# Constitutional Law: Cases, History, and Practice

Fourth Edition

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# CONSTITUTIONAL LAW
# Cases, History, and Practice

## Fourth Edition

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**Looseleaf ISBN:** 978-1-4224-8537-8

**Library of Congress Cataloging-in-Publication Data**

Araiza, William D.
Constitutional law : cases, history, and practice / William D. Araiza, M. Isabel Medina. -- 4th ed.
p. cm.
Previous ed. has sub-title: Cases, history, and dialogues
Includes index.
ISBN 978-1-4224-8536-1 (hard cover)
1. Constitutional law--United States--Cases. I. Medina, M. Isabel. II. Title.
KF4550.A758 2011
342.73--dc22 2011000103



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MATTHEW BENDER

(2011–Pub.3522)

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# PREFACE

This edition of the book marks the departure of the Professors Phoebe Haddon and Dorothy Roberts, the last of the original group of authors that came together to write the First Edition. It retains the core of the original authors' work, and, just as importantly, continues to reflect their goal of creating a challenging, sophisticated work that is nevertheless approachable to students and appropriate for their role as future practitioners of constitutional law.

In attempting to come closer to that elusive goal, the Fourth Edition features several significant changes. First, it provides, at appropriate points, concise statements of the frameworks of analysis developed by the Court to resolve constitutional claims. This provision of "the rules" is intended to complement students' learning, by providing a focal point for their reading and discussion of the cases. Obviously, constitutional law is too rich and complex to be reduced to a series of terse rules. Providing these analytical frameworks is designed to provide a jumping-off point for students to consider the more difficult issues that lurk behind those rules.

Second, the Fourth Edition has attempted to highlight areas of the law that are often under-studied in a basic constitutional law class. For example, throughout, the book gives significant attention to immigration, naturalization and citizenship issues. These issues are becoming more important in a society that is globalizing at a rapid rate but at the same time feeling significant insecurity as a result of that process, because of both the emphasis on terrorism and the changes that immigrant populations are perceived to augur for American life.

Third, the Fourth Edition aims to prepare students for practice. This is clear from the very start of the book. The Introduction provides an extended discussion of constitutional litigation, by following a modern Supreme Court case, *Hamdi v. Rumsfeld*, from inception to the Court's opinion. In addition, the pleadings, hearing transcripts, opinions and other materials considered in the Introduction are available on the Internet at http://www.loyno.edu/~hamdi. Professors and students may find access to these materials helpful in better understanding the case, and the role of attorneys and courts in constitutional litigation. Understanding how constitutional litigation actually happens helps students realize that the process of making constitutional "law" is more than the process by which the Supreme Court writes an opinion stating broad principles. The process happens every day, in small decisions made in courthouses, city halls and police stations across the nation. The Introduction illustrates this dynamic.

In the Introduction students are asked to read the entire *Hamdi* opinion. Casebooks usually present only heavily-edited opinions that focus on one or a small number of issues. Our hope in providing the full opinion in *Hamdi* is to give students a sense of the variety of issues an opinion often has to resolve. Finally, throughout the book students are asked to think of the issues in the context of what they would have to allege or assert in a complaint, a brief or in developing an argument, consistently urging them to think of the practical applications or implications of theory.

Writing a casebook — even writing a new edition of an existing casebook — is a task that cannot be completed by authors alone. Colleagues, students, administrative assistants and others all play crucial roles. Professor Araiza wishes to thank Rebecca Gold, Helen

Gutgarts, Kristine Holm, Sheila Jerry, Alison Matela, Edward Murray, Rob Sobelman and Jay Zeffren for their research assistance, Gloria Kern for her secretarial help, and the staff and faculty of the Brooklyn Law School Library. Professor Medina wishes to thank her colleagues Brian Bromberger, Joel Friedman, Johanna Kalb, Stephen Higginson, Kathryn Lorio, Lawrence Moore and Karen Sokol for their advice and support, Raechelle Munna and Mary-Patricia E. Livengood Wray for research assistance, Dawn Harvey for invaluable secretarial assistance, Peter McArdle for assistance with technology issues, and the staff and faculty of the Monroe Library and the Loyola University New Orleans College of Law Library. Thanks are also due to Keith Moore, our always-helpful and patient editor at LexisNexis, and to the entire LexisNexis team. Professor Araiza also wishes to thank his partner, Stephen Schneider, for his patience, support and understanding. Professor Medina gives a special thanks to her children, Genevieve, Nicholas and Alexander. Both authors wish to thank the students in their constitutional law classes for helping them to think carefully about law, theory and pedagogy.

Finally, both authors owe a special debt of thanks to the original authors of the casebook: Phoebe Haddon, Donald Lively, Dorothy Roberts and Russell Weaver. Even though they have all ostensibly left the book, their wisdom and judgment remains evident on every page.

The authors welcome comments, input and suggestions.

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M.I.M.

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