

# Civil Procedure - Law 112(3) Syllabus

## Spring 2023 -- Prof. Kontorovich

**The readings.** The textbook for the course is Glannon, Perlman, & Raven-Hansen, CIVIL PROCEDURE: A COURSEBOOK 4TH<sup>RD</sup>ED.

All readings are from Glannon. Where indicated, please also study the text of the relevant Federal Rules of Civil Procedure (FRCP). Also, look at the text of any FRCP referred to in the casebook. This is **important: read the rules carefully**. They are the backbone of the procedural system.

Amendments to the syllabus may be made from week to week by email to conform with our progress, or in civil procedure parlance, “pleadings may be amended to conform to the evidence.”

**Office hours.** Wednesdays 4pm-5p, Room 443J – the rotunda area on the fourth floor. Also, email me directly to set up other times if that is inconvenient. [ekontoro@gmu.edu](mailto:ekontoro@gmu.edu)

**Schedule: Class meets M&W 1:50-3:50.** We will not have class on April 5 or 12<sup>th</sup> due to my observance of the Passover holiday. April 10<sup>th</sup>'s class will be taught via Zoom. Make-up dates to be announced shortly, [but in the meantime please reserve lunchtime on March 15, April 6, & April 27].

**Course goals: 1)** A sophisticated understanding of the core concepts underlying the law of civil procedure. **2)** The ability to recognize and analyze the key procedural issues presented by a given set of facts. **3)** Familiarity with the key sources of legal authority governing civil procedure in the federal courts, and the most salient areas of dispute with regard to their interpretation and application. **4)** An increased ability to understand and efficiently extract relevant information from primary legal sources (i.e., statutes and judicial opinions). **5)** An increased appreciation of the culture, norms, and forms of legal reasoning and argumentation.

### **Expectations.**

Students are expected to be prepared for every class, whether they expect to be called on or not. To really get the most out of the class, it is recommended to read over the materials twice (once fast, once slow). Please reflect before class on difficulties raised by the principal case and how it might interact with the note cases.

**Attendance:** Regular and punctual attendance are required to earn academic credit. Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1. Should circumstances occur where you anticipate the possibility of missing a substantial number of class sessions (e.g., a serious illness), you should immediately contact the Assistant Dean, Student Academic Affairs. *You need not and should not contact me about one-off absences – this is an adult work environment, and absences that will not conflict with the Academic Regulations are your own business.*

## INITIAL ASSIGNMENTS

**Introduction:** 1-37. You can read this over the first two weeks of class; it is general background information. Also carefully read Art. III of U.S Constitution.

**Class 1:** Diversity Jurisdiction

•Complete Diversity Requirement and Citizenship Determinations: 43-61 (Read also Article III of the U.S. Constitution)

**Class 2:** Diversity Jurisdiction, con't. 61-90

**Class 3:** Federal Question Jurisdiction, 91-125

**Class 4:** Removal 127-145

**Class 5. Personal Jurisdiction. 147-178**

Class 6: Specific in personam jurisdiction. 179-216

**Class 7:** 2More personal jurisdiction 216-50

**Class 8:** Other sources of personal juris: General Jurisdiction: 250-70

**Class 9:** In Rem, etc. 270-308

Class 10. Long Arm statutes & Introduction to Notice. 309-43.

**Class 10.** Notice requirement con't; **342-67**

**Class 11-12:** Venue & transfer. 369-420 (also FRCP 4);  
(Also 28 USC s1391, 1404)

## PART II: THE PLEADINGS

**Class 13: The Complaint:** Notice pleading and plausibility. 421-49  
See FRCP 3, 7(a), 8(a), 8(e), 10

**Class 14:** Heightened Pleading standards Responding to complaints;: 449-488. (FRCP 8, 12, 55(a))

**Class 15:** Responding to complaint, con't: 488-520

**Class 16:** Rule 11. 529-52

**Class 16:** Amending Complaint (Rule 15) 553-600

## JOINDER OF PARTIES

Class 17: Joinder of Claims & Parties: 601-40 (FRCP 18 & 20)\_

Class 18: More complex joinder 641-74 (FRCP 14, 19)

Class 19: Supplemental Jurisdiction of Federal Courts 729-57

Class 20: Class Actions: 674-710

## **PART II: DISCOVERY**

Class 21: Scope of discovery and privileges 760-98 (FRCP 26(b))

Class 22: Discovery tools: Requests for documents, depositions, etc 799-847  
Also Rule 26(a), 30, 33(a-d), 34, 36, 37

Class 23: [spillover from Class 22]; More discovery tools (mental/physical examination); Preventing abuse. 849-70

## **PART IV: CHOICE OF LAW**

Class 23: Choice of Law & the *Eerie* Doctrine: 871-910

Class 24: More *Eerie*; federal common law. 911-951

## **ADJUDICATION WITHOUT OR NOTWITHSTANDING JURY VERDICT**

Class 25-26: Summary Judgement: 969-1018 (FRCP 56)

## **DOCTRINES OF PRECLUSION**

Class 27. Claim Preclusion: 1189-1221 (FRCP 41)

Class 28: Issue Preclusion: 1223-56