Syllabus—Constitutional Law
Law 509, Section 002
Professor Dawson

Course Time and Room:
Monday, Tuesday, Wednesday, and Thursday, 9:00-9:50, Room 204 (except as noted on weekly schedule below)

Professor's Information:
Professor Edward Dawson
Office #240; email: edawson@siu.edu

Office Hours/ Availability:
My office hours are Tuesday and Thursday from 2:30-4:00. During office hours, I will be available to take your questions unless I let you know in advance that I will be out on a particular day. You are welcome to come by during office hours to ask questions without making an appointment. You may also request an appointment outside office hours by sending me an email; I am generally in my office most days when I am not teaching class or in a meeting. 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 email regularly during business hours (9 am-5pm Mon. through Fri.); outside those times I may not respond the same day.

Required Course Materials:
• Charles Shanor, American Constitutional Law: Structure and Reconstruction (6th ed.)
• Shanor supplement, details TBA.
• Supplemental readings, as noted below and posted on TWEN

Course Overview:
This course covers federal constitutional law, including the constitution’s structure, the powers of each of the branches of the federal government, the constitutional relation between the federal government and the States, and some of the rights conferred by the Constitution on individuals. In particular, we will cover individuals’ rights to Due Process and Equal Protection, but will not cover rights such as First Amendment rights (covered in the separate First Amendment course) or the rights of criminal suspects and defendants (covered in the Criminal Procedure courses). In addition to learning the constitutional texts and judicial decisions and doctrines, we will also consider and discuss different modes of constitutional interpretation and how those modes can lead to different interpretations of a particular constitutional text.

Learning Objectives:
At the end of this course, a student should be able to:
• Explain the fundamental course themes of divided powers, enumerated powers, the federal division of sovereignty, and the rights of individuals, and discuss these themes with reference to specific constitutional provisions, cases, and doctrines covered in class.
• Be able to answer bar-style multiple-choice questions and write bar-style essay answers on topics covered on the constitutional law section of the Multistate Bar Exam
  o You can see the topics covered on the MEE and MBE in constitutional law here and here.
• Orally explain cases and doctrines covered in the class, through practice via call and individual and group problem solving.
• Express and explain a sophisticated understanding of how legal doctrine develops over time through a line of precedents, and how doctrine may change due to changes in composition of the Supreme Court.
• Be able to understand, explain, and apply to a hypothetical issue different modes of constitutional interpretation.

Reading:
For each class, you are expected to do the assigned reading, and I will ask you questions about the reading in class according to the call policy described below. The reading will primarily be from the casebook and supplement; there will also sometimes be additional reading material posted on TWEN, as noted on the weekly schedule below. Reading material posted on TWEN is required and “fair game” for call in class.

Class Attendance:
You are allowed eight absences for this course. Since the material for this course is challenging, I recommend you not miss class unless it is truly necessary. If you maximize your absences, it can affect your participation grade. If you are at or near the absence limit but feel that extraordinary circumstances account for your absences, you can see me and explain. As described in the call policy in the next section, being unprepared in class can count as an absence.

The school of law’s attendance policy is available at this link:

It explains, among other things, the penalties for exceeding the absence limit, which can include a grade reduction or withdrawal from the course.

Call and Attentiveness Policy:
I will call on students using a random call list—once you have been called on you won’t be eligible to be called on again until I have been through the entire list. You should at a minimum be prepared to summarize the facts, holding, and reasoning of each of the main cases we read, and also to have thought about the questions posed by the casebook’s author in the notes after the cases (see, e.g., the questions posed on page 3). I expect you, if called on, to be able to answer those questions or to tell me specifically why you couldn’t figure out an answer. I may also ask other questions beyond questions about the cases’ facts and holdings, and the questions posed in the casebook’s notes, but you will not be considered unprepared if you are unable to answer them.

You may “note out” before class by giving me a note or telling me that you are not prepared to be on call; noting out counts as an absence. If I call on you and you are unprepared or have not done the reading, I will mark you as absent for that class, the absence will count towards the limit for the
semester, and you will remain on the call list. Being unprepared when called upon will also affect your class participation grade, as explained in the grading section below. So, the advantage of noting out is that it will not affect your grade in the course, unlike being called on and not being prepared.

If I observe that you appear to be using a computer or phone during class for non-class activities, I will warn you once by email and after that may deduct from your participation score. If I observe that whatever you are doing on your computer or other device is distracting other students, I will warn you once by email and if I observe it again will disallow your use of the computer or other device during class.

**Recording Policy:**

Classes will be recorded; the recordings will be available by request. To access a recording of a class, email me the request and I will authorize IT to send you the link. Watching a recording of a class does not count as being present for class unless necessary to accommodate a disability or unless you request and receive my advance approval.

**Grades:**

Your grade will be determined by a combination of your performance on assignments/ quizzes (25%), your class participation (10%), and your performance on the final exam (65%). Grades for the course will be assigned and curved based on the law school grading policy, which is available at [http://www.law.siu.edu/_common/documents/rules-code/grading-rules-ay17-18.pdf](http://www.law.siu.edu/_common/documents/rules-code/grading-rules-ay17-18.pdf).

We will have 8 assignments for this class. 5 will be multiple-choice quizzes, 2 will be practice essays, and 1 is to submit review questions towards the end of the semester. The quizzes are worth 4 points each, the practice essays are worth 2 points each, and the final assignment is worth 1 point. The multiple-choice quizzes will be based on the questions assigned in the Q&A book in preparation for the day of the quiz. No one will be called on days when there is a quiz. The practice essays will be taken from the problems at the back of the Shanor book, or from the Q&A book. The 8th & last assignment is to submit at least one review question in advance of the final.

Your participation score will be based on how attentive you are in class, how you perform when called on in class, and your degree of effort when we discuss problems or conduct group exercises in class. As for call, if you are able to accurately summarize the facts, holding, and reasoning of a case, and to answer the questions in the notes in the casebook, or to explain specifically why you have trouble answering them, I will consider you prepared. If you are unprepared when called on you will lose a point from your participation grade; if you are unprepared a second time you will lose 2 points, 3 points for the third time, and so on.

If you are absent on a day when I would have called on you, I will call on you during the next class you are present; you will not be penalized if you are prepared when I call on you then. If you are absent and the reason for your absence also makes you unable to timely submit an assignment due that day, you may be allowed to turn it in for credit outside of class if you notify me and request permission in advance of the class that you miss.

You do not have to volunteer to speak or ask questions outside of class to get full points for participation; you do have to complete the assignments, be prepared when you are called on, and participate in or complete during class the exercises we will use to build understanding of the material.
The final exam will be on Tuesday, Dec. 4, at 1:15 PM. It will consist of one or more essays and several multiple-choice questions. The final exam will be cumulative, that is, it will cover material from the entire semester.

**Plagiarism and Collaboration**

The in-class quizzes and essays, as well as the final exam in this class are closed-book and no outside sources or collaboration with other students are allowed during the assessments. But, you are welcome to collaborate with your fellow students in preparing for the quizzes, practice essay, or final in any way you like.

**Workload Expectations:**

The American Bar Association standards for accrediting law schools define “a “credit hour” as an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” This is a 4-credit hour class, meaning that we will spend four 50-minute blocks of time together each week. The amount of assigned reading and out of class preparation should take you about 2 hours for each class session and 8 hours for the week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a total of 12 hours per week (4 in class and 8 preparing for class) on course-related work.

**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, and any powerpoint slides I use in class. I will also post supplemental reading and problems on the TWEN page.
Weekly Schedule and Outline:

In class we will discuss constitutional text, cases interpreting the text, the rules and doctrines established by the cases, the policy reasons for the rules, and the interpretive methods used by the Court to arrive at its holdings. We will also work problems and exercises to confirm understanding of the material.

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. I may adjust the assignments may change depending on how fast we move through the material; I will give you advance notice of changes and update the syllabus as we go. I may also assign additional reading or distribute problems to be worked in advance of class. If I do I will give you advance notice in class and post the material on TWEN in advance of the day for which it is assigned.

In the schedule below, “Shanor” means the Shanor textbook, and “Shanor Supp.” means the 2017 supplement to the textbook. “Q&A” means the McGreal, et al. book. As of the initial preparation of this syllabus, the Shanor supplement isn’t yet available, so I will update the syllabus with those readings once it is. For a few classes, there is a supplemental reading that I have prepared that I will post on TWEN.

I. Introduction to Constitution and Course

1) Monday, August 20
   Topics: Introduction to the Course and the Constitution
   Reading:
   - Syllabus
   - Shanor pp. xxv-p.3

2) Tuesday, August 21
   Topics: Brief History of the Constitution; Allegiance to the Constitution
   Reading:
   - Shanor pp. 1-15; 770-779 (appendixes A & B); xxxii (Art. III, section 3)

II. The Judicial Power and Its Limits; Judicial Methods of Interpreting the Constitution

Quiz info: The quiz on this part of the course will be on Thursday, August 30. It will be based on the multiple choice questions at Q&A pp. 1-19 (multiple choice questions), 163-191 (answers). You may want to try and review the questions for each topic as you go; the entire set of questions is included as part of the assignment for Thursday the 30th.

3) Wednesday, August 21
   Topic: Judicial Review of Federal Laws
   Reading:
   - Shanor pp. 16-29; xxxii (Article III sections 1 and 2)
4) **Thursday, August 22**  
**Topics:** Judicial Review of State Laws; Introduction to Theories of Constitutional Interpretation; Use of Precedent  
**Reading:**  
- Shanor pp. 29-47

5) **Monday August 27**  
**Topics:** Theories of Constitutional Interpretation (cont’d); Congress’s Power to Check Judicial Power  
**Reading:**  
- Shanor pp. 47-62  
- Supplemental reading on modes of interpretation, available on TWEN

6) **Tuesday August 28**  
**Topics:** Congress’s Power to Check Judicial Power, pt. II  
**Reading:**  
- Shanor pp. 62-76  
- Excerpt from *Patchak v. Zinke*, available on TWEN

7) **Wednesday August 29**  
**Topics:** Judge-made Checks on Judicial Power—Justiciability  
**Reading:**  
- Shanor pp. 76-89

8) **Thursday August 30**  
**Topics:** Judge-made Checks on Judicial Power—Justiciability, cont’d  
**Reading:**  
- Shanor pp. 89-100  
- No call  
- Q&A pp. 1-19 (multiple choice questions), 163-191 (answers)  
**Quiz #1** (based on MC from Q&A book)

III. Separation of Powers

**Quiz info:** The quiz on this part of the course will be on Wednesday, Sept 12. It will be based on the multiple choice questions at Q&A pp. 19-39 and answers at pp. 185-227. You may want to try and review the questions for each topic as you go; the entire set of questions is included as part of the assignment for Wednesday the 12th.

9) **Tuesday September 4**  
**Topics:** Intro to Separation of Powers; Executive Power and Role of Congress; Executive Power over Domestic Affairs  
**Reading:**  
- Shanor pp. 101-120
10) **Wednesday September 5**
**Topic:** Executive Power over Foreign Relations
**Reading:**
- Shanor pp. 120-131

11) **Thursday September 6**
**Topics:** Executive Power over Foreign Relations cont’d; Presidential Privileges and Immunities
**Reading:**
- Shanor pp. 131-150

12) **Monday September 10**
**Topic:** Legislative Power
**Reading:**
- Shanor pp. 150-165

13) **Tuesday September 11**
**Topic:** Legislative Power pt. II
**Reading:**
- Shanor pp. 165-183
- Excerpt from *Lucia v. SEC*, available on TWEN

14) **Wednesday September 12**
**Topic:** Separation of War Powers
**Reading:**
- Shanor pp. 184-196
- No call
- Q&A pp. 19-39 (questions) and 185-227 (answers)

**Quiz #2**

IV. **Congress’s Article I Powers**

**Quiz info:** The quiz on this part of the course will be on Thursday, Oct. 4. It will be based on the multiple choice questions at Q&A pp. 41-73 (questions) and 229-273 (answers). You may want to try and review the questions for each topic as you go; the entire set of questions is included as part of the assignment for Thursday the 4th.

15) **Thursday September 13**
**Topic:** Necessary and Proper Clause
**Reading:**
- Shanor pp. 197-212

16) **Monday September 17**
**Topic:** Commerce Clause
**Reading:**
- Shanor pp. 212-229
17) **Tuesday September 18**  
**Topic:** Commerce Clause cont’d  
**Reading:**  
- Shanor pp. 229-245

18) **Wednesday September 19**  
**Topic:** Commerce Clause cont’d; Taxing Power; Spending Power  
**Reading:**  
- Shanor pp. 245-262

19) **Thursday September 20**  
**Topic:** Spending Power cont’d; Treaty Power  
**Reading:**  
- Shanor pp. 262-274

20) **Monday September 24**  
**Topic:** Federalism Limits on Article I Powers—Tenth Amendment  
**Reading:**  
- Shanor pp. 274-294  
- Excerpt from *Murphy v. NCAA*, to be posted on TWEN

21) **Tuesday September 25**  
**Topic:** Federalism Limits on Article I Powers—Eleventh Amendment  
**Reading:**  
- Shanor pp. 294-308

V. **Federalism’s Limits on the States**

22) **Wednesday September 26**  
**Topic:** Article I Limits (Contracts Clause); Protection of Federal Institutions  
**Reading:**  
- Shanor pp. 309-326

23) **Thursday September 27**  
**Topic:** Federal Preemption  
**Reading:**  
- Shanor pp. 326-336  
- Supplemental reading on preemption, posted on TWEN

24) **Monday, October 1**  
- **In-class practice essay**—I will give you the general topic area in advance and you should spend your preparation time for Monday preparing to address that topic in a way similar to the way you will prepare all of the course material for the final.

25) **Tuesday, October 2**  
**Topic:** Dormant Commerce Clause  
**Reading:**  
- Shanor pp. 337-358
26) **Wednesday, October 3** **Topic:** Dormant Commerce Clause (cont’d)
**Reading:**
- Shanor pp. 358-371

27) **Thursday, October 4** **Topic:** State Privileges and Immunities
**Reading:**
- Shanor pp. 372-381
- No call
- Q&A pp. 41-75 (questions), 229-273 (answers)
**Quiz #3:**

VI. Fourteenth Amendment—Introduction and Framework

**Quiz info:** The quiz on this part of the course will be on Wednesday, Oct. 21. It will be based on the multiple choice questions at Q&A pp. 73-107 (questions) and 275-331 (answers). You may want to try and review the questions for each topic as you go; the entire set of questions is included as part of the assignment for Wednesday the 21st.

28) **Monday, October 8**
**Topics:** 14th Amendment—Background; State Action Doctrine
**Reading:**
- Shanor pp. 382-399

29) **Tuesday, October 9**
**Topic:** State Action Doctrine (cont’d)
**Reading:**
- Shanor pp. 399-417

30) **Wednesday, October 10**
**Topic:** Privileges and Immunities Clause
**Reading:**
- Shanor pp. 417-432

VII. Due Process

31) **Thursday, October 11**
**Topic:** Procedural Due Process
**Reading:**
- Shanor pp. 433-446

32) **Monday, October 15**
**Topic:** Procedural Due Process cont’d; Intro to Substantive Due Process
**Reading:**
- Shanor pp. 446-464
33) **Tuesday, October 16**  
*Topic:* Modern Economic Substantive Due Process; Incorporation of Enumerated Rights via Due Process Clause  
*Reading:*  
- Shanor pp. 464-481

34) **Wednesday, October 17**  
*Topic:* Unenumerated Personal Rights (reproduction)  
*Reading:*  
- Shanor pp. 482-498

35) **Thursday, October 18**  
*Topic:* Unenumerated Personal Rights cont’d (reproduction)  
*Reading:*  
- Shanor pp. 499-523

36) **Monday, October 22**  
*Topic:* Unenumerated Personal Rights cont’d (family)  
*Reading:*  
- Shanor pp. 523-535

37) **Tuesday, October 23**  
*Topic:* Unenumerated Personal Rights cont’d (sexuality, death)  
*Reading:*  
- Shanor pp. 535-556

38) **Wednesday, October 24**  
*Topics:* Unenumerated Personal Rights cont’d (death); Relation between Procedural and Substantive Due Process  
*Reading:*  
- Shanor pp. 556-566  
- No call  
- Q&A pp. 73-107 (questions) and 275-331 (answers).  
*Quiz #4*

39) **Thursday, October 25**  
*In-class practice essay*—The practice essay will be on the material covered in Parts VI and VII. You should spend your preparation time for Thursday preparing to address that topic in a way similar to the way you will prepare all of the course material for the final.

**VIII. Equal Protection**

*Quiz info:* The quiz on this part of the course will be on Thursday, Nov. 15. It will be based on the multiple choice questions at Q&A pp. 107-125 (questions) and 331-359 (answers). You may want to try and review the questions for each topic as you go; the entire set of questions is included as part of the assignment for Thursday the 15th.
40) **Monday, October 29**  
**Topic:** Introduction to Equal Protection; Rational Basis Review  
**Reading:**  
- Shanor pp. 567-581

41) **Tuesday, October 30**  
**Topic:** Equal Protection and Race: *Plessy* to *Brown*  
**Reading:**  
- Shanor pp. 581-591

42) **Wednesday, October 31**  
**Topic:** Equal Protection and Race: Strict Scrutiny  
**Reading:**  
- Shanor pp. 591-604

43) **Thursday, November 1**  
**Topic:** Equal Protection and Race: When Does a Law Discriminate?  
**Reading:**  
- Shanor pp. 604-620

44) **Monday, November 5**  
**Topic:** Equal Protection and Race: Affirmative Action  
**Reading:**  
- Shanor pp. 621-638

45) **Tuesday, November 6**  
**Topic:** Equal Protection and Race: Affirmative Action cont’d  
**Reading:**  
- Shanor pp. 638-651

46) **Wednesday, November 7**  
**Topic:** Equal Protection and Gender  
**Reading:**  
- Shanor pp. 651-666

47) **Thursday, November 8**  
**Topic:** Equal Protection and Gender  
**Reading:**  
- Shanor pp. 666-674  
- Supplemental reading, available on TWEN
Assignment: Review Questions. Your final assignment is to submit at least one substantive question about the material we have covered so far this semester. You are also welcome to submit additional substantive questions or questions you have about the exam’s format, structure, test-taking strategies, etc. I will answer all of the questions that I get during the semester review sessions on Wednesday, November 28 and Thursday, November 29. Your submission will be deemed timely if you submit it before class on Monday November 26 but I will appreciate it if you submit it sooner than that.

IX. Enforcing the Reconstruction Amendments

52) Monday, November 26
Topic: Enforcing the 14th Amendment
Reading:
• Shanor pp. 736-755

53) Tuesday, November 27
Topic: Enforcing the 14th Amendment cont’d
Reading:
• Shanor pp. 755-769

54) Wednesday, November 28
Semester Review
Thursday, November 29
Semester Review
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.