

CIVIL PROCEDURE
PROFESSOR GREENBERGER
FALL 2017

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Required Books: Hazard, Tait, Fletcher & Bundy, Pleading and Procedure (11th ed. 2015) and Federal Rules of Civil Procedure, Foundation 2017.

Syllabus:

I. Background: Introduction to Procedure

Text: 1-34

II. Pleading

A. Introduction

Rules: Fed R. Civ. P. 1, 2, 8, 12

Handout: Swann Complaint and Motions

B. Allocation

Rules: Fed. R. Civ. P. 8, 12

Handout: Cleary Article

Text: 433-35; 455-62

C. The Complaint

Rules: Fed. R. Civ. P. 8, 9, 84; Forms 10, 11, 15, 18

Handout: Twombly Complaint

Text: 462-96

Cases: Erickson v. Pardus, 551 U.S. 89 (2007)

Text: 497-509

D. Responses to the Complaint (Motions and Answer)

Rules: Fed. R. Civ. P. 7, 8, 12

Text: 451-52; 533-35

Handout: Swann Answer

Text: 536-44

E. Amendment & Service

Rules: Fed. R. Civ. P. 3, 4, 15
Text: 182-92
Case: Schiavone v. Fortune, 477 U.S. 21 (1986)
Text: 544-55
Case: Krupski v. Costa Crociere, 560 U.S. 538 (2010)

F. Rule 11

Rules: Fed. R. Civ. P. 11
Case: Albright v. Upjohn Co., 788 F.2d 1217 (6th Cir. 1986)
Text: 517-19; 526-32
Cases: Keegen Management, 78 F. 3d 431 (9th Cir. 1996);
Whitehead v. Food Max of Mississippi, 332 F.3d 796 (5th Cir. 2003)

III. Adjudication Without Trial

A. Default Judgment and Judgment on the Pleadings

Rules: Fed. R. Civ. P. 54, 55
Text: 803-06

B. Summary Judgment

Rules: Fed. R. Civ. P. 56
Text: 807-50
Cases: Spierer v. Rossman, 798 F.3d 502 (7th Cir. 2015); Jones v. Clinton, 990 F. Supp. 657 (E.D. Ark. 1998)

IV. Relief

Rules: Fed. R. Civ. P. 57, 65; 28 U.S.C. §§ 2201, 2202
Text: 34-45
Cases: Lawson Products, Inc. v. Avnet, Inc., 782 F. 2d 1429 (7th Cir. 1986)

V. Jurisdiction

A. Personal Jurisdiction: Territoriality

Text: 47-75; 143-55; 75-128

Cases: Daimler v. Bauman, 134 S.Ct. 736 (2014); Walden v. Fiore, 134 S.Ct. 1115 (2014); Benusan Restaurant Corporation v. King, 126 F.3d 25 (1997)

Text: 155-70; 193-206; 136-39

Case: Panavison v. Toeppen, 141 F. 3d 1316 (9th Cir. 1998)

B. Personal Jurisdiction: Notice

Text: 170-82

Cases: Fuentes v. Shevin, 407 U.S. 67 (1972); Connecticut v. Doehr, 501 U.S. 1 (1991); Dusenbery v. United States, 534 U.S. 161 (2002)

C. Federal Subject Matter Jurisdiction

Rules: U.S. Const., Art. III; 28 U.S.C. §§ 1331, 1332, 1367; 1441-1447

Text: 225-31; 238-45; 251-76; 289-98

VI. Venue

Rules: 28 U.S.C. §§ 1391, 1404-1407

Text: 298-321

VII. Erie Problem

Rules: U.S. Const. Am. 7, 14; 28 U.S.C. §§ 1652, 2072

Text: 335-76

Cases: Walker v. Armco Steel Corp., 446 U.S. 740 (1980); Burlington Northern v. Wood, 480 U.S. 1 (1987); Stewart Organization v. Ricoh, 487 U.S. 22 (1988)

VIII. Discovery

Rules: Fed. R. Civ. P. 16, 26-37, 45, 53

Text: 705-37; 744-56; 758-77; 789-801

IX. Former Adjudication

A. Basic Principles

Text: 1049-50; 1056-85

Case: A.H. ex re. Hubbard v. Midwest Bus Sales, Inc., 2016 WL 2909238 (8th Cir. 2016)

Text: 1085-1103

B. Offensive Collateral Estoppel

Text: 1103-1116

C. Preclusion and *Erie*

Case: Semtek International, Inc. v. Lockheed Martin Corp., 531 U.S. 497 (2001)

X. Right to Jury Trial

Rules: U.S. Const. Am. 7; Fed. R. Civ. R. 38

Text: 898-918

Case: Ross v. Bernhard, 396 U.S. 531 (1970)

Text: 918-37; 946-50;

Case: Atlas Roofing Co. v. OSHA, 430 U.S. 442 (1977)
529-552

Text: 376-92

Student performance will be evaluated upon the basis of a final examination and such other exercises as may be assigned from time to time. Attendance is mandatory. Attendance and class participation may be taken into account in determining the final grade.