

CIVIL PROCEDURE
DePaul University College of Law
Fall 2017

Law 102-106

Tu/Th . 1-2:40 pm . Room 804

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Course Objectives. The course has several objectives:

1. *You will learn fundamental rules governing judicial jurisdiction in our federal system.* Thanks to our system of federalism, judicial power in the American legal system is allocated according to a very complex system of jurisdictional rules. You'll spend the first part of this course learning these rules, with a focus on (a) the allocation of judicial authority among the court systems of different states (the law of "personal jurisdiction") and (b) the allocation of authority between state and federal court systems (the law of "federal subject matter jurisdiction"). You will also learn, albeit at a basic level, why our system adopted these rules.
2. *You will learn the stages of a civil lawsuit and the most important rules regulating each stage.* The second half of the course will walk you through the stages of a civil (non-criminal) lawsuit in a federal district court—including pleading, discovery, summary judgment, and trial. During this part of the course, you will learn the most important rules governing each stage, as well as core procedural policies that these rules are meant to further.
3. *You will improve your ability to analyze cases, procedural rules, and statutes.* Throughout this course, we will be interpreting and analyzing the language of cases, procedural rules, and statutes. One of our goals is to advance your ability to carefully parse these sources of law. At several junctures, you will also have a chance to practice identifying ambiguities in legal precedent and exploiting these for a client's benefit. Although you won't master these skills in any one course, you will demonstrate material progress by the end of *this* course.
4. *You will begin to develop a more sophisticated understanding of judicial decisionmaking.* In the hardest cases, the formal materials (statutes, precedent, etc.) don't give determinate answers—they leave room for judicial judgment. That judgment is often influenced by considerations that judges aren't upfront about—including their assessment of the practical impact of the legal rule they announce and their own political preferences.

Lawyers call these considerations “policy” considerations. In the first weeks of the class, you’ll gain some insight into how these policy considerations influence the law through a case study that traces the Supreme Court’s development of the law of personal jurisdiction. You’ll also get some practice making use of these policy considerations in legal arguments—a critical advocacy skill.

Casebook and Other Materials. The required casebook is Stephen Yeazell & Joanna Schwartz, *Civil Procedure* (Aspen 9th ed.) (designated “CB” in the syllabus). You are also required to purchase the supplement to the casebook: Stephen Yeazell, *Federal Rules of Civil Procedure with Selected Statutes, Cases, and other Materials* (2017) (designated “Supp.” in the syllabus). Both are available at the Loop campus bookstore. In addition, I will occasionally supplement the casebook reading with reading assignments on the online site for this class, available at <http://d2l.depaul.edu> (these reading assignments are designated “D2L” in the syllabus).

Participation Requirements. You are expected to come to class prepared to discuss each day’s subject. Reading assignments, which may be substantial, are to be completed before the class for which they are assigned. Be sure to read (carefully!) any relevant Federal Rules of Civil Procedure or statutes referenced in your assigned casebook reading. All Rules and statutes referenced in the casebook (and syllabus) may be found in your Federal Rules supplement.

On-time attendance is mandatory, and participation in class discussions is encouraged and expected. Unexplained absences, lack of preparation, or failure to participate meaningfully will adversely affect your final grade.

Exam. I will administer a three-hour, open-book, in-class examination at the conclusion of the course. I’ll discuss the exam and provide you with samples of past examination questions as we get deeper into the course.

Office Hours. Office hours will be announced the first day of class. I am, however, freely available outside office hours by appointment.

Notes on Using the Syllabus. The assignments for the first half of the semester may be found below. The assignments are organized by topic rather than by date. We will proceed sequentially through the topics at our own pace, spending (usually) about one day on each. I will announce the projected readings for the week at the beginning of each Tuesday’s class, although the announced readings for the week may change depending on how quickly, or slowly, we proceed through the material. As we move ahead, I may supplement the reading on the syllabus below with additional readings that will be posted on D2L. If I decide to do this, I will let you know in advance.

Reading for the First Week. Note that the reading for the first and second days of class is Topic 1 (The Historical Roots of Personal Jurisdiction). If we finish Topic 1 during the second class, we will start on Topic 2 (*International Shoe's* Personal Jurisdiction Revolution).

A note on the Topic 1 reading: It is an old and difficult case that includes a good deal of legal terminology that will be totally unfamiliar to you. Do your best to make sense of it on your own before coming to class. Toward that end, I highly recommend you invest in a good legal dictionary and read the case with it in hand!

Note, also, that while it is not required reading, and we will not discuss it in class, I also *strongly* encourage you to *skim* the introductory overview in the casebook (pages 1-52), which provides a good bird's eye view of all of the topics that we will be covering over the course of the semester.

Subsequent installments of the syllabus will be distributed on the D2L site for this class.

SYLLABUS: FIRST INSTALLMENT

	Topic (and Related Cases)	Reading Assignment
Topic 1	<p>The Historical Roots of Personal Jurisdiction</p> <p>Cases:</p> <p><i>Pennoyer v. Neff</i></p>	CB: 63-79
Topic 2	<p><i>International Shoe's</i> Personal Jurisdiction Revolution</p> <p>Cases:</p> <p><i>International Shoe Co. v. Washington</i></p>	CB: 80-89
Topic 3	<p>Refining <i>International Shoe</i>: The “Purposeful Availment” Test</p> <p>Cases:</p> <p><i>McGee v. International Life Ins. Co.</i></p> <p><i>Hanson v. Denckla</i></p>	CB: 89-91
Topic 4	<p>The Modern Specific Jurisdiction Cases</p> <p>Cases:</p> <p><i>Worldwide Volkswagen v. Woodson</i></p> <p><i>Asahi Metal Industry Co. v. Superior Court</i></p> <p><i>Abdouch v. Lopez</i></p>	<p>CB: 103-14, 125-32</p> <p>D2L: <i>Asahi</i></p> <p>Note: This topic will take us more than one class to cover.</p>

Topic 5	General Jurisdiction	No assigned reading. This topic will be presented in class via a short lecture.
Topic 6	Tag Jurisdiction Cases: <i>Burnham v. Superior Court</i>	CB: 143-51
Topic 7	Challenging Personal Jurisdiction	CB: 151-54 Supp: Fed. R. Civ. P. 12(b), 12(g)-(h)
Topic 8	Consent as a Basis for Personal Jurisdiction Cases: <i>Carnival Cruise Lines, Inc. v. Shute</i>	CB: 154-59
Topic 9	The Constitutional Requirement of Notice Cases: <i>Mullane v. Central Hanover Bank & Trust Co.</i>	CB: 160-70
Topic 10	Mechanics of Notice in the Federal System	CB: 171-75 Supp.: Fed. R. Civ. P. 4(a)-(e), 4(h), 12(a)(1), 12(a)(4)
Topic 11	Statutory Restraints on Personal Jurisdiction: Long-Arm Statutes Cases: <i>Gibbons v. Brown</i>	CB: 175-80 Supp.: Fed. R. Civ. P. 4(k)(1)(A), 4(k)(2)

Topic 12	<p>The Federal Venue Statute</p> <p>Cases:</p> <p><i>Thompson v. Greyhound Lines, Inc.</i></p>	<p>CB: 180-86</p> <p>Supp.: 28 U.S.C. § 1391</p>
Topic 13	<p>Subject Matter Jurisdiction I: Federal Question Jurisdiction</p> <p>Cases:</p> <p><i>Louisville & Nashville RR. v. Mottley</i></p>	<p>CB: 205-17</p> <p>Supp.: 28 U.S.C. § 1331; U.S. Const., art. III. §§ 1-2</p>
Topic 14	<p>Challenging Federal Subject Matter Jurisdiction</p>	<p>CB: 217-20</p> <p>Supp.: Fed. R. Civ. P. 12(b), 12(h)(3)</p>
Topic 15	<p>Subject Matter Jurisdiction II: Diversity and Alienage Jurisdiction</p> <p>Cases:</p> <p><i>Mas v. Perry</i></p>	<p>D2L: <i>Mas v. Perry</i></p> <p>CB: 231-34 (on page 231, start with the section on amount-in-controversy)</p> <p>Supp.: 28 U.S.C. §§ 1332(a)-(c)</p>
Topic 16	<p>Subject Matter Jurisdiction III: Supplemental Jurisdiction</p>	<p>CB: 234-37 (through note 3c)</p> <p>Supp.: 28 U.S.C. §§ 1367(a)-(c) (read carefully)</p>
Topic 17	<p>Subject Matter Jurisdiction IV: Removal Jurisdiction</p>	<p>CB: 242-46 (through note 3b)</p> <p>Supp.: 28 U.S.C. §§ 1441(a)-(c), 1446(a)-(c); 1447</p>

Topic 18	Introduction to Choice of Law Cases: <i>Erie RR. v. Tompkins</i>	CB: 255-67
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