

CIVIL PROCEDURE I – IN PRACTICE
Fall 2021
MW 2:30-3:45 Room 237

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In Civil Procedure I, you will study the procedural rules that govern the steps of civil litigation, from filing a complaint through trial and post-trial motions. The primary source of authority in this class is the Federal Rules of Civil Procedure, though case law will illuminate how these rules are interpreted and applied. In this “in practice” section, you will be placed in the role of lawyer and asked to complete three assignments (and numerous problems and ungraded assignments) that will help you develop the knowledge, skills, and professional values needed in civil litigation practice.

COURSE OUTCOMES

At the completion of the course:

- You will be able to identify, analyze, and appropriately address the pertinent procedural issues in real and hypothetical civil cases.
- You will have developed your ability to communicate legal and factual analysis orally and in writing to various audiences, including client, senior attorney, opposing counsel, and court.
- You will have demonstrated the ability to carefully read procedural rules and case law.
- In real and hypothetical scenarios in civil litigation, you will be able to explain how a lawyer can simultaneously fulfill duties to a client, comply with civil procedure and professional conduct rules, and treat opposing counsel with respect.

REQUIRED MATERIALS

- Brooke D. Coleman, *et al.*, LEARNING CIVIL PROCEDURE, Third Edition (West Academic Publishing 2018) (“Text”)
- Paula Schaefer, DEVELOPING PROFESSIONAL SKILLS: CIVIL PROCEDURE (West Academic Publishing Draft Second Edition) (draft chapters will be provided via Canvas) (“DPS”)
- Federal Rules of Civil Procedure (2021) (a current edition by any publisher is fine) (“FRCP”)

CANVAS: Check our course page regularly. I will post any changes to the reading assignment at least 24 hours prior to class.

ATTENDANCE: Please sign in if you are present and prepared. If you do not sign in, you will be counted absent. You will receive a .3 final grade reduction if you are absent 5 or more times during the semester. If you are absent 7 or more times, you will not be allowed to take the final exam. It is your responsibility to be aware of your number of absences.

CLASS PARTICIPATION: I will call on students at random in each class. For each class, you should:

- **Complete the Reading Assignment.** Prior to class, please read (1) the assigned pages in the Text and DPS book; (2) the Federal Rules of Civil Procedure related to the assigned pages; and (3) any additional reading assignments.
- **Research the Answers to Questions in the PowerPoint.** The PowerPoint often contains questions for you to answer. It is posted prior to class so you can read the questions and research the answers prior to class. Be prepared to cite authority in support of your answers.
- **Complete All Graded and Ungraded Assignments.** The syllabus contains a number of graded and ungraded assignments that you must complete prior to class. Bring your completed work to class in electronic or paper format, unless otherwise noted.

GRADED WORK

There are **240** possible points in this class. At the end of the course, that point total will be converted to the Law School's 4.3 scale. Points are available in the following categories.

- **Graded Assignments:** You will turn in 3 short written assignments during the semester. If you make a good faith effort to complete an assignment, you will receive 10 points (for **30 possible points** total during the semester). If I do not believe that you made a good faith effort on the assignment, you will have the opportunity to redo and resubmit the assignment to me at our next class meeting for up to 5 points. Late assignments (received no later than our next class meeting) will receive a maximum of 5 points. Students who do not participate in the in-class negotiation for Assignment 3 will receive zero points for that assignment, even if they turn in the written assignment.
- **MIDTERM EXAM:** The midterm exam will cover the material assigned prior to the midterm. It will consist of 15 multiple choice questions worth 2 points each and one short essay worth 30 points, for a total **60 possible points**. You may use your texts, rule book, PowerPoints, and any hard copy material that you prepared yourself (such as an outline, notes, etc.). You are not permitted to share materials with classmates, use commercial materials, or consult electronic materials. In a later class, you will review your exam and a grading sheet that should help you begin to understand how to improve your performance for the final—in Civil Procedure and other classes.
- **FINAL EXAM:** The final exam will cover the entire course. It will consist of 25 multiple choice questions worth 2 points each; 4-5 short answer questions worth a total of 50 points; and 1 long essay worth 50 points, for total of **150 possible points**. You may use your text, rule book, PowerPoints, and any hard copy material that you prepared yourself (such as an outline, notes, etc.). You are not permitted to share materials with classmates, use commercial materials, or consult electronic materials.

COURSE SCHEDULE

In addition to the text, always read the FRCP, any other statutory authority referenced in the text, and any examples posted at Canvas. You must also read and be prepared to answer *with citation to authority* the Questions contained in the PowerPoints. Also bring to class any assignments (whether graded or ungraded) on the date noted.

When I think it will be helpful to your understanding of the material, I will post additional reading assignments (such as examples or short articles) in the relevant module in Canvas. Please also read that material prior to class.

August 18 **Pre-Filing Investigation and Sanction Rules**

- Text, pp. 247-75
- DPS, Chapter 1, The Complaint (available at Canvas).
 - Read the DPS materials but do not start drafting the complaint yet.

August 23 **Pleading**

- Text, pp. 277-309
 - After this class, draft the Complaint for DPS Chapter 1. This is **Assignment 1**.

August 25 **Pleading & Discussion of Complaint Assignment**

- No new reading assignment
- *Please bring your completed **Assignment 1** to class – in paper format. It is due at Canvas prior to class. This assignment is worth 10 points.*

August 30 **Responsive Pleadings & Pre-Trial Motions**

- Text, pp. 309-18; 325-32
- DPS, Chapter 2, Motion to Dismiss for Failure to State a Claim (available at Canvas).
 - This is **an ungraded assignment**.

September 1 **Responsive Pleadings & Pre-Trial Motions**

- Text, pp. 332-55
- *Please bring your DPS Chapter 2 ungraded assignment to class – in paper format. You will not receive a grade for this assignment, but you must complete it and be prepared to discuss it in class.*

September 8 **Basic Joinder**

- Text, pp. 357-80

September 13 **Complex Joinder**

- Text, pp. 381-401

September 15 **Class Actions**

- Text, pp. 401-27
- Additional reading assignment posted in Canvas

September 20 **Class Actions Wrap-Up**

- No new reading assignment

September 22 **Amended Pleadings and Relation Back**

- Text, pp. 429-49
- Additional reading assignment on Canvas

September 27 **Discovery Basics; Discovery Techniques; In-Class Discovery Exercise**

- Text, pp. 493-504; 505-521
- Additional reading assignments on Canvas
- DPS, Chapter 6, Disclosure and Discovery Tools and Planning
 - Please read this chapter prior to class, but do not complete the assignment prior to class. You will work in a team during this class and the following class to plan discovery in the case. You will not receive a grade for this assignment.

September 29 **Discovery Techniques and In-Class Discovery Exercise (Continued)**

- Text, pp. 521-47
- Additional reading assignments on Canvas

October 4 **Discovery Techniques**

- Text, pp. 547-66

October 6 **Midterm Exam**

October 11 **Inadvertent Disclosure and Clawback Agreements**

- DPS, Chapter 8, Inadvertent Disclosure (Available at Canvas)
 - This is **Assignment Two**. You should begin researching and drafting your assignment prior to this class. The written assignment must be completed prior to the next class.

October 13 **In-Class Inadvertent Disclosure Negotiation Exercise and Discussion**

- No new reading assignment
- *Please bring your completed **Assignment 2** to class. It is due at Canvas prior to class. You must also participate in the negotiation. This assignment is worth 10 points. Failure to do either part – the in-class negotiation or the written submission – will result in a zero for the assignment.*

October 18 **The Scope of Discovery**

- Text, pp. 467-90

October 20 **Discuss Midterm Exam**

October 25 **Discovery Disputes**

- Text, pp. 567-588
- DPS, Chapter 7, Discovery Dispute (Available at Canvas)
 - This is **Assignment Three**. You should begin researching and drafting prior to this class. The written assignment must be completed prior to the next class.

October 27 **Discovery Disputes and Guest Speaker – The Honorable E.G. Moody**

- *Staubus v. Purdue* Default Judgment Order (Available at Canvas)
- *Please bring your completed **Assignment 3** to class. It is due at Canvas prior to class. This assignment is worth 10 points.*

November 1 **Summary Judgment**

- Text, pp. 591-609

November 3 **Summary Judgment**

- Text, pp. 609-41

November 8 **Jury Trial Right: The Seventh Amendment**

- Text, pp. 643-58

November 10 **Trial**

- Text, pp. 668-70; 675-98

November 15 **Trial**

- No new reading assignment

November 17 **Post-Trial Motions**

- Text, pp. 699-712
- DPS, Chapter 10 Post-Trial Motions (Available at Canvas)
 - This is an ungraded assignment. Please bring it with you to class.

November 22 **Post-Trial Motions**

- Text, pp. 712-731

November 29 **Review Session**

- No new reading assignment

December 15 **Final Exam**