

Syllabus
Civil Procedure – Spring 2023 (live)
4 Credit Hours

CONTACT INFORMATION:

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Goals and Learning Objectives

The U.S. Constitution includes two amendments – the Fifth and the Fourteenth – providing that no one shall be "deprived of life, liberty or property without due process of law." This course explains what "process" is "due" to a civil litigant in federal courts. In this course, you will learn the procedural rules, legal principles, and tools that lawyers use when litigating disputes in U.S. federal courts.

Other courses – primarily Criminal Procedure – address the procedural requirements of due process in criminal proceedings. Most other courses you take here – Torts, Criminal Law, Contracts, etc. – are concerned with the substantive law that lawyers and courts apply in resolving criminal proceedings and civil litigation as well as the law that governs business transactions and other aspects of life in the U.S.

By the end of this course, you should be able to do the following:

- Analyze the interplay and distinctions between procedure and substantive law in U.S. courts and determine when to apply procedural rules, substantive law, or both.
- Evaluate and contrast federal and state courts in the U.S. in order to explain the constitutional and legal structure of federal courts, how the jurisdiction of federal courts differs from and interrelates with state court jurisdiction, and how the differences between federal and state courts might impact litigation strategy.
- Identify and explain the key phases of civil litigation, including
 - Pre-filing assessment and court selection, including subject matter jurisdiction, personal jurisdiction, and venue
 - Initiating the lawsuit – initial pleading standards, joinder of parties and claims, standards for the complaint, and service of process
 - Options for responding to the complaint, including answers, counterclaims, cross-claims, and motions
 - Discovery and case management
 - Summary judgment and other dispositions without trial
 - Trial and post-trial motions

- Appeals
- Explain the constitutional and statutory bases for the two most common types of subject matter jurisdiction in federal courts, specifically Federal Question Jurisdiction and Diversity of Citizenship Jurisdiction
- Analyze hypothetical fact patterns and demonstrate the ability to do the following:
 - Identify key procedural issues raised by the fact pattern, including
 - The existence of subject matter and personal jurisdiction and proper venue
 - Proper pleading, joinder of parties, and service of process
 - Appropriate use of various motions, discovery procedures and other pre-trial procedural tools
 - Issues that arise during trial preparation, trial, and post-trial, including when and how an appeal may be taken
 - Determine the rules and legal standards to be applied in resolving the issues
 - Apply the rules and legal standards to the facts, and
 - Explain the conclusion or resolution reached with respect to each issue.

Blackboard Login Instructions

Access to [MyMason](#) and GMU email are required to participate successfully in this course. Please make sure to update your computer and prepare yourself to begin using the online format BEFORE the first day of class. Check [the IT Support Center](#) website. Navigate to [the Student Support page](#) for help and information about Blackboard. In the menu bar to the left you will find all the tools you need to become familiar with for this course. Take time to learn each. Make sure you run a system check a few days before class. Become familiar with the attributes of Blackboard and online learning.

Software: Many courses use Blackboard as the learning management system. You will need a browser and operating system that are listed compatible or certified with the Blackboard version available on the [myMason Portal](#). See [supported browsers and operating systems](#). Log in to [myMason](#) to access your registered courses. Some courses may use other learning management systems. Check the syllabus or contact the instructor for details. Online courses typically use [Acrobat Reader](#), [Flash](#), [Java](#), and [Windows Media Player](#), [QuickTime](#) and/or [Real Media Player](#). Your computer should be capable of running current versions of those applications. Also, make sure your computer is protected from viruses by downloading the latest version of Symantec Endpoint Protection/Anti-Virus software for free [here](#).

Students owning Macs or Linux should be aware that some courses may use software that only runs on Windows. You can set up a Mac computer with Boot Camp or virtualization software so Windows will also run on it. Watch [this video](#) about using Windows on a Mac. Computers

running Linux can also be configured with virtualization software or configured to dual boot with Windows.

Note: If you are using an employer-provided computer or corporate office for class attendance, please verify with your systems administrators that you will be able to install the necessary applications and that system or corporate firewalls do not block access to any sites or media types.

Required Materials

Glannon/ Perlman/ Raven-Hansen, *Civil Procedure: A Coursebook* (4th ed. 2021)

Glannon, *Civil Procedure: Examples & Explanations* (8th ed. 2018)

Supplemental materials posted on Blackboard (as noted in the Syllabus or by announcement)

The two books required for this course are excellent. Professor Glannon's books helped me learn Civil Procedure years ago, and I have recommended them to students for years. Another of his books, *The Glannon Guide to Civil Procedure*, is also quite helpful but not required here due to overlap with the others.

I know books are expensive, so I will anticipate questions that some may have. I generally opted to invest in new books when I was in law school, although there are many more options today than there were then. If you want to save money, you can often find used copies for sale, rent books for the semester, read books in the library, or even buy or rent previous editions of the books as long as you are willing to go to a bit of effort to determine what rule changes, case law, or other developments might not be reflected in the earlier version.

Assigned Reading

The assigned textbook is excellent, as is the *Examples & Explanations* book that is also assigned. The column labeled "READINGS" provides page numbers in the textbook, while the "EXAMPLES" column refers to *Examples & Explanations*. Pay attention to the assignments – I have cut out sections of the textbook that provide historical background information that is not particularly helpful for our purposes, and while it won't hurt to read those sections, your time might be better spent on other activities. As for the examples, in some instances I have noted only the applicable chapter, while in others, I have identified specific examples that might be particularly on point. In either case, I encourage you to read as much of the noted chapters and to work as many of the examples as you have time to do – they are quite helpful.

Exams and grading

Course grades will be calculated as shown below. All of the fact patterns for the questions will be similar in format to the Multistate Bar Exam – the Glannon Examples and Explanations will be quite helpful both in learning the material and in preparing for the exam, and we will go over

several examples and sample questions from various sources over the course of the semester. Please note that even though the quizzes and final exam will consist of multiple-choice questions, many of them will require you to apply aspects of the IRAC formula to identify the key issue raised in a fact pattern (or the conclusion you reached, if you prefer), the rule(s) or legal principle(s) required in order to analyze the issue, and/or the key factors in your analysis that led you to reach the conclusion that you reached instead of one of the other answer choices.

- **Pre-course knowledge evaluation – 10 points:** Prior to the beginning of the second week of class, you will take a timed, closed-book, pre-course evaluation to be posted on Blackboard, which will consist of multiple-choice questions that are similar to those you’ll see on the final exam. This evaluation will not be graded – 10 points will be awarded for completing the evaluation prior to the deadline. The evaluation serves multiple purposes, including (i) to help you and me to determine the extent of your existing knowledge of topics studied in this course, and (ii) to give you an early understanding of the student learning outcomes that you’ll be expected to demonstrate by the end of the course. Please don’t study for or agonize over this evaluation – let it reflect your existing knowledge *before* you start the course and a benchmark for what you will learn during the course.
- **Three mid-course quizzes – 10 points each:** You will take three timed, open-book, multiple-choice quizzes with 5 questions each, which will be spaced throughout the term to cover materials addressed in the preceding classes or modules. These quizzes are intended to let both of us know how you’re doing during the semester so you can focus your study efforts and I can provide additional instruction on topics that seem to be causing difficulty for the class.
- **Final exam – 60 points:** Finally, you will take a time, open-book final exam consisting of 30 multiple choice questions following the same format discussed above.

Classes	TOPICS	READINGS	EXAMPLES
Weeks 1 and 2 Introduction to Civil Procedure and Diversity Jurisdiction	1. Pre-course exam (discussed above) 2. Introduction to civil procedure in U.S. courts A. Introduction to American Courts B. A Description of the Process of a Civil Case 3. Federal court jurisdiction – diversity of citizenship A. Diversity in cases between individuals B. The complete diversity rule	Chapter 1 (skim) Chapter 2 (skim) 43-54 54-61 61-74	Ch. 5, 1-7 Ch. 5, 8-11

	<ul style="list-style-type: none"> C. Citizenship of corporations D. Amount in controversy E. Comparing statutory and constitutional scope of diversity jurisdiction 	<p>74-84 84-90</p>	Ch. 5, 12-13
<p>Weeks 3 and 4</p> <p>Federal Question Jurisdiction, Removal, and Supplemental Jurisdiction</p>	<ul style="list-style-type: none"> 1. Federal court jurisdiction – federal question jurisdiction <ul style="list-style-type: none"> A. The well-pleaded complaint rule B. Supreme Court jurisdiction over cases arising under federal law 2. Removal 3. Supplemental Jurisdiction in Federal Courts 	<p>91-108 123-25</p> <p>127-46</p> <p>711-48</p>	<p>Ch. 4, 2-3, 5-6</p> <p>Ch. 7, 1-21</p> <p>Ch. 16, pp. 319-21</p>
<p>Weeks 5 and 6</p> <p>Personal Jurisdiction</p>	<ul style="list-style-type: none"> 1. Personal Jurisdiction <ul style="list-style-type: none"> A. The current principle of personal jurisdiction – <i>International Shoe</i> 2. Specific in personam jurisdiction <ul style="list-style-type: none"> A. Application of Minimum Contacts Theory to Product Sales: <i>World-Wide Volkswagen</i> B. Contract and Stream-of-Commerce cases C. Specific Jurisdiction: Summary of Basic Principles 3. General In Personal Jurisdiction 4. Long-Arm Statutes 	<p>164-77</p> <p>184-200</p> <p>200-16</p> <p>249-50</p> <p>251-70 309-17; 324-27</p>	<p>Ch. 1, 1-3</p> <p>Ch. 1, 4-6 <i>Ford Motor Co. v. Montana Eighth Judicial Circuit Court</i> (Blackboard)</p> <p>Ch. 1, 10-16</p> <p>Ch. 2, 1-3, 5-6, 12</p>

<p>Weeks 7 and 8</p> <p>Service of Process and Venue</p>	<ol style="list-style-type: none"> 1. Notice and Service of Process 2. Basic Venue <ol style="list-style-type: none"> A. Introduction to Venue B. The General Federal Venue Statute: Terms and Provisions 3. Challenges to Venue: Transfers and Dismissals <ol style="list-style-type: none"> A. Introduction and Statutory Transfers and Dismissals B. Other Dismissals and Transfers 4. Basic Pleading – <i>Twombly</i> and <i>Iqbal</i> 	<p>343-68</p> <p>369-72 372-86</p> <p>387-98</p> <p>398-420 456-76</p>	<p>Ch. 18</p> <p>Ch. 8</p>
<p>Weeks 9 and 10</p> <p>Pleadings and Responses</p>	<ol style="list-style-type: none"> 1. Responding to the Complaint –Rule 12 Motion Practice 2. Answers and Further Pleading 3. Care and Candor in Pleading 4. Amending Pleadings 5. Joinder of Claims and Parties 6. Class Actions 	<p>488-505</p> <p>505-519 529-52 553-67; 583-97</p> <p>601-74 675-700</p>	<p>Ch. 19; Ch. 23, 1-8</p> <p>Ch. 33</p> <p>Ch. 20</p> <p>Ch. 13-15</p>
<p>Weeks 11 and 12</p> <p>Parties and Law</p>	<ol style="list-style-type: none"> 1. State Law in Federal Courts: The Erie Doctrine 2. Claim Preclusion 3. Issue Preclusion 4. The Scope of Discovery 5. Discovery Tools 6. Discovery Control and Abuse 	<p>871-910</p> <p>1189-1205; 1215-22 1223-30 760-93 799-848 849-70</p>	<p>Ch. 10, 1-5 (post-<i>Erie</i> only), 6-10</p> <p>Ch. 26</p> <p>Ch. 28</p> <p>Ch. 21</p>
<p>Weeks 13 and 14</p> <p>Discovery through Appeal</p>	<ol style="list-style-type: none"> 1. Pretrial Case Management 2. Dispositions Without Trial – Including Summary Judgment 3. Trial – Controlling the Jury 4. Judgment as a Matter of Law and New Trial 5. Appeals 	<p>953-68 980-1005</p> <p>1084-1108 1053-58; 1109-27 1155-88</p>	<p>Ch. 23</p>

Course Policies

Instructor-Student Communication: I am happy to respond to emails or to questions posted on Blackboard – don't hesitate to reach out with any questions. If you have questions about the

subject matter of the course that might be helpful to others, feel free to raise them in class or on Blackboard where others can see the question and response.

University Policies and Resources

- a. Academic Honesty: You are expected to be familiar with and abide by the University's Honor Code. The Code can be found [here](#). It is your responsibility to see me if you have questions about these policies. George Mason University has an honor code that states the following:
To promote a stronger sense of mutual responsibility, respect, trust, and fairness among all members of the George Mason University community and with the desire for greater academic and personal achievement, we, the student members of the University Community have set forth this:
- b. Students must follow the university policy for [Responsible Use of Computing](#)
- c. Student services: The University provides range of services to help you succeed academically and you should make use of these if you think they could benefit you. I also invite you to speak to me (the earlier the better).
- d. Students are responsible for the content of university communications sent to their George Mason University email account and are required to activate their account and check it regularly. All communication from the university, college, school, and program will be sent to students solely through their Mason email account.
- e. [The George Mason University Counseling and Psychological Services \(CAPS\)](#) staff consists of professional counseling and clinical psychologists, social workers, and counselors who offer a wide range of services (e.g., individual and group counseling, workshops and outreach programs) to enhance students' personal experience and academic performance. Counseling Center: Student Union I, Room 364, 703-993-2380.
- f. Students with disabilities who seek accommodations in a course must be registered with the [George Mason University Office of Disability Services \(ODS\)](#) and inform their instructor, in writing, at the beginning of the semester. All academic accommodations must be arranged through that office. Please note that accommodations **MUST BE MADE BEFORE** assignments or exams are due. I cannot adjust your grade after the fact.
- g. Students must follow the university policy stating that all sound emitting devices shall be turned off during class unless otherwise authorized by the instructor.
- h. [The George Mason University Writing Center](#) staff provides a variety of resources and services (e.g., tutoring, workshops, writing guides, handbooks) intended to support students as they work to construct and share knowledge through writing. University Writing Center: Robinson Hall Room A114, 703-993-1200. The writing center includes assistance for students for whom English is a second language.
- i. Diversity: George Mason University promotes a living and learning environment for outstanding growth and productivity among its students, faculty and staff. Through its curriculum, programs, policies, procedures, services and resources, Mason strives to maintain a quality environment for work, study and personal growth.