

Civil Procedure I
Winter 2021
LAW A502 ABCDE

F 3:30–5:00 p.m., remotely via Zoom
Zoom Class Link

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Office Hours: By e-mail appointment

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 demonstrate your knowledge of the structure of civil litigation in the United States.
- You will discover and examine how procedural law operates by analyzing cases, statutes, rules, and the U.S. Constitution.
- You will critique, defend, and use ambiguities in the law.
- You will investigate the policy implications of the rules and their interpretation, particularly with respect to litigants who have been marginalized because of race, class, gender identity, sex, sexual orientation, national origin, age, disability, or membership of another protected class.

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 (2020) (ISBN 978-1543820362).

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 (8th ed. 2018)
- JOSEPH GLANNON, THE GLANNON GUIDE TO CIVIL PROCEDURE: LEARNING CIVIL PROCEDURE THROUGH MULTIPLE-CHOICE QUESTIONS AND ANALYSIS (4th ed. 2019)
- ARTHUR R. MILLER, CIVIL PROCEDURE (7th ed. 2010) (audio study guide)
- GENE R. SHREVE, PETER RAVEN-HANSEN, AND CHARLES GARDNER GEYH, UNDERSTANDING CIVIL PROCEDURE (6th ed. 2019)

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

There are 100 points possible in this course as follows:

Item	Points
Syllabus Quiz	1
Getting-to-Know-You Video	1
Weekly Class Tickets	39
Weekly Classroom Exercises	40
Weekly Classroom Assessments	9
<u>Oral Argument Response Paper</u>	<u>10</u>
Total	100

I will grade on a percentage basis as follows:

Grade	Points
4.0	98-100
3.9	95-97
3.8	92-94
3.7	89-91
3.6	86-88
3.5	83-85
3.4	80-82
3.3	77-79
3.2	74-76
3.1	71-73
3.0	68-70
2.9	65-67
2.8	62-64

In extraordinary circumstances, I may apply a grading curve, but only if it will raise student grades. I will not lower a student's grade based on a curve.

Syllabus Quiz (1% of Total Grade). In a class about rules, it's crucial that you read and understand this syllabus. The syllabus sets out the rules for this course. The "Getting Started" module includes a quiz on the syllabus. This should be an easy point for you to earn!

Getting-to-Know-You Video (1% of Total Grade). Even though we will not share physical space this quarter, I'd like to create a community where we all know each other and can help each other learn. The "Getting Started" module includes a discussion assignment where you are asked to upload a video about yourself so we can all get to know each other.

Weekly Class Ticket (39% of Total Grade). Before each Zoom class, I will ask you to contribute to a discussion forum on Canvas. I call these "tickets" because they need to be submitted before attending the Zoom class. If you do not submit a ticket before class, you can (and should) attend class. But you will not receive full credit for

late-submitted tickets. I will include a specific prompt for each ticket. The goal of the ticket is to help you consider some aspect of our reading before we meet in class and kick-start our class discussion. Each ticket should be between 100 and 250 words. By way of comparison, this paragraph is about 100 words.

Weekly Exercises (40% of Total Grade). In each Zoom class, we will spend time applying what we have learned to fact patterns and hypotheticals. I will ask you to submit your answers to some of these exercises on Canvas during or after class. They will be due by the beginning of the following class period, but you are encouraged to submit them sooner.

Weekly Classroom Assessments (9% of Total Grade). After each Zoom class, I will ask you to complete a Canvas survey to give me feedback on the topics we covered. I will include a specific prompt for each assessment. 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. This means that writing something like “nothing to add” will not receive credit. I will try to give you time at the end of each class to complete the survey. Surveys are due by the end of the day on which our class meets.

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 (no more than 500 words) response paper and submit it on or before **March 10**. I encourage you not to delay in completing this assignment. You will get the most out of this assignment if you listen to the oral argument and write the response paper within one week of our discussing 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 are as follows:

- *Hertz Corp. v. Friend*, 559 U.S. 77 (2010)
- *World-Wide Volkswagen v. Woodson*, 444 U.S. 286 (1980)
- *Daimler AG v. Bauman*, 571 U.S. ____ (2014)
- *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)

The papers will be graded on a credit/no-credit basis.

COURSE EVALUATION

Course evaluations are open online during the last week of classes. I will provide less asynchronous material during the first week of March to give you time to complete your evaluation. Please participate in the course evaluation. I take your feedback seriously and it helps me become a better instructor.

CELL PHONES AND COMPUTERS

Because we will use Zoom for our synchronous class meetings, the use of a cell phone or computer is necessary. But this can lead to all kinds of distractions. Please read the “netiquette” information in the “Getting Started” module and practice good netiquette in all aspects of this course. In addition, the Law School’s policy on exams, paper, and use of computers on exams is set out [here](#).

TECHNOLOGY INFORMATION

Technology Requirements

This is a fully online course; it requires a computer with Internet access and may require one or more of the following technologies:

- Web browsers. I recommend Chrome or Firefox for use with Canvas.
- Speakers, headset, or earbuds.
- Reliable broadband Internet connection (DSL or cable) to stream videos.

Computer and Digital Skills Needed

To succeed in this course, you will need to be comfortable:

- Opening and navigating web browsers
- Typing text or pasting copied text into a text box
- Creating, saving, selecting, and uploading documents and videos
- Opening, reading, and sending email

Technology Support

If you are in need of technological assistance, contact Tech Support at lawhelp@uw.edu.

Vendor Accessibility and Privacy Statements for Course Programs

Canvas Accessibility Statement and Privacy Statement

Panopto Accessibility Statement and Privacy Statement

Zoom Accessibility Statement and Privacy Statement

COURSE COMMUNICATION

Communication Standards

Please read the “netiquette” information in the “Getting Started” module of the course for information on communication norms for this course.

How to Ask a Question

If you have questions about the course or an assignment, please follow these steps:

- First, carefully reread this syllabus and any relevant assignment instructions to see if the answer to your question is there.
- If the question is substantive, review the assigned course materials or recommended supplementary secondary sources to see if the answer is there.
- If you can't find an answer to your question after rereading the syllabus, any relevant instructions, or the assigned readings, post your question in the “Community Forum” linked in the Canvas navigation pane for the course. Posting your question there means that it can be answered by me or one of your peers and the question and its answer will be visible to other students who may have the same question. You can expect responses to questions posted in the Community Forum within a couple business days.

If you have a question or issue of a personal nature, please don't hesitate to contact me by email. I will try to respond within a couple of business days.

GUESTS AND VISITORS

Our class meeting time is generally reserved for student participation. I will consider allowing guests and visitors to our class on a case-by-case basis. Please contact me if you would like to include a guest or visitor in class.

LAW SCHOOL ATTENDANCE POLICY AND CLASS PARTICIPATION

Under changes to ABA Accreditation Standard 304, adopted in August 2004, a law school shall require regular and punctual class attendance.

At any time after the fifth week of a course (halfway through a summer session course), a student who has been determined by the instructor to have attended fewer than 80 percent of the class sessions in any course will be required to drop the course from his or her registration upon the instructor's so indicating to the Academic Services Office.

An instructor may also impose stricter attendance standards or other sanctions for nonattendance, including lowering of a grade, provided that students are informed at the start of the course of the instructor's attendance rules and possible sanctions.

I expect you to attend our synchronous class meetings. It's a great way to learn and do well. And I hope we'll enjoy our time together learning about civil procedure! To fight "Zoom fatigue," we will meet synchronously for an hour or an hour-and-a-half each week. I will deliver asynchronous video and interactive discussion assignments to account for the remaining direct instruction each week.

ACCESS AND ACCOMMODATION

Your experience in this class is important to me. 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 but not limited to; 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.

RELIGIOUS ACCOMMODATIONS

Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Faculty Syllabus Guidelines and Resources. Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form available [here](#).

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 10, 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. You should also view the asynchronous videos in the module for the week before we meet synchronously on Zoom.

I plan on calling on people during each class to discuss the assigned reading and asynchronous videos, 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 or view the asynchronous videos before our class meets. If this does occur, please feel free to send me a note before class to tell me that you have not fully prepared, 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 e-mail me so we can discuss this further.

Assignment Schedule

Assigned readings are to be completed before each class meeting. Asynchronous videos in the module for the week should be viewed before our synchronous Zoom class meeting.

January 8 – Course Introduction; Introduction to Subject Matter Jurisdiction

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

January 15 – 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 22 – 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](#)

January 29 – Personal Jurisdiction

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

February 5 – 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](#);

February 12 – Pleading

Reading: CB 419–421; 427–46; 453–73; [FRCP 8](#); [FRCP 9](#); [FRCP 11](#); *Optional Reading on Pleading: CB 421–427*; *Optional Reading on Erie Doctrine: CB 893–916*

February 19 – Answering the Complaint; Rule 12 Motions

Reading: CB 475–76; 486–510; 523–24; [FRCP 12](#); [FRCP 15](#)

Friday, February 26 – Discovery

Reading: CB 786–97; 820–21; 823–24; 830–40; 853–60; 867–69; [FRCP 26\(b\)](#); skim [FRCP 26–37](#); *Optional Reading on Attorney Work Product: CB 797–816*

Friday, March 5 – Summary Judgment

Reading: CB 1014–43; [FRCP 56](#)