

Syllabus
Civil Procedure – Spring 2024 (live)
3 Credit Hours
Mondays 6:05 – 9:00 pm

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

We will use Blackboard for communications regarding the class and for posting exercises and any other information that is not in the book. 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.

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

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 Academic Regulation 4-3, generative artificial intelligence (“GAI,” defined below) may not be used on the Pre-course knowledge evaluation or on any multiple-choice assignment or examination. Otherwise, I encourage you to experiment with the use of GAI, and we will do so in class from time to time.

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. As you can see, the final grade will be based on the final exam score **provided that** everyone completes the three earlier assignments described below. Make sure you don’t throw away 10 easy points by failing to complete one of those three assignments.

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

- **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

Removal, and Supplemental Jurisdiction	<ul style="list-style-type: none"> B. Supreme Court jurisdiction over cases arising under federal law 2. Removal 3. Supplemental Jurisdiction in Federal Courts 	<p>127-46</p> <p>711-48</p>
Weeks 5 and 6 Personal Jurisdiction	<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 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>200-34</p> <p>249-50</p> <p>251-70</p> <p>309-17; 324-27</p>
Weeks 7 and 8 Service of Process and Venue	<ul style="list-style-type: none"> 1. Notice and Service of Process 2. Basic Venue <ul 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 <ul style="list-style-type: none"> A. Introduction and Statutory Transfers and Dismissals B. Other Dismissals and Transfers 	<p>343-68</p> <p>369-72</p> <p>372-86</p> <p>387-98</p> <p>398-420</p>
Weeks 9 and 10 Pleadings and Responses	<ul 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 	<p>456-76</p> <p>488-505</p> <p>505-519</p> <p>529-52</p> <p>553-67; 583-97</p>

Weeks 11 and 12 Parties and Law	1. Joinder of Claims and Parties 2. Class Actions 3. State Law in Federal Courts: The Erie Doctrine 4. Claim Preclusion 5. Issue Preclusion	601-74 675-700 871-910 1189-1205; 1215-22 1223-30
Weeks 13 and 14 Discovery through Appeal	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	760-93 799-848 (do NOT need to read cases) 849-70 980-1005 1053-58; 1109-27 1155-88

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.