

**Prof. Chris Newman
Civil Procedure 112
Spring Term 2023
Syllabus and Class Policies**

Goals:

My goals for this course are to help you cultivate:

- 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.

Materials:

I have asked you to purchase Baicker-McKee & Janssen, *A STUDENT'S GUIDE TO THE FEDERAL RULES OF CIVIL PROCEDURE*, 2022-23 ed. (West Pub.) (keep in mind that during the exam you will not have internet access, so you may not want to purchase a version that only provides online access). Parts IV and VIII of this book will provide you with the text of the rules and other statutory provisions we will be studying, as well as plenty of useful explanatory commentary and practical applications. Part II contains treatise-like overviews of several non-statutory areas of law that we will be studying, and you may find it helpful in getting your bearing. I will not assign you to read most of that section however (and reading it will NOT substitute for the things I do assign), because I want you to mainly grapple with primary sources and to extract your understanding from them. But to the extent that you find it necessary or helpful to have a secondary source giving a straightforward overview of the “black letter law,” this book should meet your needs, and serve as a useful procedural reference through law school (provided you are careful not to rely on it without checking whether the law has changed).

Most of your class prep time will be spent reading rules, statutes, and judicial opinions. I have not, however, asked you to purchase a casebook. You’re students, you have free Westlaw and Lexis. Why pay for what you can (legally) obtain copies of for free? Occasionally I will post in Course Materials a copy of an opinion that I have edited, but usually you will just look up and read cases on your own (perhaps with instructions to skim or skip certain sections). Why read edited cases when that’s not how you will encounter them in the wild? I don’t care which source

you get cases from, but for purposes of referring to page numbers in assignments and class discussion, I will use the West Reporter pagination (or, for recent Supreme Court cases, S.Ct.). I may also occasionally post other supplementary materials (or tell you to go look them up yourselves).

You may find it useful to obtain a three ring binder in which to keep this document, the cases and other documents you will print out over the course of the term, and your outline. Or you may wish to save trees and simply keep and annotate electronic versions of those documents.

Assignments

I provide below a representative list of readings for the term. I am constantly tweaking the content of this course however, in response both to student feedback and to the fact that the law is a moving target. So, understand that **the list provided below is going to change**. Actual assignments will be posted in Course Materials on TWEN a week in advance of each class. These sheets will vary or supplement the readings given here, and will usually provide questions I want you to think about when doing the reading, as well as specific issues you should prepare for class participation. **So make sure you check the posted assignment sheet for a given class before doing the reading! In the event of a discrepancy between the syllabus and the posted assignment, the assignment rules.**

When I assign a Rule from the FRCP, the default assumption should be that you:

- 1) Read the text of the Rule in full.
- 2) Read the “How Rule X Fits In” and “Architecture of Rule X” sections of the following commentary in the Student’s Guide.
- 3) Skim through the “How Rule X Works In Practice” sections to get a sense of the sorts of things that are addressed there. I don’t expect you to try to learn all these details, but looking at them will help you start to envision what these things look like on the ground.

Class	Expected reading assignment (see weekly postings for supplements and refinements).
Topic I. Introduction to Civil Procedure	
1.	FRCP Rule 1. (For this first class we will not discuss it, but given the difficulty of the opinion, you might want to get a head start on the reading for Class 2.)
Topic II. Personal Jurisdiction and Due Process of Law	
2.	FRCP Rules 1-3, 4, 55, 69. U.S. Constitution: Art. III §§ 1-2; Art. IV. §1; Art VI. ¶2. U.S. Constitution: Amend. XIV. §1. 28 U.S.C. §1738. <i>Pennoyer v. Neff</i> , 95 U.S. 714 (U.S. 1877) (edited version posted).
3.	<i>International Shoe Co. v. State of Washington</i> , 326 U.S. 310 (1945). <i>McGee v. International Life Insurance Co.</i> , 355 U.S. 220 (1957). <i>Hanson v. Denckla</i> , 357 U.S. 255 (1958) (edited version posted). <i>World-Wide Volkswagen Corp. v. Woodson</i> , 444 U.S. 286 (1980).

4.	<i>Calder v. Jones</i> , 465 U.S. 783 (1984). <i>Burger King Corp. v. Rudzewicz</i> , 471 U.S. 462 (1985). <i>Walden v. Fiore</i> (U.S. 2014)
5.	<i>J. McIntyre Machinery Ltd. v. Nicaastro</i> , 131 S.Ct. 2780 (2011). <i>Bristol-Myers Squibb Co. v. Sup. Ct.</i> , 137 S.Ct. 1773 (2017) Internet Contacts Case(s)
6.	<i>Fuentes v. Shevin</i> , 407 U.S. 67 (1972). <i>Mitchell v. W.T. Grant Co.</i> , 416 U.S. 600 (1974). <i>Connecticut v. Doebr</i> , 501 U.S. 1 (1991). FRCP Rules 64-65.
Topic III. Original Subject Matter Jurisdiction of the Federal Courts	
7.	U.S. Constitution, Art. III., Sections 1 and 2. 28 U.S.C. §§ 1332, 1359, 1441(a),(b). FRCP Rules, 12(b)(1), 17. <i>Mas v. Perry</i> , 489 F.2d 1396 (5 th Cir. 1974). <i>The Hertz Corp. v. Friend</i> , 130 S.Ct. 1181 (2010). <i>Kramer v. Caribbean Mills, Inc.</i> , 394 U.S. 823 (1969). <i>Rose v. Giamatti</i> , 721 F.Supp. 906 (S.D.Ohio 1989).
8.	28 U.S.C. §§ 1331, 1338. <i>Louisville & Nashville Railroad Co. v. Mottley</i> , 211 U.S. 149 (1908). <i>Smith v. Kansas City Title & Trust Co.</i> , 255 U.S. 180 (1921) (edited version posted). <i>Moore v. Chesapeake & O. Ry. Co.</i> , 291 U.S. 205 (1937). <i>Merrell Dow Pharmaceuticals Inc. v. Thompson</i> , 478 U.S. 804 (1986).
9.	<i>Grable & Sons Metal Products, Inc. v. Darue Engineering & Mfg.</i> , 545 U.S. 308 (2005). <i>Gunn v. Minton</i> , 133 S.Ct. 1059 (2013)
Topic IV. Federal Venue	
10.	28 U.S.C. §§ 1391, 1402, 1404, 1406. <i>Bates v. C&S Adjusters</i> , 980 F.2d 865 (2d Cir. 1992). <i>Hoffman v. Blaski</i> , 363 U.S. 335 (1960). <i>Piper Aircraft Co. v. Reyno</i> , 454 U.S. 235 (1981).
Topic V. Federal Rules of Pleading	
11.	FRCP Rules 2, 3, 7, 7.1, 8, 84; Form 11. <i>Dioguardi v. Durning</i> , 139 F.2d 774 (2d Cir. 1944). <i>Conley v. Gibson</i> , 355 U.S. 41 (1957). <i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 544 (2007).
12.	FRCP Rule 9. <i>Lasky v. Shearson Lehman Bros., Inc.</i> , 139 F.R.D. 597 (D.C.N.Y.1991). <i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).
13.	FRCP Rule 12. <i>PAE Government Services, Inc. v. MPRA, Inc.</i> , 514 F.3d 856 (9 th Cir. 2007). <i>Garcia v. Hilton Hotels Int'l. Inc.</i> , 97 F.Supp. 5 (D. Puerto Rico, 1951). <i>Rubert-Torres v. Hospital San Pablo, Inc.</i> , 205 F.3d 472 (1 st Cir. 2000). <i>Zeilinskiv. Philadelphia Piers, Inc.</i> , 139 F.Supp. 408 (E.D.Pa. 1956). <i>Ingraham v. U.S.</i> , 808 F.2d 1075 (5 th Cir. 1987).

	<i>Taylor v. U.S.</i> , 821 F.2d 1428 (9 th Cir. 1987).
14.	FCRP Rules 11, 15. 28 U.S.C. § 1927. <i>McCormick v. Kopmann</i> , 23 Ill.App.2d 189 (1959). <i>Roth v. Green</i> , 466 F.3d 1179 (10 th Cir. 2006). <i>Singletary v. Pennsylvania Dept. of Corrections</i> , 266 F.3d 186 (3d Cir. 2001). <i>Krupski v. Costa Crociere</i> , 130 S.Ct. 2485 (2010).
Topic III. Federal Joinder	
15.	FRCP Rules 13, 14, 18, 20, 42. <i>Jones v. Ford Motor Credit Co.</i> , 358 F.3d 205 (2d Cir. 2004). <i>Lasa Per L'Industria Del Marmo v. Alexander</i> , 414 F.2d 143 (6 th Cir. 1969). <i>Call of the Wild Movie, LLC v. Does 1-1,062</i> , 770 F.Supp.2d 332 (D.D.C. 2011). <i>Third Degree Films v. Does 1-131</i> , 280 F.R.D. 493 (D.Ariz. 2012).
16.	FRCP Rules 19, 24. <i>Bank of California v. Superior Ct.</i> , 106 P.2d 879 (Cal. 1940). <i>Provident Tradesmens Bank & Trust Co. v. Patterson</i> , 390 U.S. 102 (1968). <i>Planned Parenthood of Minn. v. Citizens for Cmnty Action</i> , 558 F.2d 861 (8 th Cir. 1977). <i>Keith v. Daley</i> , 764 F.2d 1265 (7 th Cir. 1985). <i>Grutter v. Bollinger</i> , 188 F.3d 394 (6 th Cir. 1999).
Topic IV. Scope and Burden of Federal Discovery	
17.	FRCP Rules 16, 26-37. <i>Schlagenhauf v. Holder</i> , 379 U.S. 104 (1964). <i>Teague v. Target Corp.</i> , 2007 WL 1041191 (W.D.N.C. 2007). <i>Quinby v. WestLB AG</i> , 245 F.R.D. 94 (S.D.N.Y. 2006). <i>Seattle Times Co. v. Rhinehart</i> , 467 U.S. 20 (1984). <i>Coca-Cola Bottling Co. of Shreveport v. Coca-Cola Company</i> , 110 F.R.D. 363 (D.Del. 1986).
18.	<i>Hickman v. Taylor</i> , 329 U.S. 496 (1947). <i>Upjohn Co. v. U.S.</i> , 449 U.S. 383 (1981). <i>In re Shell Oil Refinery</i> , 132 F.R.D. 437 (E.D.La. 1990).
Topic V. Allocation of Power Between Judges and Juries	
19.	U.S. Constitution, Amend. VII. FRCP 38, 39, 56. <i>Lundeen v. Corder</i> , 354 F.2d 401 (8 th Cir. 1966). <i>Cross v. U.S.</i> , 336 F.2d 431 (2d Cir. 1964). <i>Celotex Corp. v. Catrett</i> , 477 U.S. 317 (1986). <i>Scott v. Harris</i> , 550 U.S. 372 (2007).
20.	FRCP Rule 50. <i>Galloway v. U.S.</i> , 319 U.S. 372 (1943). <i>Neely v. Martin K. Eby Construction Co., Inc.</i> , 386 U.S. 317 (1967).
Topic IX. Supplemental Jurisdiction and Removal	
21.	FRCP Rules 14, 42. <i>United Mine Workers of America v. Gibbs</i> , 383 U.S. 715 (1966) (Through Part I only). <i>Owen Equipment and Erection Co. v. Kroger</i> , 437 U.S. 365 (1978).

	<i>Finley v. U.S.</i> , 490 U.S. 545 (1989).
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22.	28 U.S.C. § 1367. <i>Exxon Mobil Corp. v. Allapattah Services, Inc.</i> 545 U.S. 546 (2005). 28 U.S.C. §§ 1441-1453 (in book). <i>Carlsbad Technology v. HIF Bio</i> , 556 U.S. 635 (2009).
Topic X. Vertical Choice of Law	
23.	28 U.S.C. §1652 (formerly codified as 28 U.S.C. § 725). <i>Swift v. Tyson</i> , 41 U.S. 1 (1842). <i>Black & White Taxicab v. Brown & Yellow Taxicab</i> , 276 U.S. 518 (1928). <i>Erie R. Co. v. Tompkins</i> , 304 U.S. 64 (1938). <i>Klaxon Co. v. Stentor Electric Mfg. Co.</i> , 313 U.S. 487 (1941).
24.	28 U.S.C. § 2071-72. FRCP Rule 83. <i>Guaranty Trust Co. v. York</i> , 326 U.S. 99 (1945). <i>Hanna v. Plumer</i> , 380 U.S. 460 (1965). <i>Walker v. Armco Steel Corp.</i> , 446 U.S. 740 (1980).
Topic XI. Preclusion	
25.	Student's Guide to FRCP, pp. 158-71. <i>Cromwell v. County of Sac</i> , 94 U.S. 351 (1876). <i>Russell v. Place</i> , 94 U.S. 606 (1876). <i>Commissioner of Internal Revenue v. Sunnen</i> , 333 U.S. 591 (1948).
26.	FRCP 41. <i>Parklane Hosiery Co., Inc. v. Shore</i> , 439 U.S. 322 (1979). <i>Durfee v. Duke</i> , 375 U.S. 106 (1963). <i>Semtek International Inc. v. Lockheed Martin Corp.</i> , 531 U.S. 497 (2001).

Why am I making you read so many unedited cases?

I still get law students who are perplexed about this. Here are a few different versions of the same answer. Choose whichever works best for you.

Answer #1:

As a lawyer, you will need to take a universe of often confusing, ambiguous, and perhaps even contradictory authorities, and exercise judgment to distill them into the principles most likely to provide your client with useful and reliable guides to action under particular circumstances. Or else you will need to persuade a judge why, among the various potentially plausible ways of applying the relevant authorities to your client's situation, the one that serves your client's interests is actually the one that makes most sense. Your goal as a law student should be to begin cultivating the conceptual tools and habits of mind that will enable you to excel at these tasks, and my goal is to try to help you do so. A crucial part of this is becoming versed in what is often called "black letter law," but your job is not primarily to memorize things that can be stated in a bullet point, and my job is not primarily to "explain" the material in such a way as to make it "clear." To understand an area of law is to understand where, how and why it is *unclear*, and if

you do not feel any uncertainty about this material at the end of the course I will have failed you. (For a good discussion of this point, take a look at [this post](#).) That's not to say that *everything* is unclear, nor is it to say that I'm not going to try to help clarify many important things—I will also have failed if the quality and objects of your uncertainty at the end of the course are not very different from what they are now. Just don't make the mistake of thinking that I can *give* you the skills you need. All I can do is midwife; you have to push. You will be useful as a lawyer to the extent that you figure out how to figure things out. To the extent that your legal studies consist of relying on secondary sources to break down and explain things to you, your future clients would do nearly as well to consult those sources themselves. And increasingly, [they will be able to](#).

Answer #2

Statements of black letter law are bricks. Solutions to complex legal problems are buildings. Your job as an advocate is to provide a court with a blueprint showing it how to use the available bricks to build the most sturdy, habitable and elegant building on the given factual terrain (and that just happens to be the one your client wants to live in). That's what "applying" the black letter law *means*. To do this, you need to know certain things about bricks and their properties, but knowing those things is rarely sufficient to win; there are lots of masons out there. To win, you need to understand *architecture*. You don't learn architecture by just studying bricks. The only way to learn architecture is through studying buildings and trying to assess what makes them sturdy, habitable, and elegant—and what doesn't.

Answer #3

Here is an excerpt from the seminal article of the modern jurisprudential canon, Oliver Wendell Holmes, Jr., *The Path of the Law*, 10 Harvard Law Review 457 (1897):

When we study law we are not studying a mystery but a well-known profession. We are studying what we shall want in order to appear before judges, or to advise people in such a way as to keep them out of court. The reason why it is a profession, why people will pay lawyers to argue for them or to advise them, is that in societies like ours the command of the public force is entrusted to the judges in certain cases, and the whole power of the state will be put forth, if necessary, to carry out their judgments and decrees. People want to know under what circumstances and how far they will run the risk of coming against what is so much stronger than themselves, and hence it becomes a business to find out when this danger is to be feared. The object of our study, then, is prediction, the prediction of the incidence of the public force through the instrumentality of the courts.

The means of the study are a body of reports, of treatises, and of statutes, in this country and in England, extending back for six hundred years, and now increasing annually by hundreds. In these sibylline leaves are gathered the scattered prophecies of the past upon the cases in which the axe will fall. These are what properly have been called the oracles of the law. Far the most

important and pretty nearly the whole meaning of every new effort of legal thought is to make these prophecies more precise, and to generalize them into a thoroughly connected system. The process is one, from a lawyer's statement of a case, eliminating as it does all the dramatic elements with which his client's story has clothed it, and retaining only the facts of legal import, up to the final analyses and abstract universals of theoretic jurisprudence. The reason why a lawyer does not mention that his client wore a white hat when he made a contract, while Mrs. Quickly would be sure to dwell upon it along with the parcel gilt goblet and the sea-coal fire, is that he foresees that the public force will act in the same way whatever his client had upon his head. It is to make the prophecies easier to be remembered and to be understood that the teachings of the decisions of the past are put into general propositions and gathered into textbooks, or that statutes are passed in a general form. The primary rights and duties with which jurisprudence busies itself again are nothing but prophecies.

. . . The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law.

Whether or not we wish to swallow unreservedly Holmes's view that law is "nothing more" than prophecies of what courts will do in fact, your job as a lawyer consists in great part of becoming the best prophet you can. The primary means through which judges both act and justify their actions is the written opinion. What we call "black letter law" is just somebody's attempt after the fact to distill the reasoning of prior opinions into manageable bits of information. This is useful, but it is also misleading, because in law context is crucial. Mediocre lawyers fill briefs with disconnected statements of black letter law that seem to point to the result they want. Good lawyers persuade judges that, properly understood in context, those statements of black letter law do not mean what the other side claims they mean. To be sure, there are doubtless many things affecting judges' actions that are not expressed on the face of an opinion. Mastery of legal reasoning is not sufficient to be a reliable prophet. But it is necessary. Regardless of a judge's true motivations, to persuade a judge to act in the way you want her to, you have to offer her arguments that she will be willing to put into an opinion and sign her name to.

Answer #4:

Because I said so.

Class Preparation:

I suggest that you expect to allot at least four hours (YMMV) to work your way through the readings before each class session. These are difficult materials; to understand them will require work, and it is work that no one else can do for you. Class time will generally not be used to rehearse basic information that can readily be obtained from the reading; instead you will be assumed to have that information and class will be used to try to help you correct, confirm and deepen your understanding of the materials, to integrate them conceptually, and to think about them critically and strategically (i.e., like a lawyer). I also strongly suggest that you do your outlining throughout the course of the term as part of your weekly class preparation, rather than

leaving it to the end. The best way to master any area of the law is to take the primary source materials (statutes and opinions), tear them apart intellectually, digest them, and convert them into your own analytical outline. Simply writing out answers to the Basic Questions listed below for each case you read will give you a good start on this process, and then after each class you can go back and refine your outline based on our discussion. Ultimately you will want your outline to be organized not primarily by cases but by doctrinal areas and issues, so that it provides you with a ready checklist of issues to think about when analyzing a fact pattern, and pulls together and organizes all the examples and judicial statements from various opinions that bear on each issue. This outline—and the mental organization you acquire by creating it—will be your best friend during the exam.

Each time you read a case for class, keep in mind the following **Basic Questions**:

- a. Who brought this lawsuit and against whom, what precisely was the plaintiff asking the court to do, and what in concrete terms (i.e., real world consequences) was at stake for the parties?
- b. What court was this lawsuit filed in, and what relation does that court have to the parties or events involved in the lawsuit?
- c. What court issued the opinion we are reading?
- d. If the answers to b. and c. are different, how exactly did the case get from one court to the other?
- e. What exactly was the court whose opinion we are reading asked to do by the party responsible for bringing the case before it?
- f. What precise question or series of questions does the court regard as necessary to answer in order to determine whether it should do what it has been asked to do? Make sure that your formulation of these questions is attentive to the standard of decision the court regards itself as applying. For example, there is a big difference between the questions “Is X correct?” and “was it an abuse of discretion for someone to decide X?”
- g. What sources of legal authority does the court regard as providing the rules, standards, or principles governing these questions? Are they rules, standards, or principles? For a useful discussion of the distinction, see [this post](#). Taken together, the answers to f. and g. describe what I will refer to as the “framework” the court is using (or at least purporting to use) to decide a given case.
- h. What premises underlying the relevant questions do all the parties and judges seem to agree on, and where exactly is the dispute? Another way to put this is: What is the most specific statement of the governing law that everyone would agree on? Keep in mind that statements of governing law can range in specificity from “Defendant is entitled to due process under the U.S. Constitution” to “It is a denial of due process to proceed to *in personam* judgment against a defendant when the only service of process was by publication in a newspaper, and no affidavit was submitted to the court showing that diligent efforts were made to effect

personal service.” The propositions of law that everyone agrees on are what I will sometimes call the “bedrock” of the case.

- i. What chain of reasoning does the court use to get from the bedrock to the decision it reaches? Map it out as concisely as possible, and distinguish between things the court says that seem logically necessary to support the result reached and things (if any) that seem extraneous. If there are any of the latter, why do you think they were included?
- j. If there are concurrences or dissents, where and why exactly do those judges differ from the majority’s approach? Which judge’s opinion do you find more persuasive and why?

Class Participation:

You really shouldn’t think of cold-calling as hazing or interrogation. You should think of it more as an opportunity for a sort of one-on-one tutoring, albeit conducted in public. Yes, in part the point is to keep you awake and motivated to do the reading, but really the main goal is to help you start thinking like a lawyer, to hone your ability to communicate about difficult legal issues, to challenge you in an arena where your performance is blissfully irrelevant to the disposition of anyone’s life, liberty, or property.

The vast majority of your grade is based on written exam performance, but I do have discretion to give bumps up or down for outliers at either end of the spectrum in terms of preparedness when called on. Preparedness doesn’t mean mastery; it means that you show clear signs of having read and thought about the posted Class Assignment, so that you are in a position to have a constructive conversation about it. You are always welcome to raise your hand and volunteer answers or ask questions in class. If I do not call on you, don’t take it personally—there are many reasons why I might not do so, and you are encouraged to post any unanswered questions or comments on TWEN (see below). In particular, you are invited to post answers to any questions that were posed in the assignment sheet but that we didn’t get to in class. You are also invited to post thoughtful responses to other people’s postings. As discussed further below, learning how to discuss legal issues in writing is an important skill. Thoughtful engagement online will be taken into account when evaluating participation.

Laptop use, notes, and PowerPoint:

I am not paternalistic enough (yet) to ban the use of laptops in class. But I urge you to read and carefully consider the advice contained in [this article](#). When you do so, remember that what you’re trying to learn (and what you’re going to be tested on) is conceptual understanding, not regurgitation of information. Your goal in class should not be to play passive stenographer; it should be to actively engage in putting together the pieces to get a big picture that makes (more) sense. Laptops are distracting, and you’re spending a lot of money to be here. Don’t shortchange yourself. And while the use of laptops for notetaking and consulting relevant materials in digital form is permitted, **use of digital devices for purposes of communication with other persons inside or outside the classroom is not.** (If a non-present significant other urgently needs to reach you, you are free to absent yourself to deal with it.). This is a norm that [you are likely to find strictly enforced by judges](#), so you may as well get used to it now. If you

have a comment on what is being said by anyone in class, you are warmly encouraged to share it. You should, however, exhibit the courtesy and courage to raise your hand and do so openly. Side conversations can take place elsewhere.

I make some use of PowerPoint slides. Occasionally I will give them to you beforehand to be used as part of class prep; usually not. If I use them in class I will post them online later, so don't sit there and try to copy their contents down in class. My slides are not intended to be self-explanatory or comprehensive. They are merely a tool I use to structure lectures and provide exhibits of things I wish to highlight. Some of them contain information in outline form, but do not rely on them as containing everything you need to know about the topics covered in class that day. They do not. Use them as a resource, and take any useful information from them and integrate it into your own outline. On the exam, my slides do not constitute citable authority in their own right. Also, you are not authorized to make the slides available to others.

Class TWEN page:

I make extensive use of TWEN, and encourage you to do so as well. Ideally, our TWEN page is a second classroom where we can expand the discussion beyond what we have time to do in the first one. I am teaching two sections this term, and you will both be combined into a single TWEN page, thus enabling discussions to take place among a broader group.

Class Assignments and other materials will be posted in the section called "**Course Materials.**" Check it regularly: you will be regarded as having constructive notice of anything posted there.

Class time is a very limited resource, and in an attempt to keep it coherent and focused on the key points, I will inevitably have to cut off certain trains of thought and ignore certain raised hands. Not everything I raise in an assignment sheet will be answered in class discussion. Even the things we focus on will rarely if ever be completely resolved by what we say in class. So here's our place to continue the conversation and engage the stray thoughts. Did you have a burning question or comment that we didn't get to in class? An idea you'd like to get feedback on? Run across an interesting or amusing article, blog post, or video clip relevant to what we're studying? I encourage you to post it. You all have the power to create and respond to topics in the "**Civ Pro Discussion**" forum. Remember, our coverage of a topic is not over just because we've moved beyond it in class.

In fact, if you have a question that doesn't get answered in class I'd strongly encourage you to post it here rather than emailing or just coming to ask me during office hours. There are several advantages to this:

- The process of having to formulate your question in writing will almost certainly cause you to think about it more clearly, and the benefit from any answer you receive will be directly proportional to the amount of effort you have already put into thinking about it yourself.
- Posting it online enables other people to try their hand at responding to your question, which is a valuable exercise. I promise that you will gain a lot more from hashing out an

answer for yourselves than by passively imbibing one posted by me. (Plus you never know: I might be wrong. As you ought to know by now, there are such things as authorities in the law, but they aren't people.)

- Any answer I provide will be of much higher quality if I have the ability to think about it and respond in writing rather than giving you whatever I happen to have on the top of my head when you ask.
- It lets everyone in the class get the benefit of the exchange, so that people do not feel compelled to attend office hours for fear of missing some crucial bit of information.

Keep in mind when interacting on TWEN that tone matters. I definitely encourage you to engage critically with each other (and me), both in class and outside it. One of the skills you should be cultivating is how to engage in a critical conversation about legal issues respectfully and constructively. This is not an academic exercise but a crucial practical skill that attorneys use every day, whether in a meeting (or email exchange) with partners or clients, or in letters or emails to opposing counsel. E.g.: When a senior partner (or judge) tells you forcefully and impatiently that *of course* the law is X, and you think they are overlooking something important, how do you correct them without pissing them off?

I have started a page of **web links** to relevant materials that I think useful and/or interesting. If you run across any additional ones that you think might profitably be added, by all means let me know.

There is also a forum called **Class Concerns**, in which you can make any comments you wish about what is going on in class or outside of it. My goal is to try to make this course as useful as possible, and it is better to get feedback when I can still do something about it than to have flaws revealed to me only in a post hoc class evaluation. You are empowered to post anonymously in this forum. I trust you to use this power responsibly and constructively.

The TWEN page has links to **CALI exercises**, which are generally well-done and useful. Before shelling out for Glannon, I suggest you try making use of these when you want to run through some practice problems (as you should). I will also be posting exam questions from prior years in the section called **Practice Problems**, and will give you opportunities to write and get feedback on practice answers to them, or to other problems.

Office Hours

Barring conflicts (like faculty workshops or meetings), I will make a general practice of sticking around after each class to speak to students. As explained above, I also strongly encourage you to make use of TWEN for this purpose. If you need to meet with me personally for any reason, feel free to email and we can set up a meeting.

The Exam

Usually, the exam for this course is 4 hours, in-class, all-essay. Obviously, this may need to be altered should health concerns require. It is also possible that I will incorporate some short answer or multiple choice. You should prepare based on the assumption that the only materials

available to you during the exam will be your copy of the Rules book and an outline of your own creation.