

CIVIL PROCEDURE

Law 112 - 003

Spring Semester 2022

Tuesdays and Thursdays (1:50 – 3:50 pm.)

Professor Michael L. Davis

SYLLABUS

Textbooks

Civil Procedure: A Coursebook (4th Edition)

Glannon, Perlman, Raven-Hansen

ISBN: 978-5438-2625-8

Federal Rules of Civil Procedure (2021-22 Edition)

Carolina Academic Press

ISBN: 978-5310-2280-8

Goals and Learning Outcomes

Civil procedure is a very important subject for all who attend law school and thereafter. This is the first “rules” subject course most of you will confront during your first year. But it is much more than following the rules. It is imperative that each of us master the “reason(s)” for the rules and how they interplay with the substantive law of the land. These rules and related statutes apply to actions that are filed in federal courts (U. S. District Courts). As is obvious, the rules apply only to civil actions. Criminal cases have their own rules of procedure. Each state also has its own rules of civil procedure, many of which are very similar to the federal rules, but many also differ substantially. The Federal Rules of Civil Procedure (FRCP) were enacted in 1938. Prior to that year federal courts had separate rules for law and equity cases. You need to acquire an acute and in-depth understanding of the rules and how they are applied. This is a foundational course. You will utilize what you learn in this class (hopefully, a lot!) in many of your other classes. You will benefit greatly in courses to come if you master this class. Civil procedure is the vehicle that puts substantive law into motion and ultimately toward a resulting end-game. It is the guideline that holds the secret of how to put pieces of a puzzle together so that the picture makes sense.

The following is a non-exclusive list of specific outcomes for this course:

1. Broadly learn and know the FRCP and associated statutes and case law.
2. To learn the federal court structure and system.
3. To apply the FRCP to basic and then to complex fact patterns.
4. To be able to understand and comprehend the legal reasoning behind the FRCP and statutes.
5. To keep abreast of recent case law and statutory changes and amendments.
6. To retain what you learn in this course and apply it to other courses you may take.
7. To prepare you to be a proficient practitioner in civil procedure in off-campus legal experiences you may have during law school, and to be a smashing success in your legal career after graduation.

Textbooks

The textbook described above - *Civil Procedure: A Coursebook* (4th Edition) will be our main source of substantive and procedural law and is required to take this class. *Federal Rules of Civil Procedure* (2021-22 Edition) may be purchased as an option by the students. It can also be accessed on-line, or through other written sources. This professor, however, strongly urges each student to purchase the book as it is: 1) cheap (about \$40) and 2). a resource which will likely to come in handy in future courses you may take and to serve as a complete copy of the rules after leaving law school.

Class Format

This will be an “in-person” class. Remote attendance is not an option, unless cleared in advance by the administration and/or this professor. This class is interactive and successful learning is dependent upon preparation and class participation. This is not a “lecture” course. The amount of time and preparation each student puts into the class will affect the learning outcomes for all of your student colleagues. We will follow the syllabus and assignments as closely as possible. The class syllabus may be subject to amendments. This professor does not increase or decrease grades based upon class participation, but does “keep score.” All class communications from the professor will be through the students’ school email addresses. It is imperative that each student check his/her email with regularity. If during the semester, this class moves to a remote setting each student must have his/her video feed “on” and must appear in the visual screen at all times, or he/she will be deemed absent.

Final Examination

The final examination will consist of a mix of multiple choice and short essay questions. **It will be “closed book.”**

Student Responsibilities

Students are required to attend classes and be punctual at all times. If a student knows that he/she cannot attend a class or that he/she will be late for class, or must leave class early; it is the responsibility of that student to contact the professor beforehand by phone or email.

Students shall read all of the cases, statutes, rules and assignments in advance, for each class; and shall be prepared to be called upon to discuss and/or debate the rules/and/or a case or assignment in that day's reading assignments, per the syllabus.

Prohibited Class Activities

Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device, laptop, phone, or camera. Any exceptions to this policy must be expressly permitted in writing by the professor.

During class sessions, no student shall access any outside resources unrelated to class topics or issues. Cell phone usage during class is strictly prohibited. Any access to or participation in social media, websites, emails, texts, or other electronic communications during class is also strictly prohibited. This includes any intra-class communications as well as external communications. If a student has an urgent or emergent situation, he/she may excuse him/herself from the classroom to make answer such a communication.

Office Hours

The professor will strive to make himself available for out-of-classroom questions, discussions or concerns with any student who desires. There are no formal office hours. Any student who wishes to discuss any matter with the professor should contact the professor personally at mdavis4@gmu.edu or by phone (703) 993-8039. The professor will make every effort to assist every student in this class.

Covid-19 Health & Safety Requirements

Please note that we will abide by current University/Law School health and safety protocols. Any student who has a Covid-19 or other health related issue or concern should immediately contact the administration for assistance and advice.

Covid-19 Instructional Contingency Plan

In the event that the administration requires this class to transition to a completely remote format, the professor will inform the students as to the manner and type of instruction by which the class will be operated.

Daily Class Readings

Class 1 – Tuesday, January 18

Chapter 1 – An Introduction to American Courts (pages 3-19)

Chapter 2 – A Description of the Litigation Process and
Sources of Procedural Law (pages 21-40)

Class 2 – Thursday, January 20

Chapter 3 – Diversity Jurisdiction in the Federal Courts (pages 43-89)

Class 3 – Tuesday, January 25

Chapter 4 – Federal Question Jurisdiction (pages 91-125)

Chapter 5 – Removal of Cases from State to Federal Court (pages 127-144)

Class 4 – Thursday, January 27

Chapter 6 – The Evolution of Personal Jurisdiction (pages 147-178)

Class 5 – Tuesday, February 1

Chapter 7 – Specific In Personam Jurisdiction (pages 179-250)

Class 6 – Thursday, February 3

Chapter 8 – Other Constitutional Bases for Personal Jurisdiction (pages 251-308)

Class 7 – Tuesday, February 8

Chapter 9 – Long Arm Statutes (pages 309-327)

Chapter 10 – The Constitutional Requirement of Notice and
Methods of Service of Process (pages 329-365)

Class 8 – Thursday, February 10

Chapter 11 – Basic Venue: Statutory Allocation of Cases
Within a Court System (pages 369-385)

Chapter 12 – Challenges to Venue: Transfers and Dismissals (pages 387-417)

Class 9 – Tuesday, February 15

Chapter 13 – Basic Pleading (pages 421-476)

Class 10 – Thursday, February 17

Chapter 14 – Responding to the Complaint (or Not?) (pages 477-527)

Class 11 – Tuesday, February 22

Chapter 15 – Care and Candor in Pleading (pages 529-552)

Class 12 – Thursday, February 24

Chapter 16 – Amending Pleadings (pages 553-598)

Class 13 – Tuesday, March 1

Chapter 17 – Joinder of Claims and Parties (pages 601-639)

Chapter 18 – Complex Joinder: Intervention, Interpleader
and Required Parties (pages 641-673)

Class 14 – Thursday, March 3

Chapter 20 – Supplemental Jurisdiction in the Federal Courts (pages 711-745)
(Omit Section 5)

Class 15 – Tuesday, March 8

Chapter 21 – Informal Investigation and Scope of Discovery (pages 749-797)

Class 16 – Thursday, March 10

Chapter 22 – Discovery Tools (pages 799-847)

Chapter 23 – Discovery Control and Abuse (pages 849-867)

Class 17 – Tuesday, March 22

Chapter 24 – State Law in Federal Courts: The *Erie* Doctrine (pages 871-909)

Class 18 – Thursday, March 24

Chapter 25 – Substance and Procedure Under the *Erie* Doctrine (pages 911-950)

Class 19 – Tuesday, March 29

Chapter 26 – Pretrial Case Management (pages 953-968)

Chapter 27 – Dispositions Without Trial (pages 969-1017)

Class 20- Thursday, March 31

Chapter 28 – The Right to Jury Trial (pages 1019-1052)

Class 21 – Tuesday, April 5

Chapter 29 – Judgment as a Matter of Law

(Directed Verdict and JNOV) (pages 1053-1082)

Class 22 – Thursday, April 7

Chapter 30 – Controlling the Jury (pages 1083-1108)

Class 23 – Tuesday, April 12

Chapter 31 – New Trial and Relief from Judgment (pages 1109 -1139)

Class 24 – Thursday, April 14

Chapter 32 – Appeals (pages 1143-1188)

Class 25 – Tuesday, April 19

Chapter 33 – Claim Preclusion (pages 1189-1221)

Class 26 – Thursday, April 21

Chapter 34 – Issue Preclusion: Further Limits to Relitigation (pages 1223-1263)

END OF SYLLABUS