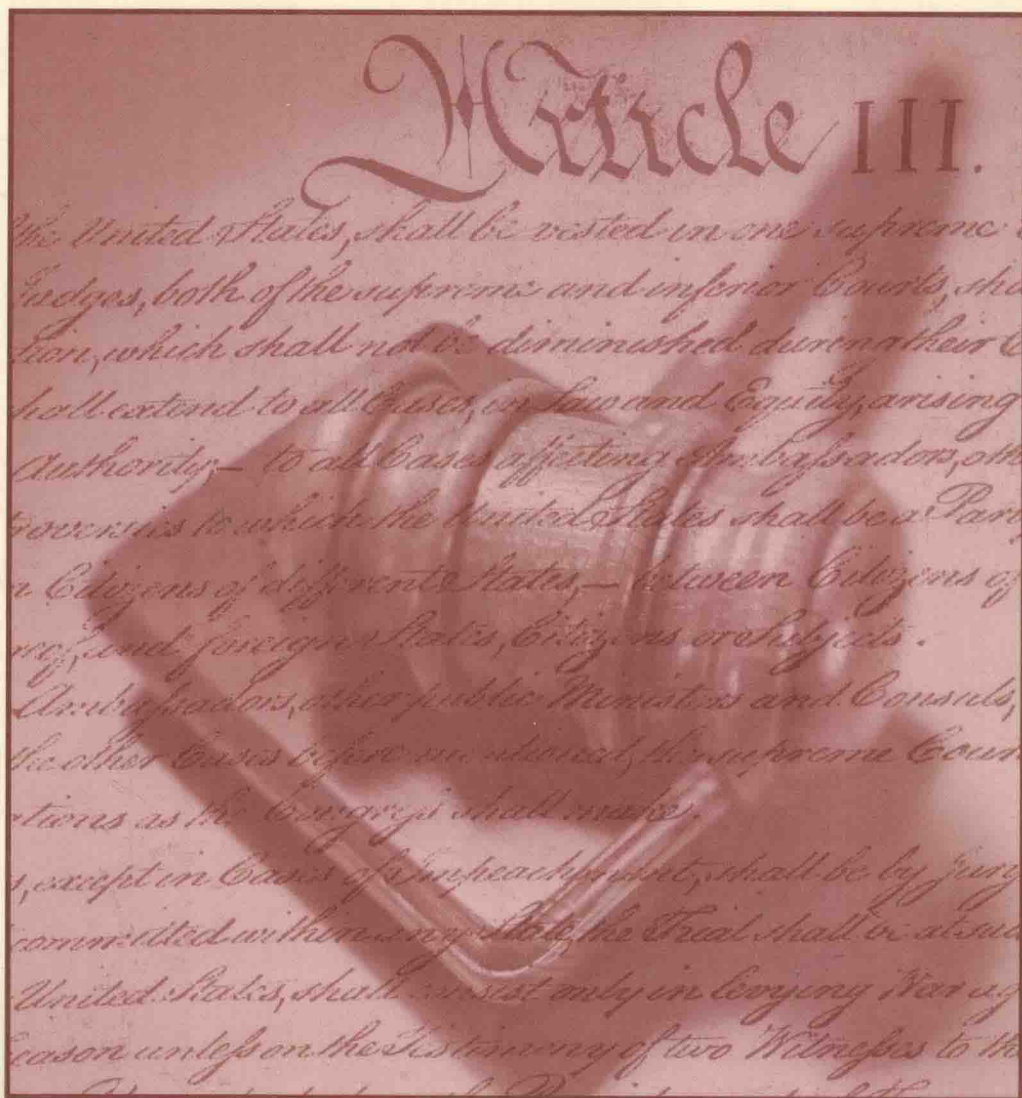


ASPEN PUBLISHERS

Federal Courts

Laura E. Little



Wolters Kluwer

Law & Business

ASPEN PUBLISHERS

Federal Courts

Laura E. Little

Professor of Law and James E. Beasley Chair in Law
Temple University, Beasley School of Law

EXAMPLES & EXPLANATIONS



Wolters Kluwer

Law & Business

AUSTIN BOSTON CHICAGO NEW YORK THE NETHERLANDS

© 2006 Aspen Publishers, Inc.
a Wolters Kluwer business
<http://lawschool.aspenpublishers.com>

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher. Requests for permission to make copies of any part of this publication should be mailed to:

Aspen Publishers
Attn: Permissions Department
76 Ninth Avenue, 7th Floor
New York, NY 10011-5201

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-0-7355-6146-5

Library of Congress Cataloging-in-Publication Data

Little, Laura E., 1957-

Federal courts : examples and explanations / Laura Little. — 1st ed.
p. cm.

ISBN 978-0-7355-6146-5 (alk. paper)

1. Courts—United States. 2. Jurisdiction—United States. 3. Judicial power—United States.
4. Procedure (Law)—United States. I. Title.

KF8719.L58 2007
347.73'2—dc22

2007016795

019188.0712
L778

Federal Courts

EXAMPLES & EXPLANATIONS

EDITORIAL ADVISORS

Vicki Been

Elihu Root Professor of Law
New York University School of Law

Erwin Chemerinsky

Alston & Bird Professor of Law
Duke University School of Law

Richard A. Epstein

James Parker Hall Distinguished Service Professor of Law
University of Chicago Law School
Peter and Kirsten Bedford Senior Fellow
The Hoover Institution
Stanford University

Ronald J. Gilson

Charles J. Meyers Professor of Law and Business
Stanford University
Marc and Eva Stern Professor of Law and Business
Columbia Law School

James E. Krier

Earl Warren DeLano Professor of Law
The University of Michigan Law School

Richard K. Neumann, Jr.

Professor of Law
Hofstra University School of Law

David Alan Sklansky

Professor of Law
University of California at Berkeley School of Law

Kent D. Syverud

Dean and Ethan A. H. Shepley University Professor
Washington University School of Law

Elizabeth Warren

Leo Gottlieb Professor of Law
Harvard Law School

About Wolters Kluwer Law & Business

Wolters Kluwer Law & Business is a leading provider of research information and workflow solutions in key specialty areas. The strengths of the individual brands of Aspen Publishers, CCH, Kluwer Law International and Loislaw are aligned within Wolters Kluwer Law & Business to provide comprehensive, in-depth solutions and expert-authored content for the legal, professional and education markets.

CCH was founded in 1913 and has served more than four generations of business professionals and their clients. The CCH products in the Wolters Kluwer Law & Business group are highly regarded electronic and print resources for legal, securities, antitrust and trade regulation, government contracting, banking, pension, payroll, employment and labor, and health-care reimbursement and compliance professionals.

Aspen Publishers is a leading information provider for attorneys, business professionals and law students. Written by preeminent authorities, Aspen products offer analytical and practical information in a range of specialty practice areas from securities law and intellectual property to mergers and acquisitions and pension/benefits. Aspen's trusted legal education resources provide professors and students with high-quality, up-to-date and effective resources for successful instruction and study in all areas of the law.

Kluwer Law International supplies the global business community with comprehensive English-language international legal information. Legal practitioners, corporate counsel and business executives around the world rely on the Kluwer Law International journals, loose-leafs, books and electronic products for authoritative information in many areas of international legal practice.

Loislaw is a premier provider of digitized legal content to small law firm practitioners of various specializations. Loislaw provides attorneys with the ability to quickly and efficiently find the necessary legal information they need, when and where they need it, by facilitating access to primary law as well as state-specific law, records, forms and treatises.

Wolters Kluwer Law & Business, a unit of Wolters Kluwer, is headquartered in New York and Riverwoods, Illinois. Wolters Kluwer is a leading multinational publisher and information services company.

For Rich, Cate, and Graham

Acknowledgments

This project was generously supported by Temple University's Beasley School of Law and its fine library staff. I owe special gratitude to Professor Richard Greenstein, Professor Craig Green, and Professor Celestine McConville, who reviewed parts of the manuscript. Professor Mark Rahdert provided inspiration and support, as did my first Federal Courts teacher and colleague, Professor Rob Bartow. Able research assistance came from Brooke Leach, Samantha Evans, Joe Karlan and — especially — Joe Langkamer. Michael Foley provided expert and creative help with the figures. Finally, I am indebted to Shirley Hall, Sehnyoung Lee, and Jennifer Kelly for their help in processing the manuscript.

Summary of Contents

Contents

xi

Acknowledgments

xxi

PART I INTRODUCTION TO FEDERAL COURTS 1

- Chapter 1** Strategy for Studying Federal Courts and Jurisdiction 3

PART II AUTHORITY OF FEDERAL COURTS TO ADJUDICATE 11

- Chapter 2** Federal Questions Jurisdiction in Lower Federal Courts 13
- Chapter 3** Diversity of Citizenship Jurisdiction in Lower Federal Courts 41
- Chapter 4** Supplemental Jurisdiction in Lower Federal Courts 67

PART III LIMITATIONS OF FEDERAL COURT ADJUDICATION 91

- Chapter 5** Justiciability Doctrines 93
- Chapter 6** Congressional Control over Jurisdiction 115
- Chapter 7** The Anti-Injunction Act 155
- Chapter 8** Abstention Doctrines 171

PART IV THE ROLE OF STATE COURTS IN THE FEDERALIST SYSTEM 219

- Chapter 9** State Court Authority to Enforce Federal Law 221
- Chapter 10** State Court Responsibility to Enforce Federal Law 229

| | | |
|-------------------|--|------------|
| PART V | FEDERAL COURTS AS SUPERVISORS OF STATE COURTS | 241 |
| Chapter 11 | Role of the United States Supreme Court | 243 |
| Chapter 12 | Role of Lower Federal Courts | 277 |

| | | |
|-------------------|---|------------|
| PART VI | FEDERAL COURTS AS SUPERVISORS OF STATE AND LOCAL OFFICIALS | 331 |
| Chapter 13 | Eleventh Amendment Restrictions | 333 |
| Chapter 14 | Section 1983 | 371 |

| | | |
|-------------------|------------------------------------|------------|
| PART VII | FEDERAL COURTS AS LAWMAKERS | 417 |
| Chapter 15 | The Erie Mandate | 421 |
| Chapter 16 | Federal Common Law | 443 |
| | <i>Table of Cases</i> | 459 |
| | <i>Index</i> | 465 |

Contents

Acknowledgments

xxi

PART I INTRODUCTION TO FEDERAL COURTS **I**

| | | |
|------------------|---|----------|
| Chapter 1 | Strategy for Studying Federal Courts and Jurisdiction | 3 |
| | A. Eye on the Bottom Line | 3 |
| | B. Governmental Theory | 4 |
| | C. Ulterior Motive: What Else Is Up Their Sleeve? | 8 |
| | D. Understanding The Basic Structure of the Federal Judiciary | 9 |
| | 1. What the Constitution Says | 9 |
| | 2. The Court System Layout | 10 |

PART II AUTHORITY OF FEDERAL COURTS TO ADJUDICATE **II**

| | | |
|------------------|---|-----------|
| Chapter 2 | Federal Question Jurisdiction in Lower Federal Courts | 13 |
| | A. The Meaning of “Arising Under” in the Constitution | 13 |
| | B. The Meaning of “Arising Under” in 28 U.S.C. §1331 | 15 |
| | 1. The Requirement that the Case Present a Necessary, Disputed, and Substantial Federal Element Under §1331 | 16 |
| | 2. The Federal-State Balance Element | 21 |
| | 3. The “Well-Pleaded Complaint” Requirement | 25 |
| | a. Declaratory Judgment | 27 |
| | i. Skelly Oil Recognizes the Declaratory Judgment Wrinkle | 28 |
| | ii. Franchise Tax Board Complicates the Wrinkle | 31 |

xi

| | | |
|------------------|--|-----------|
| | iii. The Alignment Question Remains | 32 |
| | iv. Synthesizing the Declaratory Judgment Case Law | 34 |
| | b. Complete Preemption | 38 |
| Chapter 3 | Diversity of Citizenship Jurisdiction in Lower Federal Courts | 41 |
| | A. Defining “Different States”: The Complete Diversity Rule | 42 |
| | B. Determining Citizenship | 44 |
| | 1. Citizenship Rules for Individuals | 44 |
| | 2. Citizenship Rules for Corporations | 46 |
| | 3. Citizenship Rules for Unincorporated Associations | 47 |
| | 4. Citizenship Rules for Class Actions | 48 |
| | a. Basic Rule | 48 |
| | b. Discretionary Exception to the Basic Rule: §1332(d)(3) | 50 |
| | c. Mandatory Exceptions to the Basic Rule in §1332(d) | 53 |
| | C. Calculating Amount in Controversy | 55 |
| | 1. Timing and Standard for Calculation | 55 |
| | 2. Aggregation Rules | 57 |
| | a. Aggregation by One Plaintiff | 57 |
| | b. Aggregation by Multiple Plaintiffs | 58 |
| | c. Aggregation in Class Actions | 61 |
| | D. Identifying Forbidden Subject Areas | 62 |
| | 1. Domestic Relations | 62 |
| | 2. Probate Matters | 64 |
| Chapter 4 | Supplemental Jurisdiction in Lower Federal Courts | 67 |
| | A. Supplemental Jurisdiction Is Used Only When Necessary | 68 |
| | B. Constitutional Underpinnings of Supplemental Jurisdiction | 69 |
| | C. The Supplemental Jurisdiction Statute | 72 |
| | 1. Section 1367(a): Congress Giveth | 72 |
| | a. Codifying Gibbs | 72 |
| | b. Joining Additional Parties | 73 |
| | 2. Section 1367(b): Congress Taketh Away | 74 |
| | a. Integrating Supplemental Jurisdiction with the Complete Diversity Requirement | 74 |
| | b. Limiting Supplemental Jurisdiction with §1367(b) | 77 |

| | |
|--|----|
| c. Using §1367(a) to Meet the “Amount in Controversy” Requirement in Diversity Cases | 79 |
| 3. Section 1367(c): Congress Delegates | 82 |
| 4. Putting It All Together: A Summary Example | 84 |

PART III LIMITATIONS OF FEDERAL COURT ADJUDICATION **91**

Chapter 5 Justiciability Doctrines **93**

| | |
|---|-----|
| A. Values Served by Justiciability Doctrines | 93 |
| B. Overview of the Justiciability Doctrines | 94 |
| 1. The Doctrines Restricting <i>What</i> Matters a Court Can Handle | 94 |
| 2. The Doctrines Restricting <i>When</i> a Court Can Adjudicate | 97 |
| 3. The Doctrine Restricting <i>Who</i> May Bring a Lawsuit | 98 |
| C. More Details About Standing | 101 |
| 1. Constitutional Requisites | 102 |
| a. Injury in Fact | 102 |
| i. Types of Injuries Sufficient for the Injury Requirement | 103 |
| ii. Standing to Seek Particular Remedies | 105 |
| b. Causation and Redressability | 108 |
| 2. Prudential Considerations | 109 |
| a. Third-Party Claims | 109 |
| b. Generalized Grievances | 112 |
| c. Zone of Interest | 113 |

Chapter 6 Congressional Control over Jurisdiction **115**

| | |
|---|-----|
| A. Congressional Power to Limit Supreme Court Jurisdiction | 116 |
| 1. The Debate’s Parameters | 116 |
| 2. History | 119 |
| 3. Case Law | 121 |
| B. Congressional Power to Limit Lower Court Jurisdiction | 123 |
| 1. What Is a Lower Federal Court? | 124 |
| 2. Congress’s Latitude Under Article III | 125 |
| 3. Due Process Limitations | 130 |
| C. Congressional Power to Control the Manner, Substance, and Result of Judicial Decisionmaking: Separation of Powers Challenges | 134 |

Contents

| | |
|---|------------|
| 1. Review of Federal Court Decisions | 134 |
| 2. Mandating the Substance of Judicial Decisions | 135 |
| 3. Reopening Final Judgments | 138 |
| 4. Controlling Court Authority to Issue Remedies | 139 |
| 5. Putting It All Together: A Summary Example | |
| Exploring Separation of Powers Issues | 141 |
| D. Congressional Power to Create Non-Article III Courts | 144 |
| 1. Legislative Courts: We Don't Want Congress | |
| Taking Over the World | 146 |
| 2. Military Tribunals: The Executive Does Not Possess | 151 |
| a "Blank Check" | |
| Chapter 7 The Anti-Injunction Act | 155 |
| A. The General Prohibition: No Injunctions | |
| of State Proceedings | 156 |
| 1. Ongoing State Court Proceedings Only | 156 |
| 2. Declaratory Judgments Too? | 157 |
| B. Exception 1: Injunctions Expressly Authorized by Statute | 158 |
| C. Exception 2: Injunctions Necessary in Aid of Jurisdiction | 160 |
| D. Exception 3: Injunctions to Protect or Effectuate | |
| Judgments | 163 |
| Chapter 8 Abstention Doctrines | 171 |
| A. Unclear State Law Doctrines: <i>Pullman</i> , <i>Thibodaux</i> , | |
| and <i>Burford</i> | 172 |
| 1. <i>Pullman</i> Abstention: Avoiding Unnecessary | |
| Constitutional Issues | 172 |
| a. Prerequisites for <i>Pullman</i> Abstention | 173 |
| b. Procedure for <i>Pullman</i> Abstention | 177 |
| c. Discretionary Elements of <i>Pullman</i> Abstention | 179 |
| 2. <i>Thibodaux</i> Abstention: Unclear State Law on an | |
| Important Matter | 182 |
| 3. <i>Burford</i> Abstention: Avoiding Interference with State | |
| Administrative Process | 183 |
| a. Initial Articulation of the Doctrine | 183 |
| b. Refinement of the Doctrine: Prerequisites | 184 |
| c. Limiting the Doctrine in Damage Actions | 188 |
| B. Duplicative Proceeding Doctrines: <i>Younger</i> and <i>Colorado River</i> | 189 |
| 1. <i>Younger</i> Abstention: Avoiding Interference with | |
| Ongoing State Proceedings | 190 |
| a. Enjoin: How Far Does <i>Younger</i> Apply Beyond | |
| Injunction Requests? | 191 |

| | |
|--|-----|
| b. Ongoing: What Is an Ongoing Proceeding for Younger Purposes? | 193 |
| i. Steffel v. Thompson | 193 |
| ii. Hicks v. Miranda | 195 |
| iii. Doran v. Salem Inn, Inc. | 198 |
| iv. Permanent Injunctive Relief | 200 |
| c. Criminal Proceedings: When Does Younger Apply Outside the Criminal Context? | 201 |
| d. Exceptions | 203 |
| i. Bad Faith or Harassment | 204 |
| ii. Patently Unconstitutional State Law | 205 |
| iii. Other Extraordinary Circumstances | 205 |
| e. Relation with Anti-Injunction Act | 206 |
| f. Procedure | 208 |
| 2. Colorado River Abstention: Avoiding Piecemeal Litigation | 208 |
| a. Basic Elements | 209 |
| b. Procedure | 212 |
| c. Declaratory Judgment Actions Exempted | 213 |
| C. Statutory and Judicially Created Restrictions Operating in Tandem: The Anti-Injunction Act and The Abstention Doctrines Considered Together | 213 |

PART IV THE ROLE OF STATE COURTS IN THE FEDERALIST SYSTEM 219

Chapter 9 State Court Authority to Enforce Federal Law 221

| | |
|---|-----|
| A. The Presumption of Concurrent Jurisdiction: Effect on State Courts | 222 |
| B. The Presumption of Concurrent Jurisdiction: Effect on Federal Courts | 224 |
| C. Remedial Limitations for State Court Suits Against Federal Officers | 226 |

Chapter 10 State Court Responsibility to Enforce Federal Law 229

| | |
|---|-----|
| A. State Court Obligation to Hear a Federal Cause of Action | 230 |
| B. Constraints on Congress's Authority Over State Courts | 233 |

| | | |
|-------------------|---|------------|
| PART V | FEDERAL COURTS AS SUPERVISORS OF STATE COURTS | 241 |
| Chapter 11 | Role of the United States Supreme Court | 243 |
| A. | Constitutional and Statutory Grants | 244 |
| B. | Principles Governing Review of State Court Decisions | 246 |
| 1. | Preservation Requirement | 248 |
| 2. | Adequate and Independent State Grounds | 249 |
| a. | What Is an Adequate State Ground? | 250 |
| i. | Logical Adequacy | 251 |
| ii. | Procedural Adequacy | 255 |
| iii. | Summing Up: Circumstances Under Which a State Ground Will Not Be Adequate | 258 |
| b. | Is the State Ground Independent of Federal Law? | 260 |
| 3. | Finality | 263 |
| a. | Basic Finality Principle | 263 |
| b. | Cox Broadcasting: Summary of Categories Under the Pragmatic Approach to Finality | 264 |
| c. | Preordained Cases | 264 |
| d. | "Separated Federal Issue" Cases | 265 |
| e. | "Seize It Now" Cases | 266 |
| f. | Important Federal Interest Cases | 267 |
| 4. | The Three Doctrines Considered Together | 270 |
| C. | Principles Governing Review of Federal Decisions | 273 |
| Chapter 12 | Role of Lower Federal Courts | 277 |
| A. | Principles Governing Habeas Corpus Review | 277 |
| 1. | Constitutional, Statutory, and Historical Background | 278 |
| 2. | Cognizable Claims: What Is the Substantive Scope of Inquiry on Habeas? | 283 |
| a. | The Ends of the Spectrum: <i>Frank v. Mangum</i> and <i>Brown v. Allen</i> | 283 |
| b. | Eliminating Fourth Amendment Claims: <i>Stone v. Powell</i> | 285 |
| c. | Eliminating Claims that Amount to Harmless Error | 291 |
| d. | Eliminating New Rules of Constitutional Law: <i>Teague v. Lane</i> | 294 |
| i. | The Basics | 294 |

| | |
|---|-----|
| ii. What Is a New Rule? | 298 |
| iii. Understanding <i>Teague</i> in Light of the Habeas Values | 299 |
| e. Eliminating Decisions Based on Clearly Established Federal Law | 300 |
| i. Dismantling and Reconstructing 28 U.S.C. §2254(d)(1) | 300 |
| ii. The Relationship Between <i>Teague v. Lane</i> and 28 U.S.C. §2254(d)(1) | 306 |
| 3. Procedural Bar: Under What Circumstances Will the Federal Court Excuse State Procedural Default? | 310 |
| a. The Ends of the Spectrum: <i>Daniels v. Allen</i> and <i>Fay v. Noia</i> | 311 |
| b. Requiring Cause and Prejudice (or Actual Innocence): <i>Wainwright v. Sykes</i> | 312 |
| i. Defining Actual Innocence | 313 |
| ii. Defining Cause | 315 |
| iii. Defining Prejudice | 318 |
| iv. Procedural Default under the AEDPA | 319 |
| 4. Other Limitations on Habeas Review | 319 |
| a. Exhaustion Requirements | 319 |
| b. Limitations on Reexamining Factual Findings | 321 |
| c. Statutes of Limitations | 324 |
| d. Limitations on Successive Petitions | 324 |
| B. The Rooker-Feldman Doctrine: Protecting The Supreme Court's Review Power | 325 |

PART VI FEDERAL COURTS AS SUPERVISORS OF STATE AND LOCAL OFFICIALS 331

Chapter 13 Eleventh Amendment Restrictions 333

| | |
|---|-----|
| A. History: The Language of Article III and <i>Chisholm v. Georgia</i> | 334 |
| B. "Any Suit . . . Against One of the United States by Citizens of Another State, or by Citizens or Subjects of any Foreign States": <i>Hans v. Louisiana</i> | 335 |
| C. "Any Suit in Law or in Equity . . . Against One of the United States": <i>Ex Parte Young</i> and its Progeny | 340 |
| 1. The Logic Behind the <i>Ex Parte Young</i> Fiction | 340 |
| 2. The Prospective/Retroactive Distinction | 342 |
| a. <i>Edelman v. Jordan</i> : The Basic Concept | 342 |