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FEDERAL COURTS
Context, Cases, and Problems

*Second
Edition*



Wolters Kluwer

FEDERAL COURTS

Context, Cases, and Problems

Second Edition

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Published by Wolters Kluwer in New York.

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Wolters Kluwer
Attn: Order Department
PO Box 990
Frederick, MD 21705

Printed in the United States of America.

2 3 4 5 6 7 8 9 0

ISBN 978-1-4548-2266-0

Library of Congress Cataloging-in-Publication Data

Allen, Michael, 1967- author.

Federal courts: context, cases, and problems / Michael P. Allen, Stetson University College of Law; Michael Finch, Stetson University College of Law; Caprice L. Roberts, West Virginia University College of Law. — Second edition.

pages cm

Includes bibliographical references and index.

ISBN 978-1-4548-2266-0 (alk. paper)

1. Courts—United States. I. Finch, Michael, 1952- author. II. Roberts, Caprice L., author. III. Title.

KF8719.A835 2015

347.73'2—dc23

2014047976

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For Debbie, Ben, and Noah

—MPA

For Lora, Chloe, and Lily

—MF

For Rosemarie Falzone

(May 10, 1936–May 11, 2011)

—CLR

PREFACE

We believe that Federal Courts is one of the most challenging courses in the law school curriculum. It draws on principles from Constitutional Law, Civil Procedure, Remedies, and Administrative Law to name just a few law school courses. Moreover, the course requires a strong understanding of American history as well as philosophical underpinnings of government under the United States Constitution.

At the same time, Federal Courts is also an immensely practical course. For example, if one intends to actually enforce the constitutional rights afforded clients, an understanding of 42 U.S.C. § 1983 (Chapter 9) is usually indispensable. Similarly, if one intends to pursue a career as a state prosecutor, a public defender, or private criminal defense lawyer, the law of federal habeas corpus (Chapter 13) is critical to effective litigation in the criminal justice system. And for those who intend to engage in general civil litigation in federal courts, an understanding of subjects like justiciability (Chapter 2), subject matter jurisdiction (Chapters 5, 6, and 7), and abstention (Chapter 10) is vital to one's ability to secure access to the courts.

One of our principal goals in writing this textbook was to preserve the theoretical richness of the material while providing opportunities for students to put that information into practice. For these reasons, we have used a variety of methods to explore the material in each chapter. Most chapters begin with a "Reference Problem" designed to preview many of the issues that will be explored in the pages that follow. While students will not be ready to fully resolve the problem as they begin the chapter, the problem introduces the issues that follow and gives students an appreciation for their practical importance. Once students have completed their study of the chapter materials, students can return to the Reference Problem and assess their understanding.

Each chapter presents an overview of the relevant area of law. This narrative section is designed to allow students to see the forest before exploring the individual trees. In other words, it provides the broader context for the specific doctrines explored.

Our presentation of the chapter materials differs from that used in most legal textbooks. After reproducing the principal cases, we offer narrative text and questions and avoid use of numbered notes. We also periodically use charts, graphs, and other visual aids to offer working summaries of the material previously discussed. These aids are not meant to take the place of a student's own synthesis of the material, which is critical to the learning process. We believe, however, that a tentative structuring of the complex doctrines addressed in Federal Courts will enhance student synthesis. That said, we recognize that

your professor may have a different approach to the material, one that improves on the structures we have suggested.

Finally, each chapter includes intermittent problems that require students to apply the material just studied. These problems provide the opportunity to consolidate your understanding of a topic before moving on to a new topic. We conclude each chapter with a separate section providing yet more problems for review and discussion.

In sum, this text focuses on the *use* of the doctrines studied. If our approach assists you in your exploration of Federal Courts, we will consider it a success.

Michael P. Allen

Michael Finch

Caprice L. Roberts

December 2014

ACKNOWLEDGMENTS

This textbook, now in its second edition, would not have been possible without the assistance and understanding of a great many people. We collectively extend our thanks to the wonderful people at Wolters Kluwer/Aspen Publishers, including Steve Erlich, Carol McGeehan, Rick Mixter, Eric Holt, and Dana Wilson. The project would never have come to be if not for their faith in us and their excellent guidance. We would also not be in a position to see this second edition in print without their collective support in our vision.

We also thank Stetson University College of Law, West Virginia University College of Law, and Savannah Law School for the support each institution has provided to this project from its inception through this current edition. Numerous people at each College have been instrumental in assisting us. Space does not allow us to mention all of them. However, we would be remiss if we did not single out the following people for their help: Stetson University College of Law former Dean Darby Dickerson and current Dean Chris Pietruszkiewicz; members of the Stetson's Faculty Support Office (formerly led by Ms. Louise Petren and now in the capable hands of Ms. Shannon Edgar); Stetson graduates Jason P. Stearns, Scott Stevenson, and Paul Crochet for their excellent research assistance and valuable comments; Savannah Law School forthcoming graduate Cameron Crandell Kuhlman for thoughtful suggestions and Professor Judd F. Sneirson for chart assistance under pressure; West Virginia University College of Law former Dean Joyce E. McConnell and former Dean John W. Fisher II; West Virginia graduates Paul Hudson Jones II, Matthew Lincoln Clark, Allen Porter Mendenhall, and Natalie S. Wright for their helpful suggestions; West Virginia Faculty Assistant Bertha Romine; and professors Gerald G. Ashdown, Laura S. Fitzgerald Cooper, Michael R. Dimino, Scott Dodson, Sr., Susan S. Kuo, Marcia L. McCormick, Philip A. Pucillo, Joan M. Shaughnessy, Stephen I. Vladeck, and other federal courts professors who provided thoughtful and insightful reviews through the anonymous Aspen review process. We also want to thank all the faculty members who have shown faith in us by adopting the casebook. Your comments have been helpful beyond our ability to convey. As with our first edition, any errors are, of course, our own.

We also recognize that we could not have completed the project, including all our updates over the years and this second edition, without the support and understanding of our families. They put up with long nights, obsession over details, and, we confess, an occasional bit of short temper. What is more, they did all of this in good spirits. Specifically, Professor Allen thanks his wife Debbie and his sons Ben and Noah. Professor Finch thanks his wife, Lora, and his daughters, Chloe and Lily. Professor Roberts thanks Andrew McCanse Wright

and Garrett Robert Wright. She also thanks the Honorable Julia Smith Gibbons and the Honorable Ronald Lee Gilman for the opportunity to experience the federal judiciary in action.

Finally, we want to acknowledge all the students we have had in our careers. In many ways, our vision for this textbook has been shaped with those students—and those to come—in mind. Our experiences in the classroom helped us immeasurably as we engaged in this endeavor.

Michael P. Allen
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Caprice L. Roberts

December 2014

FEDERAL COURTS

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