Thursday January 28**  
   **Topic:** “Under color of law” and state action  
   **Reading:** Nahmod pp. 43-56; 75-80; 90-95 (“Notes on Conspiracy”)

III. Substantive Civil Rights Claims Under Section 1983

A. Claims for Government Infringement of Constitutional Rights

5. **Tuesday February 2**  
   **Topic:** Due Process – Liberty and Property  
   **Reading:** Nahmod pp. 97-125 (stop @ Heading C)  
   **Oral Arguments:**  

6. **Thursday February 4**  
   **Topic:** Procedural and Substantive Due Process  
   **Reading:** Nahmod pp. 125-151 (stop @ heading E)  
   **Oral Argument:**  

7. **Tuesday February 9**  
   **Topic:** Relevance of State Remedies to Due Process Claims  
   **Reading:** Nahmod pp. 164-176 (we will likely also cover some of the reading from the previous class; whatever we’re unable to get to on Thursday the 4th)

8. **Thursday February 11**  
   **Topic:** Rights of Persons in Custody  
   **Reading:** Nahmod pp. 151-164; additional reading as posted on TWEN.
9. **Tuesday February 16**

   **Topic:** Fourth Amendment—Excessive Force  
   **Reading:** Nahmod pp. 177-200  
   **Oral Arguments:**  

10. **Thursday February 18**

    **Topic:** Equal Protection  
    **Reading:** Nahmod pp. 201-205; additional reading as posted on TWEN

11. **Tuesday February 23**

    **Topic:** 1st Amendment  
    **Reading:** Nahmod pp. 205-217; additional reading as posted on TWEN  
    **Oral Arguments:**  
    *Heffernan v. City of Patterson*, [https://www.oyez.org/cases/2015/14-1280](https://www.oyez.org/cases/2015/14-1280)  
    *Friedrichs v. California Teachers Association*, [https://www.oyez.org/cases/2015/14-915](https://www.oyez.org/cases/2015/14-915)

IV. **Suing Government Entities—“Persons,” Pleading, and Theories of Liability**

12. **Thursday February 24**

    **Topic:** Which Government Entities Are Suable 1983 “Persons”  
    **Reading:** Nahmod pp. 267-282  
    **Oral Argument:**  

13. **Tuesday March 1**

    **Topic:** Government Liability Pt. I  
    **Reading:** Nahmod pp. 282-300

14. **Thursday March 3**

    **Topic:** Government Liability Pt. II  
    **Reading:** Nahmod pp. 300-322

15. **Tuesday March 8**

    **Topic:** Government Liability Pt. III (Failure to Train)  
    **Reading:** Nahmod pp. 322-348  
    **Oral Argument:** *Connick v. Thompson*, [https://www.oyez.org/cases/2010/09-571](https://www.oyez.org/cases/2010/09-571)
V. Causation

16. Thursday March 10
   Topic: Causation pt. I
   Reading: Nahmod pp. 357-385

March 14-18 SPRING BREAK

17. Tuesday March 22
   Topic: Causation pt. II
   Reading: Nahmod pp. 386-399 (we will probably also spend some time resetting and finishing up the reading from Tuesday, Mar. 10, before the break).

VI. Suing Government Officers—Official Immunities

A. Absolute Immunity

18. Thursday March 24
   Topic: Absolute Legislative and Judicial Immunity
   Reading: Nahmod pp. 401-406 (stop @ “Mr. Justice Douglas”), 410-415 (stop @ “Notes”), 418-432

19. Tuesday March 29
   Topic: Absolute Prosecutorial Immunity; Procedure for Claims of Absolute Immunity
   Reading: Nahmod pp. 433-454

B. Qualified Immunity

20. Thursday March 31
   Topic: Qualified Immunity—Origins and Evolution
   Reading: Nahmod pp. 457-475

21. Tuesday April 5
   Topic: Qualified Immunity—“Clearly Settled” Law
   Reading: Nahmod pp. 475-496

22. Thursday April 7
   Topics: Qualified Immunity—Procedure and Adjudication
   Reading: Nahmod pp. 496-519

23. Tuesday April 12
   Topic: Qualified Immunity; Procedure cont’d; QI for Private Persons
   Reading: Nahmod pp. 519-543
VII. Remedies

24. Thursday April 14
   Topic: Compensatory Damages
   Reading: Nahmod pp. 545-569

25. Tuesday April 19
   Topic: Injunctive Relief and Class Actions
   Reading: Nahmod pp. 595-612

VIII. Procedural Defenses

26. Thursday April 21
   Topics: Statute of Limitations; Release-Dismissal Agreements
   Reading: Nahmod pp. 613-634

27. Tuesday April 26
   Topic: Exhaustion of Remedies
   Reading: Nahmod pp. 648-673

IX. Attorney’s Fees and Ethical Issues

28. Thursday April 28
   Topics: Attorneys’ Fees and Ethical Issues
   Reading: Nahmod pp. 349-356; 702-709; 764-769; 772-777