

Syllabus
Civil Procedure – Spring 2024 Session 1 (Flex LLM)
3 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* (9th 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

This is an asynchronous course, meaning that you will proceed through the assigned materials on your own schedule to some extent. The assignments are divided into modules rather than including specific dates, but you should try to get through around one module per week in order to finish everything by the end of the session

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.

Use of Generative Artificial Intelligence

Pursuant to proposed Academic Regulation 4.3, the use of generative artificial intelligence (“GAI,” defined below) is not permitted except as the professor expressly permits in writing in the course syllabus. For this class, GAI may NOT be used on the Pre-course knowledge evaluation or on any of the graded examinations or quizzes discussed below. Otherwise, I encourage you to experiment with the use of GAI as much as possible in non-graded work.

Definition: Generative artificial intelligence (GAI) is a type of artificial intelligence that uses algorithms to generate new content, such as text or images, based on the data it has been trained on. For purposes of this regulation, GAI is not intended to encompass legal research databases and word processing applications that, while incorporating AI-based elements or enhancements, do not generate novel text. ChatGPT and other chatbots are good examples of GAI as that term is used here.

Exams and grading

Course grades will be calculated as shown below. Please note that the pre-course knowledge evaluation and the three multiple-choice assignments are examples of “formative assessments” that are primarily intended to help you understand the materials as you go along, and so they are designed to avoid making you overly concerned with your scores on those assignments. Only the final examination is primarily intended for grading purposes. **Also note that dates for all assignments will be posted, so please don’t worry about them until I announce them.**

- **Pre-course knowledge evaluation – 10 points (ungraded – you get 10 points for completing the assignment):** At the very beginning of the course, 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, but 10 points will be awarded for completing the evaluation. The evaluation is intended to help you and me to determine the extent of your existing knowledge of topics studied in this course and to give you a better 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 worry about this evaluation – let it reflect your existing knowledge *before* you start the course and a benchmark for what you will learn during the course. But please do make sure that you complete it – you don’t want to lose 10 free points!
- **Two multiple-choice assignments – 15 points each:** You complete two timed, open-book, multiple-choice assignments spaced throughout the term to cover materials addressed in the preceding classes or modules. The primary purpose for these assignments is to help you make sure that you’re learning what you should be learning from the materials as you go along. Also not graded – **you get 15 points for completing each assignment before the stated deadline.**

- **Final exam – 60 points:** Finally, you will take a final exam consisting of 30 multiple choice questions. 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. As noted above, several of the questions will require you to identify the key issue(s) raised in a fact pattern, the rule(s) or legal principle(s) you applied to determine the best answer, and/or the key factor(s) in your analysis that led you to select your chosen answer.
- In assigning final grades, I follow the guidance set for in the italicized language from LLM and JM Academic Regulations, AR4-5, subparagraph 2, which states:
 2. While professors will have broad discretion to assign LLM and JM grades as they choose, *as a general rule, LLM and JM grades should fall within the A or B range unless the student shows serious incompetence, fails to complete assigned work on time, or other unusual circumstances arise.*

MODULES	TOPICS	READINGS	EXAMPLES
Module 1 Introduction to Civil Procedure and Diversity Jurisdiction	<ol style="list-style-type: none"> 1. Pre-course knowledge evaluation (NOTE: all multiple-choice assessments and assignments are on Blackboard under “Assessments”). Complete by 11:30 pm on January 20, 2024 2. Introduction to civil procedure in U.S. courts <ol style="list-style-type: none"> A. Introduction to American Courts B. A Description of the Process of a Civil Case 3. Federal court jurisdiction – diversity of citizenship <ol style="list-style-type: none"> A. Diversity in cases between individuals B. The complete diversity rule C. Citizenship of corporations D. Amount in controversy E. Comparing statutory and constitutional scope of diversity jurisdiction 4. IRAC Overview video presentation 5. Introductions 	Chapter 1 (skim) Chapter 2 (skim) 43-54 54-61 61-74 74-84 84-90	Ch. 5, 1-7 Ch. 5, 8-11 Ch. 5, 12-13

Module 2 Federal Question Jurisdiction, Removal, and Supplemental Jurisdiction	<ol style="list-style-type: none"> 1. Federal court jurisdiction – federal question jurisdiction <ol 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 4. Multiple-Choice Assignment 1 (Complete by 11:30 pm on February 9) 	<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>
Module 3 Personal Jurisdiction	<ol style="list-style-type: none"> 1. Personal Jurisdiction <ol style="list-style-type: none"> A. The current principle of personal jurisdiction – <i>International Shoe</i> 2. Specific in personam jurisdiction <ol 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. <i>Ford Motor Co. v. Montana Eighth Judicial Circuit Court</i> (Blackboard) D. 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</p> <p>Ch. 1, 10-16</p> <p>Ch. 2, 1-3, 5-6, 12</p>
Module 4 Service of Process and Venue	<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 		<p>Ch. 18</p> <p>Ch. 8</p>

Module 5 Pleadings and Responses	<ol style="list-style-type: none"> 1. Basic Pleading – <i>Twombly</i> and <i>Iqbal</i> 2. Responding to the Complaint –Rule 12 Motion Practice 3. Answers and Further Pleading 4. Care and Candor in Pleading 5. Amending Pleadings 6. Multiple-Choice Assignment 2 (Complete by 11:30 pm on February 23) 	<p>456-76 488-505</p> <p>505-519 529-52 553-67; 583-97</p>	<p>Ch. 19; Ch. 23, 1-8 Ch. 33</p> <p>Ch. 20</p>
Module 6 Parties and Law	<ol style="list-style-type: none"> 1. Joinder of Claims and Parties 2. Class Actions 3. State Law in Federal Courts: The Erie Doctrine 4. Claim Preclusion 5. Issue Preclusion 	<p>601-74 675-700 871-910</p> <p>1189-1205; 1215-22</p> <p>1223-30</p>	<p>Ch. 13-15</p> <p>Ch. 10, 1-5 (post-<i>Erie</i> only), 6-10 Ch. 26</p> <p>Ch. 28</p>
Module 7 Discovery through Appeal	<ol style="list-style-type: none"> 1. The Scope of Discovery 2. Discovery Tools 3. Discovery Control and Abuse 4. Dispositions Without Trial – Including Summary Judgment 5. Judgment as a Matter of Law and New Trial 6. Appeals 7. Final exam – complete between February 29 and 11:30 pm March 5) 	<p>760-93 799-848 (do NOT need to read cases) 849-70</p> <p>980-1005</p> <p>1053-58; 1109-27 1155-88</p>	<p>Ch. 21</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 on Blackboard where others can see the question and response.