I. Construing Statutes

A. An Example

Class 1 – (9/1/16):

Family and Medical Leave Act, [Xerox pp. 1-16]

Class 2 – (9/2/16):

Dillon v. Maryland National Capital Park & Planning Comm’n, [Xerox pp. 17-24]

B. Text and Purpose

Class 3 – (9/7/16):

Riggs v. Palmer, [Xerox pp. 25-28]
Rector, Etc., of Holy Trinity Church v. United States, [Xerox pp. 29-33]
Tennessee Valley Authority v. Hill, [Xerox pp. 34-44]

Class 4 – (9/8/16):

Blanchard v. Bergeron, [Xerox pp. 45-49]
West Virginia Univ. Hospitals, Inc. v. Casey, [Xerox pp. 50-58]
A. Scalia, A Matter of Interpretation (excerpt), [Xerox pp. 59-69]
S. Breyer, Making Our Democracy Work (excerpt), [Xerox pp. 70-81]

Class 5 – (9/9/16):

Frank Cross, The Theory and Practice of Statutory Interpretation (excerpt), [Xerox pp. 82-86]
Senate Report No. 103-3, [Xerox pp. 87-137]
C. Usage

Class 6 – (9/14/16):

Nix v. Hedden, [Xerox pp. 138-139]
Corning Glass Works v. Brennan, [Xerox pp. 140-144]
United States v. Locke, [Xerox pp. 145-151]
T. Rakoff, Statutory Interpretation as a Multifarious Enterprise (excerpt),
   [Xerox pp. 152-154]

D. Canons of Construction

Class 7 – (9/15/16):

McBoyle v. United States, [Xerox p. 155]
Lockhart v. United States, [Xerox pp. 156-164]

E. The Assumption of Coherence

Class 8 – (9/16/16):

King v. Burwell, [Xerox pp. 165-180]
General Dynamics Land Systems v. Cline, [Xerox pp. 181-188]

F. Changing Circumstances

Class 9 – (9/21/16):

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Class 10 – (9/22/16):

Runyon v. McCrory, [Xerox pp. 193-209]
Patterson v. McLean Credit Union, [Xerox pp. 210-219]

II. Establishing Agencies in the Constitutional Framework

III. Procedural Frameworks for Administrative Action

IV. Agency Rulemaking

V. Judicial Review of Agency Action
II. Establishing Agencies in the Constitutional Framework

A. The Text

Class 11 – (9/23/16):
Constitution of the United States of America [Casebook pp. 1383-1403]

B. The President’s Authority

Class 12 – (9/28/16):
Executive Order 10340 [Xerox pp. 232-233]
Youngstown Sheet & Tube Co. v. Sawyer [Casebook pp. 563-580]

C. Delegation to the Executive Branch

Class 13 – (9/29/16):
Industrial Union Department v. American Petroleum Inst., [Xerox pp. 234-259]

Class 14 – (9/30/16):
Whitman v. American Trucking Assns., Inc. [Casebook pp. 590-596]
A.L.A. Schechter Poultry Corp. v. United States [Casebook pp. 610-613]
Notes on Delegation [Casebook pp. 619-624]
D. Legislative Control of Delegated Power

Class 15 – (10/5/16):

I.N.S. v. Chadha [Casebook pp. 652-668]
Notes on Appropriation and Spending [Casebook pp. 677-685]

E. Appointment and Removal

Class 16 – (10/6/16):

Free Enterprise Fund v. Public Company Accounting Oversight Board [Casebook pp. 718-733]
Myers v. United States [Casebook pp. 733-736]
Humphrey’s Executor v. United States [Casebook pp. 736-737]
Morrison v. Olson [Casebook pp. 738-742]
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Class 17 – (10/7/16)

Margaret Hamburg and the FDA (A) [Xerox pp. 260-284]

III. Procedural Frameworks for Administrative Action

A. Rulemaking and Adjudication

Class 18 – (10/13/16):

Londoner v. Denver [Casebook pp. 32-39]
Bi-Metallic Investment Co. v. State Bd. of Equalization [Casebook pp. 39-50]

B. The Fundamental Statute

Class 19 – (10/14/16):

Administrative Procedure Act, Sections 551-559, omitting 552, 552a & 552b [Casebook pp. 1404-1407 & pp. 1409-1418]
Notes on the APA [Casebook pp. 50-64]
IV. Agency Rulemaking

A. The Basic Structure

Class 20 – (10/19/16)

Introductory Notes on Rulemaking [Casebook pp. 109-119]
Vermont Yankee Nuclear Power Corp. v. NRDC, Inc. [Casebook pp. 119-137]

Class 21 – (10/20/16)

NRDC v. EPA [Casebook pp. 137-143]
U.S. v. Nova Scotia Food Products Corp. [Casebook pp. 143-165]

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General Electric Co. v. EPA [Casebook pp. 178-184]
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Class 23 – (10/26/16)

Executive Order 12866 [Casebook pp. 1461-1475]
Notes [Casebook pp. 213-226]

Class 24 – (10/27/16)

Sunstein, The Real World of Cost-Benefit Analysis [Xerox pp. 298-342]

D. Adjudication as an Alternative

Class 25 – (10/28/16)

FTC v. Cement Institute [Casebook pp. 333-337]
SEC v. Chenery Corp. [Casebook pp. 386-396]
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A. Baseline Norms

Class 26 – (11/2/15)

Notes [Casebook pp. 926-927]
Administrative Procedure Act, §§ 701 – 706 [Casebook pp. 1418-1420]
Shaw’s Supermarket, Inc. v. NLRB [Casebook pp. 928-938]

B. Judicial Review of Factual Determinations

Class 27 – (11/3/15)

Universal Camera Corp. v. NLRB [Casebook pp. 938-955]

C. Beyond the Facts – The Traditional Framework

Class 28 – (11/4/15)

NLRB v. Hearst Publications, Inc. [Casebook pp. 964 – 971]
Skidmore v. Swift & Co. [Casebook pp. 972 – 976]

D. Beyond the Facts – The Current Framework

Class 29 – (11/9/15)

Motor Vehicle Manufacturers Ass’n v. State Farm Mutual Automobile Insurance Co. [Casebook pp. 991-1013]

Class 30 – (11/10/15)

Class 31 – (11/11/15)

Materials relating to 29 C.F.R. §825.11 [Xerox pp. 343-352]
Hackworth v. Progressive Casualty Ins. Co. [Xerox pp. 353-358]
Wolverine World Wide, Inc. [Xerox pp. 359-368]
29 C.F.R. §825.208 [Xerox pp. 369-370]
29 C.F.R. §825.700 [Xerox p. 371]

Class 32 – (11/16/15)

MCI Telecommunications Corp. v. American Telephone and Telegraph Co. [Casebook pp. 1047-1077; 1088-1091]

Class 33 – (11/17/15)

United States v. Mead Corp. [Casebook pp. 1098-1131]

E. Fitting the Law to Practice

Class 34 – (11/18/15)

Farber & O’Connell “The Lost World of Administrative Law” [Xerox pp. 372-425]

Class 35 – (11/28/15)

Review [No further assignment]

Class 36 – (11/30/15)

Review [No further assignment]