

Civil Procedure - Law 112

Syllabus

Spring 2024 - Prof. Kontorovich

The readings. The textbook for the course is Glannon, Perlman, & Raven-Hansen, CIVIL PROCEDURE: A COURSEBOOK 4TH ED.

All readings are from Glannon. Where indicated, please also study the text of the relevant Federal Rules of Civil Procedure (FRCP). The rules and relevant statutes are available in a commercial supplement to the casebook, but I have not made it required, as they are all public domain materials freely available on line and in a variety of free printed sources. But do 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 depending on 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. Feel free to email me directly to set up other times if that is inconvenient. ekontoro@gmu.edu

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. I will “cold call,” but warmly. 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.*

Grading. The grade shall be based on one open-book, open-note final exam (essay type) at noon on April 29th. An additional adjustment of 1/3 of a letter grade may be made for

particularly excellent class participation, or the opposite at the discretion of the professor and subject to the restrictions of the curve.

READING ASSIGNMENTS

Introduction 3-18. This is general background material. You can read this over the first two weeks of class.

Class 1: Diversity Jurisdiction
Complete Diversity Requirement and Citizenship Determinations: 43-61 (review also Article III of the Constitution)

Class 2: Diversity Jurisdiction, con't. 61-90. FRCP: [7.1 & Committee Note](#).

Class 3: Federal Question Jurisdiction, 91-125

Class 4: Removal 127-145

Class 5. Personal Jurisdiction. 147-177

Class 6: Specific in personam jurisdiction. 180-216

Class 7: More personal jurisdiction (including internet jurisdiction) 216-50

Class 8: Internet jurisdiction con't [supplemental case]; Other sources of personal juris:
General Jurisdiction: 251-70; Ford Motor Co. v. Montana Eighth Judicial District Court, 141 S. Ct. 1017 (2021) [supplemental case]

Class 9: In Rem, etc. 270-307

Class 10. Long Arm statutes & Introduction to Notice. 309-40 (n.2).

Class 10. Notice requirement con't; 340-65

Class 11-12: Venue & transfer. 369-84; 387-414 (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: 449-75. (FRCP 8, 9). Responding to a complaint/default judgements): 477-88 FRCP Rule 12(b); 55(a).

Class 15: Responding to complaint, con't: 488-516. FRCP 8(b-c); 12(b-i).

Class 16: Rule 11. 529-51

Class 16: Amending Complaint (Rule 15) 553-83

JOINDER OF PARTIES

Class 17: Amending after Limitations 583-97.

Joinder of Claims & Parties: 601-25 (FRCP 18 & 20)_

Class 18: More joinder 625-38; 641-67 (FRCP 14, 19)

Class 19: Class Actions 675-709, Rule 23 carefully

Class 20: Supplemental Jurisdiction of Federal Courts 712-44

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. 849-65

PART IV: CHOICE OF LAW

Class 23: Choice of Law & the *Eerie* Doctrine: 871-909

Class 24: More *Eerie*; federal common law. 911-948

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