Preface

The philosophy of this casebook is “more cases, fewer notes.” It attempts to strike a balance between cases and notes to present the concepts of Federal Courts in a rich, sophisticated way without unnecessary and obscure detail. The selection of materials is based on the following principles:

• Whenever possible, students should read cases, rather than notes about cases. If a dozen cases are presented in notes of one paragraph each, students don’t absorb their nuances. Short note cases are also pre-digested for the students, depriving them of the experience of interpreting the cases for themselves.

• The case selection should ensure that the students are familiar with the canonical cases and concepts. It should show the richness and sophistication of the subject. But it should avoid excessive, obscure detail. With the material curated to exclude unnecessary clutter, more space is available for fuller presentation of the cases that are included.

• Notes should include questions to guide student thinking and describe important follow-up cases that aren’t worthy of being principal cases. But the notes should remain brief enough to sustain student interest and allow the professor to put his or her own imprint on the materials.

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The casebook provides numerous discussion problems. These problems can help students determine whether they have understood the rules and concepts presented. Most of the problems call for straightforward application of the rules—they are pitched at about the level of a classroom hypothetical.

Discussion problems are useful because even if rules of law are extracted from the materials in the reading and stated clearly, many students will not
truly understand the rules until they are called upon to apply them to specific facts. That is the great virtue of the Socratic method—it compels students to apply rules of law to particular facts. The discussion problems can assist professors and students in this process.

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The course in Federal Courts studies the role of the federal courts in the American system of government. It particularly considers the role of the federal courts in vindicating federal rights, the relationship of the federal courts to the other branches of the federal government, and the relationship of the federal courts to the states.

Within these broad areas, the course covers numerous topics. The topics are varied and somewhat disparate: They include justiciability, jurisdiction, the law applied by federal courts, lawsuits against governments and government officers, abstention doctrines, Supreme Court review, and the writ of habeas corpus. What ties the topics together are core themes—themes about the role of the federal courts. The themes explored in this casebook include:

- *Ubi jus, ibi remedium?* An ancient maxim states that “there is a remedy for every right.” But is this maxim true? Much of the course in Federal Courts addresses this question. The course explores obstacles that might get in the way of providing remedies for violations of right. Such obstacles include justiciability doctrines, jurisdictional barriers, sovereign immunity, and the desire to respect state governments and state courts.

- *Public rights v. private rights.* A central tension within federal courts law is whether the federal courts should act only to vindicate the private interests of a particular injured plaintiff, or whether they should vindicate the public interest in enforcing the Constitution and ensuring that the federal and state governments behave lawfully. Do the federal courts enforce the Constitution only as an incident of their function of deciding cases about particular parties, or is enforcing the Constitution part of their primary role?

- *Federalism.* The course in Federal Courts is a course in federalism. The course explores the relationship of the federal government to the states, especially the relationship between the state and federal court systems. Important questions within this theme include: (1) When must federal courts apply state law, and vice versa? (2) Are the states sovereign entities, and do they enjoy sovereign immunity from suit in federal court? (3) Should the federal courts play the primary role in enforcing federal rights, particularly when those rights are threatened by state government actors, or should they let state courts play the primary role, with the federal courts playing only the
secondary role of reviewing a case after the state courts have finished with it?

- *Separation of powers.* The course also explores the relationship of the federal courts to the other branches of the federal government. To what extent can Congress control the federal courts? To what extent can the courts control the other branches? When can federal courts generate law, and when must they leave that role to Congress?

- *Practical administration.* In addition to these grand, philosophical themes, the course also explores many practical questions about how to run an effective and efficient court system.

These themes tie together the varied materials in the Federal Courts course. Throughout, this casebook explores how the topics presented implicate these core themes of the course.

J.S.
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