

Civil Procedure I
LAW A502 ABCDE
Winter 2019

F 2:30–5:15 p.m., William H. Gates Hall, Room 119

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Office Hours: Monday–Friday, 8:00 a.m.–5:00 p.m.

OVERVIEW AND LEARNING OBJECTIVES

In this course, we will study the procedure that governs how civil disputes in the United States are resolved. This process involves a code-based set of rules known as the “Rules of Civil Procedure.” This name indicates both what the rules *do* cover, but also what they *do not* cover: Rules of Civil Procedure govern **civil** (and not criminal) matters and the **procedure** for prosecuting a claim (not the substantive law—like torts, contracts, or property—that gives rise to a claim).

The first half of the course will deal with a threshold procedural question: Which court should hear the dispute? While this seems like a simple question, the answer is complex. We will need to identify which court within the federal or state system has the power to hear the subject matter of the dispute, whether that court has authority over the defendant, and whether the court is an appropriate forum to hear the dispute.

The second half of the course will focus on the application of the Federal Rules of Civil Procedure. We will explore basic procedural concepts, like how to commence a lawsuit, how to notify defendants that they are being sued, how the parties will exchange information about their dispute, and whether the lawsuit can be resolved without resorting to trial.

By the end of the course, you will know the basic structure of civil litigation in the United States.

REQUIRED MATERIALS

The required casebook for the course is GLANNON, PERLMAN, AND RAVEN-HANSEN, CIVIL PROCEDURE: A COURSEBOOK (3d ed. 2017), which is available at the campus bookstore. Online companion materials for the casebook are available through [Casebook Connect](#) from Wolters Kluwer, but these companion materials and access to Casebook Connect are **not** course requirements. If you would like to take advantage of Casebook Connect, I understand that you must purchase a new print hardcover or loose-leaf casebook, or rent a casebook enabled with Connected Casebook access from [Barrister’s Books](#).

You will need access to the Federal Rules of Civil Procedure and relevant provisions of Title 28 of the United States Code. For this purpose, you may wish to purchase a supplement or rules compilation, like GLANNON, PERLMAN, AND RAVEN-HANSEN, CIVIL PROCEDURE: RULES, STATUTES, AND OTHER MATERIALS (2018) (ISBN 978-1454894513).

The Federal Rules are also available for free online from various sources, including [Cornell University's Legal Information Institute](#). The electronic version of this syllabus contains hyperlinks to free online resources when federal rules or statutes are part of the assigned reading.

OPTIONAL MATERIALS

You may find it helpful to consult study guides or treatises for additional background on the topics we will be studying. If you decide to pursue the Connected Casebook option, portions of some commercial study guides will be available to you through Casebook Connect. Here are a few examples of study guides and the definitive civil procedure treatises, which you may find helpful, together with links to their locations in the Gallagher Law Library:

Study Guides:

- [RICHARD D. FREER, CIVIL PROCEDURE \(3d ed. 2012\)](#)
- [JOSEPH GLANNON, CIVIL PROCEDURE: EXAMPLES AND EXPLANATIONS \(7th ed. 2013\)](#)
- [JOSEPH GLANNON, THE GLANNON GUIDE TO CIVIL PROCEDURE: LEARNING CIVIL PROCEDURE THROUGH MULTIPLE-CHOICE QUESTIONS AND ANALYSIS \(3d ed. 2013\)](#)
- [ARTHUR R. MILLER, CIVIL PROCEDURE \(7th ed. 2010\) \(audio study guide\)](#)
- [GENE R. SHREVE, PETER RAVEN-HANSEN, AND CHARLES GARDNER GEYH, UNDERSTANDING CIVIL PROCEDURE \(5th ed. 2013\)](#)

Treatises:

- [CHARLES ALAN WRIGHT AND ANDREW D. LEIPOLD, FEDERAL PRACTICE AND PROCEDURE \(4th ed. 2008\)](#)
- [JAMES WILLIAM MOORE AND DANIEL R. COQUILLETTE, MOORE'S FEDERAL PRACTICE \(3d ed. 1997\)](#)

GRADING

Classroom Assessments (5% of Total Grade). At the end of each class, I will ask you to give me some feedback on the topics we covered by writing some information on a notecard and dropping it off with me on your way out the door. For example, I may ask you to answer one of the following questions:

- What was the most important thing you learned during this class?
- What important question remains unanswered?
- What was the “muddiest,” most confusing, or least clear thing we covered during this class?

There is no correct answer to these questions. I ask that you meaningfully participate in each assessment to receive full credit for this portion of your grade. I may begin the next class period by calling on one or more of you to discuss your responses to clear up a confusing point or develop an insight that you may have had.

Oral Argument Response Paper (10% of Total Grade). The United States Supreme Court began audio recording oral arguments in 1955. The [IIT-Chicago-Kent School of Law's Oyez project](#) has archived oral arguments with the goal of making the Supreme Court accessible to everyone. A number of the cases you will read for this course have oral arguments available in the archive. Listening to the oral arguments will help you understand some of the questions that the justices who drafted the opinions wanted answered before they put pen to paper. It can also give you insight into dueling opinions of the justices where there is a divergence of views on a particular issue.

Pick **one** of the cases below and listen to the hyperlinked oral argument for the case. Write a short (around 500 words) response paper and submit it before the applicable deadline for the case (which is one week after we have discussed the case in class). Your response paper might consider the following questions:

- Are you surprised by the outcome of the case after listening to the oral argument?
- What insights did you gain by listening to the oral argument?
- What argument or line of questions did you find most persuasive?
- Is the outcome consistent with how you would have decided the case? If not, why not?

Like the classroom assessments, there are no correct answers to these questions, and this portion of your grade will depend on you meaningfully engaging with the oral argument as evidenced by your response paper. The cases you may listen to and the respective due dates for the response papers are as follows (remember, while you are welcome to listen to all of the oral arguments, you may only choose **one** for the purpose of your response paper):

- [Hertz Corp. v. Friend, 559 U.S. 77 \(2010\)](#) due by January 25
- [World-Wide Volkswagen v. Woodson, 444 U.S. 286 \(1980\)](#) due by February 8
- [Daimler AG v. Bauman, 571 U.S. ____ \(2014\)](#) due by February 15
- [Ashcroft v. Iqbal, 556 U.S. 662 \(2009\)](#) due by February 22

The papers will be graded on a credit/no-credit basis. I will post on this course's Canvas page more information on how to submit your response paper and how it will be graded. Remember, you need submit only **one** response paper during the quarter.

Midterm Exam (25% of Total Grade). The midterm exam will be a multiple-choice take-home exam administered between February 8 and February 14. The exam must be completed and submitted to Academic Services *before* 4:30 p.m. on Thursday, February 14. You will still have a reading assignment the week of the midterm exam, so please plan accordingly.

Final Exam (60% of Total Grade). The final exam will take place on Wednesday, March 20, at 1:00 p.m. The final exam will be open book and will contain a combination of multiple-choice and essay questions.

ATTENDANCE

You must attend and participate in class. Plus, it's the best way to learn and do well. (And I hope we'll enjoy our time together learning about civil procedure!) Law school policy requires at least 80% attendance to receive course credit. If you have additional questions regarding attendance requirements, please consult the [School of Law's Attendance Policy](#).

ACCESS AND ACCOMMODATION

If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs in this course.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include, without limitation, mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 206-543-8924 or uwdrs@uw.edu or disability@uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor, and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

ASSIGNMENTS

Assignments for the course appear on the following page. Please complete readings *before* the date on which they are listed. In the reading assignments below, "CB" refers to pages in the required casebook. "FRCP" refers to the Federal Rules of Civil Procedure.

I hope to remain roughly on pace with the schedule set out below, but we may not cover the full reading for a given week, and I may alter some reading assignments as we progress. Because we meet only once per week, the reading assignments are necessarily larger than if we met multiple times per week. Please consider this as you schedule your studying for the week. (The weekly assignment will likely be too much to manage if you wait until Friday morning to begin.)

Before our first class meeting on January 11, you should read pages 1–52 of the casebook, the table of contents of the Federal Rules of Civil Procedure, and Rule 1. This reading will give you an introduction to the court system and the litigation process, and it will also introduce you to our first topic: diversity jurisdiction.

I plan on calling on people during each class to discuss the assigned reading, so please come prepared to answer questions and engage with the material. This is not meant to be a stressful experience but to enable you to actively participate in class. I understand that you

may occasionally be unable to complete the reading before our class meets. If this does occur, please feel free to see me before class to tell me that you have not completed the readings, and I will not call on you during that class. If you have any other reason you do not wish to be called on, please see me or e-mail me so we can discuss this further.

Assignment Schedule

Assigned readings are to be completed before each class meeting.

January 11 – Course Introduction; Introduction to Subject Matter Jurisdiction

Reading: CB 1–52; [FRCP Table of Contents](#); [FRCP 1](#)

January 18 – Subject Matter Jurisdiction: Diversity and Federal Question Jurisdiction

Reading: CB 56 (n.1); 59 (n.8)–76; 80 (n.3)–90; 91–108; 125; [28 U.S.C. 1331](#); [28 U.S.C. 1332\(a\), \(c\)](#); [FRCP 12\(h\)\(3\)](#)

January 25 – Removal; Introduction to Personal Jurisdiction

Reading: CB 127–44; 147–78; [28 U.S.C. 1441\(a\)](#); [28 U.S.C. 1446](#); [28 U.S.C. 1447](#)

February 1 – Personal Jurisdiction

Reading: CB 183 (n.3); 184–99; 233–43; 248; 249–268; 303–05; 307–15; 322–25; [FRCP 12\(g\)-\(h\)](#); [FRCP 4\(k\)](#); [RCW 4.28.185](#); [CA CIV PRO § 410.10](#)

February 8 – Service of Process; Venue; Erie Doctrine

Reading: CB 327–28; 341–63; 367–76; 381–89; 392–97; 409–416; [FRCP 4](#); [28 U.S.C. 1391](#); [28 U.S.C. 1400](#); [28 U.S.C. 1404](#); [28 U.S.C. 1406](#); *Optional Reading on Erie Doctrine: CB 893–916*

February 15 – Pleading

Reading: CB 419–421; 427–46; 453–73; [FRCP 8](#); [FRCP 9](#); [FRCP 11](#); *Optional Reading on Pleading: CB 421–427*

February 22 – Answering the Complaint; Rule 12 Motions; Scope of Discovery

Reading: CB 475–76; 486–510; 523–24; 786–97; 820–21; [FRCP 12](#); [FRCP 15](#); [FRCP 26\(b\)](#); *Optional Reading on Attorney Work Product: CB 797–816*

Friday, March 1 – Discovery; Introduction to Summary Judgment

Reading: CB 823–24; 830–40; 853–60; 867–69; 1014–43; skim [FRCP 26–37](#); [FRCP 56](#)

Friday, March 8 – Summary Judgment; Trial; Post-Trial Motions

Reading: CB 1079–1108; 1135–53; 1164–65; [FRCP 50](#); [FRCP 59](#); *Optional Reading on Supplemental Jurisdiction: CB 729–57; 771–72*; [28 U.S.C. 1367](#)