COURSE SYLLABUS

I. Course Overview and Description

This short course will consider, in some detail, a relatively obscure provision of the First Amendment, namely the Petition Clause. We will begin by studying English origins of the right of petition and continue by examining the history and meaning of petitioning in the early years of the Republic under the Constitution of 1787 (including petitioning activity before adoption and ratification of the First Amendment in 1791). After undertaking this foundational historical work, we will study the major Petition Clause precedents of the Supreme Court of the United States. As you will quite quickly ascertain, to date the Supreme Court has not given the Petition Clause much, if any, independent doctrinal significance. Instead, speech of a petitioning cast is simply merged into the more general category of “freedom of speech.”

Having established a baseline understanding regarding the history and meaning of the Petition Clause, we will then consider its possible relevance to contemporary politics and democratic deliberation. Should the Petition Clause play any significant role in securing expressive freedom? And, if so, what might that role encompass? We will consider in some detail the possible relevance of “petitioning” to accessing incumbent members of government, with particular emphasis on what might be called “hybrid petitioning”—that is, petitioning activity that is annexed to the exercise of the rights of free speech, assembly and association. The Selma-to-Montgomery March, of March 1965, provides a particularly good exemplar of this “hybrid petitioning” activity. By the end of the short course, you will have a firm grasp of the scope and meaning of the right of petition, in both
historical and contemporary terms. You should also be able to assess the ways in which petitioning could be relevant to contemporary politics and political discourse.

Required course materials include: (1) a Course Supplement comprised of historical materials from the British Parliament and the Congress, excerpts from books and law review articles, and the major Supreme Court cases interpreting and applying the Petition Clause, and (2) a book, Ronald J. Krotoszynski, Jr., RECLAIMING THE PETITION CLAUSE: SEDITIOUS LIBEL, ‘OFFENSIVE’ PROTEST, AND THE RIGHT TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES (Yale University Press 2012).

II. Attendance and Participation Policies

In general, I expect students to be present and prepared for all meetings. With only eight (8) class meetings over two weeks, each class session has an unusual importance. Although I expect students in the course to prepare for class and to attend class on a regular basis, I will allow one (1) free “skip” and one (1) free “pass” over the two week short course. Simply provide me with advance notice that you will be absent or do not wish to be called on for a particular class and I will honor that request. Additional absences or passes would require providing me with good cause for the absence or lack of preparation.

You may convert the skip into a pass, but you may not use the pass for an extra skip. If I call on you and find you either absent or unprepared without prior notice, I will note this fact. Should this happen twice over the short course, I reserve the right to lower your final grade significantly for a violation of my attendance policy (i.e., a deduction of .5 on a raw final exam score using a grading scale of 0.0-4.3). Finally, should you require special accommodations due to a disability, for medical reasons, or for other personal reasons, please speak to Assistant Dean for Students Mary Ksobiech.
All formal requests for accommodation should be initiated with Dean Ksobiech’s office, rather than with the course instructor.

III. Course Evaluation and Grading

Your grade in this class will be determined by a final essay exam question, administered on a “take home” basis. The class itself will have input on how much time students will have to complete the exam. I intend to distribute the exam question at the end of the last class session. The maximum time I will allow for answers to be completed and returned will be two weeks; I am open to establishing a shorter period for completing the exam question – but not a longer period.

Your examination essay answer will have a maximum page length (to be determined at our first class meeting, but not to exceed eight (8) double spaced pages). I will neither require nor expect independent research for the essay answers, but you are quite free to undertake such research if you are so inclined. To be clear, it should be possible to earn a full “A” mark using only the required course materials. The essay answer is not the same as formal research paper requirement. Even so, however, the essays should observe the standard rules of English, including appropriate paragraph and sentence structure. In addition, a responsive essay answer should cite relevant materials when it is appropriate to do so. However, and at the risk of repetition, this is not a research paper assignment and your answers will not be evaluated as if it were one.

When assigning final grades, I will observe the grading policies adopted by the law faculty at the University of Alabama School of Law. The precise meaning of the curve will depend on the final enrollment (significantly different rules apply to classes with 12 or fewer students than with respect to classes with more than 12 students). I will make all reasonable efforts to use the “seminar”/small class curve if at all possible.
IV. Class Assignments

Below is a list of class meeting dates with assignments and subject matter. We will have eight (8) class meetings.

November 9  
Supplement  1-88 (U.K. materials; early U.S. materials; materials by May, Fraser, and Van DeBurg)

November 10  
Supplement pp. 89-174 (Eric Schnapper; older Petition Clause cases)

November 11  
Supplement pp. 175-230 (New Petition Clause cases; Williams v. Wallace)

November 12  
Book pp. ix-xiii, 1-54 (Preface, Chapters 1 and 2)

November 16  
Book pp. 55-80, 81-102 (Chapter 3 & Chapter 4, Parts I & II)

November 17  
Book pp. 102-152 (Chapter 4, Parts III-end)

November 18  
Book 153-184 (Chapters 4 and 5)

November 19  
Book 185-216 (Chapter 6 & Chapter 7)  
NOTE: The final exam essay question will be distributed at this class session.