

CIVIL PROCEDURE

Syllabus

Fall Semester 2017

Section A (102): M/W 10:00-11:40 a.m.

Section B (104): M/W 1:00-2:40 p.m.

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REQUIRED CASEBOOKS:

- Yeazell and Schwartz, **CIVIL PROCEDURE** (Wolters Kluwer Publishers, 9th ed. 2016)
- Yeazell and Schwartz, **FEDERAL RULES OF CIVIL PROCEDURE WITH SELECTED STATUTES, CASES, AND OTHER MATERIALS** (Wolters Kluwer Publishers, 2017)

REFERENCES (CONSULT THESE BOOKS IF YOU HAVE QUESTIONS. HOWEVER, THEY ARE NOT REQUIRED.):

KEVIN CLERMONT, PRINCIPLES OF CIVIL PROCEDURE (West, 4th ed. 2014)

JOSEPH W. GLANNON, CIVIL PROCEDURE (Examples & Explanations) (Wolters Kluwer Publishers, 7th ed. 2014)

SAMUEL ISSACHAROFF, CIVIL PROCEDURE (CONCEPTS AND INSIGHTS) (Foundation Press, 4th ed. 2017)

For accounts of civil lawsuits that show the importance of procedure, see:

JONATHAN HARR, A CIVIL ACTION (Vintage Press, 1996)

PETER SIMON, THE ANATOMY OF A LAWSUIT (Revised Edition) (LexisNexis 1996)

GERALD STERN, THE BUFFALO CREEK DISASTER (Vintage Press, 1996)

MATERIAL TO BE COVERED DURING THE SEMESTER:

The following topics will be covered during the semester. All chapter and page numbers refer to the 9th edition of the Yeazell and Schwartz casebook. Students are expected to **read and to be prepared to discuss** these materials. Students also are responsible for issues raised and discussed in class. In addition I will post important or interesting recent cases on D2L.

How much material we cover in any particular class will depend on the complexity of the material and the class discussion of the material. I will give you an idea of how much material I hope to cover each week. I expect to cover approximately 25 pages in the casebook for each class.

1. **AN OVERVIEW OF PROCEDURE**

* Chapter One: pp. 1-68

2. **PERSONAL JURISDICTION**

* Chapter 2 (pp. 69-203)

3. **SUBJECT MATTER JURISDICTION AND THE FEDERAL COURTS**

* Chapter 3 (pp. 205-254)

4. **STATE LAW IN THE FEDERAL COURTS: *ERIE* AND ITS ENTAILMENTS**

* Chapter 4 (pp. 255-293)

5. **INCENTIVES TO LITIGATE**

* Chapter 5 (pp. 295-306; 310-312; 314-315; 317-321; 338-342; 345-349)

6. **PLEADING**

* Chapter 6 (pp. 367-461)

7. **DISCOVERY**

* Chapter 7 (pp. 463-526)

8. **RESOLUTION WITHOUT TRIAL**

* Chapter 8 (pp. 527-538; 578-601)

9. **THE TRIER AND THE TRIAL**

* CHAPTER 9 (PP. 603-604; 615-668)

10. **RESPECT FOR JUDGMENTS**

* Chapter 11 (pp. 715-782)

LEARNING GOALS:

The goals for this course are to help students develop their ability to:

- Become familiar with the general principles of Civil Procedure as covered in the assigned material;
- Analyze legal and factual issues related to Civil Procedure;
- Organize and synthesize legal material and thought;
- Use legal terminology accurately and appropriately.

METHOD OF EVALUATION:

The final grade for the course will be based upon an examination to be given in December 2017. The examination will consist of one or two fact situation questions and a series of multiple-choice questions. Previous fact situation questions are on reserve in the law library and students are encouraged to look at them.

The examination will be **CLOSED BOOK**. You may **NOT** bring your casebook or materials into the examination room. **HOWEVER**, you may bring into the examination room:

- your Federal Rules of Civil Procedure with any notes written in them, and
- one 8 ½ by 11 inch sheet of paper with your notes on both sides.

OFFICE HOURS:

I will be in my office and available to discuss Torts or any other questions on Monday and Wednesday from 3:00 p.m. to 4:30 p.m.

EXPECTATIONS FOR EVERY CLASS

I have **three expectations** for **ALL** students for **EVERY** class:

(1) You **MUST HAVE READ** the assigned material in the casebook. Students who chronically are unprepared for class discussion will have their grade lowered by one letter grade.

(2) You **MUST HAVE THOUGHT** about the assigned material. What do the cases mean? How do they relate to material we previously have discussed?

(3) You **MUST BE PREPARED, ABLE AND WILLING** to discuss the material. **Civil Procedure** is not a lecture course. We use the Socratic Method in class. I call on students and ask questions and more questions. Do not be afraid to ask me questions as well about the material. If you do not understand something in the cases or the class discussion, the chances are very good that other class members also are having difficulty with it. In addition, I expect students to volunteer to participate. Class discussion is not meant to embarrass or humiliate anyone. It is part of the training that you will need, as attorneys, to deal with clients, other attorneys and judges.

Two other important matters applicable to **Civil Procedure** classes:

(1) **Laptop computers**. Most of you use laptop computers to take notes during class. While you may do so, **I STRONGLY ENCOURAGE YOU NOT TO USE THEM**. Why? Law school classes are NOT exercises in dictation in which you write down every word your professor says, memorize it, and give it back on the

final examination. Law school classes are meant to be Socratic exercises that help you to develop your analytical and reasoning abilities, not your typing skills. Take your class notes in long hand and type them into your computer **after class**. There are two benefits to this:

- it will force you to review what we discussed in class; and
- it will leave you free to participate in – and get more out of – the class discussions.

If you do bring a laptop computer to class, it is to be used EXCLUSIVELY for taking notes. Students found to be using their laptops in class to surf the internet, to check sports scores, to order movie tickets, to send or to receive emails, or for other non-class related purposes will be required to leave the class and will not be permitted to return for the remainder of the class period.

(2) **Cell Phones.** Turn off your pagers and cell phones before class. An attorney in DuPage County was held in contempt of court and jailed for 24 hours when his cell phone rang in court. Unfortunately, I do not have the power to jail you if your cell phone rings during class. However, cell phones are VERY distracting to me and to the other students. If you cannot be away from your cell phone, do not come to class. If your cell-phone rings during class, you must leave class and ma