

# **CIVIL PROCEDURE II**

**SYLLABUS**

**Fall 2017**

**Professor Eugene D. Mazo  
University of Baltimore  
School of Law**

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### Introduction

This course builds on the introductory civil procedure course to further examine how civil disputes get resolved in our federal courts. The question of where a lawsuit should properly be filed is not a topic to which most of us have given much thought. However, the answer to this question is often complex, and it turns on whether a court has the authority to hear the subject of a dispute (subject matter jurisdiction), the authority to bind the defendant (personal jurisdiction), and the appropriateness of the court's location within a particular court system (venue). This course examines these concepts, in addition to many other aspects of our procedural system.

Our casebook for the course will be Joseph W. Glannon, Andrew M. Perlman, and Peter Raven-Hansen's Civil Procedure: A Coursebook (3rd ed. 2017). The third edition is brand new, and therefore expensive. If students in the class wish instead to purchase the second edition of our casebook online, where it costs much less, that is fine (the second edition is from 2014). In addition to the materials covered in our casebook, I will post other materials for you to read on TWEN. Although they are not mandatory, you may also find other books to be a helpful to your learning process. As these are not required, there are no readings assigned from them, but you may wish to look through these secondary books on your own to further your understanding of the material we are covering. I recommend Joseph W. Glannon's Civil Procedure: Examples and Explanations (7th ed. 2013), which provides an excellent overview of our subject matter. I also recommend Joseph W. Glannon's The Glannon Guide to Civil Procedure: Learning Civil Procedure Through Multiple-Choice Questions and Analysis (3rd ed. 2013), which is particularly useful for those of you who want to improve your ability to take multiple choice tests. Each of these books is available in the bookstore. Alternatively, each can be purchased online, in used condition, and at lower cost.

This course has several goals. The first is to familiarize you to the dominant concepts and doctrines in civil procedure and with the structure of how civil litigation is handled in the United States. The second goal is to broaden your knowledge of the techniques of legal reasoning. Finally, the third goal is for you to gain an understanding of the public policy considerations that underlie our procedural system and an appreciation for how judges fashion decisions in light of these. At the end of the course, you should be familiar with the Federal Rules of Civil Procedure; know and understand the concepts of subject matter jurisdiction, personal jurisdiction, venue, notice, removal, joinder, supplemental jurisdiction, class actions, issue preclusion, and claim preclusion; and be able to identify important procedural issues and questions that relate to each of these concepts.

## **Administrative Matters**

Class Schedule: This semester I am teaching two sections of Civil Procedure II. Your class will meet in Room 603 on Mondays and Wednesdays either from 9:00 a.m. to 10:15 a.m. or from 1:30 p.m. to 2:45 p.m. I will start class promptly at 9:00 am and 1:30 p.m. and do my best to end on time. Please do not come late. Being a professional includes consistent timely performance.

Attendance and Participation: I expect that all students enrolled in this course will attend our class and participate regularly. If you need to be absent or late, please send me an email ahead of time to let me know the reason. Given that this is a course in which we are aiming to improve your critical thinking skills, I may call on members of the class and ask you to answer questions about the readings or about what we are studying. If you are unprepared or do not know the answer, you may simply say “pass” or “I don’t know the answer.” I will then call on someone else. If you take too many “passes,” I may ask that we speak outside of class. If two students in a row take a “pass,” the third person I call on will not be able to use this exit and must answer the question. So, please be considerate of your colleagues in the room. If you are making a serious effort, I won’t care *what* you think about the material, but I care that you think *something*. I want you to articulate that something and elaborate on it. I will be interested in the position you are taking and in your ability to make a thoughtful argument for it, no matter what side of the debate you are on.

Office Hours: My office hours are on Monday from 10:15 to 11:00 a.m. and again from 2:45 to 3:30 p.m. I generally have an open door policy and you are free to see me any time I am in my office, although if I am preparing for class I may ask you to come back at a later time. I will also stay in the classroom after each lecture to answer any questions you may have. You are always welcome to schedule an appointment to see me by emailing me, which will guarantee that I will be in my office and can see you when it is convenient for you. My office is in Room 516. My e-mail address is emazo@ubalt.edu. My phone number is (410) 837-4509. Please feel free to contact me at any time with your questions about our class or about what we are reading and learning.

Laptop Policy: Professors find that class momentum is harmed when they call on a student unexpectedly and the student has no idea what the question is because he or she is distracted by a computer screen. Thus, while I will allow the use of laptops for taking notes, organizing them, and assisting in a student’s preparation for the final exam, I reserve the right to prohibit laptops from our classroom if students are using them for inappropriate purposes during class time. You are all being put on notice that your use of a laptop in this course depends on not abusing this privilege.

TWEN: This is a service hosted by Westlaw that will function as our class listserv and webpage. I will from time to time post additional course materials on TWEN for the whole class, which you can download and read on your own. You should learn how to use this service.

Examinations and Grading: Your final course grade will be determined by one final examination. This is mandatory, will be three-and-a-half hours in length, and at least half of it will consist of multiple choice questions. Ninety percent (90%) of your grade will be based on the final exam, and 10% will be based on class participation. After the final examination, I reserve the right to adjust a student’s grade up or down to reflect excellent (or poor) class participation.

Academic Integrity: Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University of Baltimore or its School of Law. Violations of academic integrity include but are not limited to cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter (including attendance), and impeding the Honor Code. The School of Law's Honor Code and information about its process is available at [http://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/](http://law.ubalt.edu/academics/policiesandprocedures/honor_code/)

Disability Policy: If you have a documented disability requiring an academic accommodation, please contact Leslie Metzger in Student Services at (410) 837-5623 or [lmetzger@ubalt.edu](mailto:lmetzger@ubalt.edu).

Title IX Sexual Harassment and Sexual Misconduct Policy: The University of Baltimore's sexual harassment and sexual misconduct policies are compliant with federal laws prohibiting discrimination. Title IX requires that faculty, student employees, and staff members report to the university any known, learned, or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating or partner violence, or sexual exploitation or related experiences or incidents. Policies and procedures related to Title IX as well as the University's nondiscrimination policies can be found at <http://www.ubalt.edu/titleix>.

Faculty at the University of Baltimore are required to remind students of these policies, including by making reference to them in their syllabi and course materials, as I have done here.

## **The Readings**

When doing the readings, please focus on the principle cases that follow each assignment. Following each case in the text there are often questions, and you should read through them as well. I reserve the right to change the readings or to slightly alter the syllabus during the semester if it becomes evident that certain readings should be added or omitted for pedagogical purposes.

<u>Unit #</u>	<u>Topic Description</u>	<u>Readings</u>
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### **Topic One: Introduction to Civil Procedure II**

Unit 1	An Introduction to American Courts	p. 3-19
Unit 2	The Sources of Procedural Law	p. 21-38

### **Topic Two: Subject Matter Jurisdiction**

Unit 3	Diversity Jurisdiction & Individuals	U.S. Const. art III, §§1-2; 12 U.S.C. 1332; p. 41-59
Unit 4	Diversity Jurisdiction & Corporations	p. 59-75

Unit 5 Diversity Jurisdiction & Amount in Controversy p. 75-85, 89-90

Unit 6 Federal Question Jurisdiction 12 U.S.C. §1331;  
p. 91-108, 125

### **Topic Three: Removal**

Unit 7 Moving a Case from State to Federal Court 28 U.S.C. §§1441, 1446, 1447;  
p. 127-144

### **Topic Four: Personal Jurisdiction**

Unit 8 *Pennoyer v. Neff* & Its Progeny p. 147-164

Unit 9 *International Shoe* & The Modern Era p. 164-178

Unit 10 Specific *In Personam* Jurisdiction p. 179-212

Unit 11 Situations Involving Stream of Commerce p. 213-236, 248

Unit 12 General *In Personam* Jurisdiction p. 249-268

Unit 13 Transient Presence, Consent, & Waiver p. 286-301; 303-305

Unit 14 Long Arm Statutes p. 307-325

### **Topic Five: Notice**

Unit 15 Notice: The Constitutional Standard p. 327-341

Unit 16 Notice: Rule 4 F.R.C.P. 4; p. 341-363

### **Topic Six: Venue**

Unit 17 The Basic Principles 28 U.S.C. §§1391, 1404;  
p. 367-383

Unit 18 Transfer of Venue p. 385-397

Unit 19 Forum Non Conveniens p. 397-416

### **Topic Seven: Choice of Law**

Unit 20	The <i>Erie</i> Doctrine	28 U.S.C. 1652; p. 893-911
Unit 21	Determining the Content of State Law	p. 911-917, 931

### **Topic Eight: Joinder**

Unit 22	Multiple Claims & Multiple Parties	F.R.C.P. 18, 20; p. 607-623.
Unit 23	Counterclaims, Crossclaims, & Impleader	F.R.C.P. 13, 14; p. 624-646
Unit 24	Complex Joinder	F.R.C.P. 19, 24; p. 647-658; 658-673; 682-683

### **Topic Nine: Supplemental Jurisdiction**

Unit 25	Supplemental Jurisdiction	28 U.S.C. §1367; p. 729-757, 771-772
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### **Topic Ten: Class Actions**

Unit 26	Requirements for Certifying a Class	F.R.C.P. 23; p. 685-711, 711-728
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### **Topic Eleven: The Preclusion Doctrines**

Unit 27	Claim Preclusion	F.R.C.P. 41; p. 1215-1231; 1246-1247
Unit 28	Issue Preclusion	p. 1249-1256, 1256-1274, 1274-1286, 1292