Readings
- Edwards, Chapter 15, "The Federal Courts"
- Alexander Hamilton, "Federalist 78" (available at the Avalon Project)
- John Marshall, *Marbury v. Madison*, pages 176-end only (available at Oyez)

Objectives
After studying this chapter, students should be able to
- Explain why the American judicial system is called an adversarial system.
- Identify the major actors in the judicial system and explain their functions and responsibilities.
- Describe the functions of federal district courts, courts of appeals, and the U.S. Supreme Court.
- Summarize the judicial selection procedures for federal judges and justices.
- Discuss the background of judges and justices.
- Describe the role of the courts as policymakers.
- Summarize procedure in the U.S. Supreme Court, including the "discuss list," oral argument, the conference, and opinion writing.
- Explain the importance of opinion writing at the Supreme Court level and describe the different types of opinions.
- Identify factors used by the Supreme court in deciding which cases to accept for review.
- Analyze the contrasting positions of judicial restraint and judicial activism.
- Trace the historical evolution of the policy agenda of the Supreme Court.
- Examine the ways in which American courts are both democratic and undemocratic institutions.

Vocabulary: You should be able to define and use these terms appropriately and accurately in context. You DO NOT need to write out definitions unless that is what will help you learn them.

litigants* plaintiff* standing to sue class action lawsuits justiciable disputes *amicus curiae* brief* *writ of certiorari* solicitor general opinion concurring opinion* dissenting opinion* *stare decisis* precedent originalism judicial review original intent original meaning judicial restraint judicial activism judicial implementation political questions statutory construction *in forma pauperis* litmus test** remedy** Warren Court* Burger Court* Rehnquist Court* Roberts Court* judicial review judicial restraint judicial activism political questions statutory construction *in forma pauperis* litmus test** remedy**
Reading Responses: Answer the following questions and be ready to discuss them in class.

Hamilton (due Monday, Mar. 9 – print, read, and annotate)

1. What was Hamilton's position regarding the power of the judiciary to declare legislative acts contrary to the Constitution void?

2. Why does Hamilton consider the independence of the judiciary to be a vital component of constitutional government?

3. What arguments does Hamilton advance for establishing permanency of judicial offices?

Marshall (Marbury v. Madison) (due Thursday, Mar. 12 – print, read, and annotate)

1. Why, according to Marshall, is the Constitution superior to any ordinary act of the legislature?

Edwards (due Friday, Mar. 13)

1. Explain the differences between original and appellate jurisdiction.

2. Why is jurisdiction important to the structure of the federal judicial system? Identify and include each federal court level and the type or types of jurisdiction of each as part of this analysis.

3. How are civil law and criminal law distinctive?

4. Describe the role of the courts as policy makers.

5. Summarize judicial selection procedures for federal judges and justices.

6. Describe three possible reasons why the Supreme Court might decide to overturn a previous decision.

7. What are the central arguments made by supporters of judicial activism and judicial restraint? Which side do you agree with more, and why?

8. What role do interest groups play in the American judicial system? Evaluate the impact of this involvement (is it positive or negative, or neutral?) and explain your reasoning.

Suggested Reading:

Internet Resources:

**Government Websites**

- The [Federal Courts Home Page](#) contains information and statistics about the activities of the U.S. District Courts, Circuit Courts of Appeal, and the Supreme Court.
- The [Justice Department](#) provides information on current judicial nominations.
- [Official site of the U.S. Supreme Court](#) with information about its operation.
- [SCOTUS Blog](#) - The Supreme Court of the United States has a blog.
- The [Supreme Court Historical Society](#)'s web site contains colorful histories of the courts and judges, a research database of cases and people, and a learning center.

**Court History and Case Resources**

- [Landmark Supreme Court Cases](#) - Developed by Street Law, Inc. with funding from the Supreme Court Historical Society.
- [Cornell University's Legal Information Institute](#) is a gateway to a world of information that offers links to associated law and court sites on the Web. Among its sections you will find the following: the Supreme Court calendar; biographies and opinions of the justices; directories of law firms, law schools, and legal associations; constitutions and codes, including U.S. statutes, regulations, and judicial rules of procedure; and Court opinions, including state supreme courts.
- The [Oyez Project](#) is a multimedia archive devoted to the Supreme Court of the United States and its work, and includes all audio recorded in the Court since the installation of a recording system in October 1955, among other things.
- [FindLaw](#) is a comprehensive resource for researching specific cases, and quickly finding many cases and opinions under general areas of law.