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University of Baltimore School of Law
Fall 2017

Civil Procedure I
Law 612 – Section 319

Course Meeting Times:
Tuesdays & Thursdays– 9:00 a.m.-10:15 a.m.

Office Hours: To be announced / By appointment

Civil Procedure I Course Syllabus and Overview

Course Description: The fall semester course will focus on relevant issues pertaining to the litigation process, including issues relating to a party's decision to file a lawsuit. The course will include an overview of the civil litigation system so as to give you a bird's eye view of it from start to finish. The class will cover relevant aspects of constitutional law, statutory interpretation, and procedural rules, with a particular focus on the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure. You will also learn about the structure of the state and federal court systems. Specific topics to be covered are set forth below and may be modified, as necessary, throughout the semester.

Learning Outcomes: By the end of this course, you will: (1) be able to state the facts surrounding the history of the Federal Rules of Civil Procedure; (2) be able to draft a pleading; (3) be able to explain the structure of the federal and state court systems; (4) be able to recite how the Federal Rules of Civil Procedure work and the relationship of rules to one another; (5) be able to describe pleading standards and the discovery process; (6) be able to articulate how discovery and other pre-trial motions are made and used; (7) be able to state how trials are conducted, including the order of presentation of evidence; (8) be able to state the difference between verdicts and judgments; (9) be able to explain the proper use of, and timing requirements for, post-trial motions and appeals; and (10) be able to describe ethical and confidentiality issues lawyers face in the practice of law and be equipped to handle those issues.

Law Scholar: Christopher Thibeault

First Class Reading Assignment:

Monday, August 22, 2017, 9:00 a.m.-10:15 a.m.:

Topics: Introductions; course overview; structure of state and federal courts; survey of the civil action; defining “civil procedure”; the purpose and scope of the Federal Rules of Civil Procedure; litigation and alternatives to it

Reading Assignment: Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *Civil Procedure: Cases and Materials* (West, 11th ed. 2013), pp. 1-24, 28-34, 40-44; Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *Civil Procedure Supplement* (Rules 1, 2 & 3)

Assigned cases: Capron v. Van Noorden, 6 U.S. (2 Cranch) 126 (1804); Tickle v. Barton, 95 S.E.2d 427 (W. Va. 1956); DiMichel v. South Buffalo Ry. Co., 80 N.Y.2d 184 (1992)

Course Materials

The required and optional texts are set forth below. Reading assignments from the required texts will be handed out periodically during the semester. I may also periodically assign other readings. These will either be posted online or be distributed in the form of handouts.

Required Texts:

Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *Civil Procedure: Cases and Materials* (West, 11th ed. 2013) (“Casebook”)

Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *Civil Procedure Supplement 2017-2018* (“Supplement”) – The Supplement contains the Federal Rules of Civil Procedure, selected provisions of the United States Constitution, the United States Code, and the Federal Rules of Appellate Procedure, and various other materials, including recent U.S. Supreme Court cases. Whenever a case or other assigned reading refers to a rule, statute or constitutional provision, you should carefully read that rule, statute or provision in the Supplement.

Optional Texts:

Civil Procedure

Joseph W. Glannon, *Civil Procedure: Examples & Explanations* (Aspen, 7th ed. 2013)

Gene R. Shreve & Peter Raven-Hansen, *Understanding Civil Procedure* (LexisNexis, 4th ed. 2009)

Suzanna Sherry & Jay Tidmarsh, *Civil Procedure: Essentials* (Aspen, 2007)

ASSIGNMENTS

Reading Assignments: Required reading assignments will be distributed over the course of the semester. It is expected that students will have read the assigned pages and be prepared for class.

Deadlines: Assignments must be turned in at the announced times and places. The course will include pleading exercises and a final written exam. Failure to complete or turn in an assignment on time or in the manner specified will have negative consequences for your grade.

Court Observation Assignment: In addition to the other course requirements, you are required to attend one *civil* trial or appellate court proceeding of your choice during the course of the semester. On or before Tuesday, November 21, 2017 by 5:00 p.m., you must submit a one-page summary to me via TWEN describing the nature of the proceeding you attended, including the names of the parties, the docket number of the case, the name of the court, and what, if anything, you learned from observing the court proceeding. Failure to complete this assignment will result in your grade being reduced by one step (e.g., B+ to B). Please include your name when you submit the assignment. Extensions of time will not be granted for this assignment.

Other assignments may also be given out periodically during the course of the semester. Note: During the semester, the class will be divided into small “law firms” for purposes of doing assigned group work. Group projects may include drafting complaints, answers, or other legal documents. These group projects will also give you a chance to get to know one another better. Some of you may also find it useful to form study groups.

EVALUATION

Evaluation: The final grade for the Civil Procedure I component of the course will be based on the final exam. The final exam will be in the form of essay questions. Students are identified by confidential exam numbers, which are obtained online on MyUB before

the exam period. Exam numbers are randomly generated by the registrar's office and assigned to each student.

The Civil Procedure I course is subject to the law school's mandatory grading range for first-year courses. Under the mandatory grading range, each faculty member teaching a section of any first-year course shall have an average grade for the section taught by that faculty member (i.e., the arithmetic average of all of the grades assigned to students in the section) that is no lower than 2.67 and is no higher than 3.00. The law school's mandatory grading range is more fully described on the law school's website.

Attendance: Class attendance is a primary obligation of each student and you are expected to attend each class on time. Per ABA and law school policies you may have no more than five absences. A student who exceeds the maximum allowable absences may be compelled to withdraw from the course or may be barred from sitting for the final exam. A student who is compelled to withdraw or is barred from sitting for the final exam may receive an "F" in the course. A student who is present, but unprepared for class, may be treated as absent. The law school's attendance policy can be found online. An attendance sheet will be distributed at the beginning of each class session, so be sure to sign in every day that our class meets.

Class Participation: Class participation is expected and demonstrates that you have read and reflected on the issues raised in the reading assignments. Grades may be raised or lowered up to a full letter grade (e.g., A to B or C to B) based on the overall quality of a student's class participation.

OTHER ISSUES

TWEN: I will use Westlaw's TWEN website to communicate with the class. (Go to lawschool.westlaw.com and link to TWEN.) You are responsible for checking it regularly.

Office Hours: I have an open-door policy, so please feel free to stop by my office, which is on the 11th floor of the law school. Otherwise, feel free to make an appointment (either by phone or e-mail) to see me. I will also announce regular office hours at the beginning of the semester. You are welcome to contact me via e-mail (jbessler@ubalt.edu).

Academic Integrity: The School of Law Honor Code sets the standards of integrity and professionalism for law students, and each student is bound by the Honor Code. The Honor Code is available online.

Laptops: Laptops may be used in class for note-taking, but may only be used in class for course-related work. Students may also use laptops on the final exam.

Disability Policy: If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director for Student Support in the Office of Academic Affairs at (410) 516-5623.

Class Cancellation: If a class is cancelled, notices will be sent to students via e-mail. If there is inclement weather, students should visit the University of Baltimore web page or call the University's Snow Closing Line at (410) 837-4201. If the University is not closed, students should presume that classes are running on the normal schedule.

Helpful Civil Procedure Research Sources: Wright & Miller, Federal Practice and Procedure; Moore's Federal Practice

Course Coverage: Below is a listing of topics that will be covered in the course. I may modify the syllabus during the course of the term. I will announce any such modifications in class or through a posting on TWEN.

TOPICS TO BE COVERED IN CIVIL PROCEDURE I:

INTRODUCTION/OVERVIEW

An introduction to civil procedure

Defining "civil procedure"

Historical origins of the Federal Rules of Civil Procedure

Overview of the litigation process

Adversarial vs. inquisitorial systems

Alternatives to litigation/ADR

PLEADING

Federal pleading

Complaints

Answers

Replies

Amendments to pleadings

Duty to investigate/ethical considerations

Sanctions – Rule 11

JOINDER OF CLAIMS AND PARTIES

Claims / Jurisdiction

Counterclaims

Cross-claims

Impleader

Interpleader

Necessary and Indispensable Parties

Intervention

Class Actions

PRE-TRIAL MOTIONS

Motions to Dismiss

Motions for Summary Judgment

DISCOVERY

Interrogatories

Document Requests

Requests for Admission

Depositions

Electronic Discovery

Attorney-Client Privilege

Work Product Doctrine

Experts

JURY TRIALS

Right to a Jury Trial

Seventh Amendment

REMEDIES, JUDGMENTS AND POST-TRIAL MOTIONS

Injunctions

Declaratory Relief

Verdicts

Judgments

Post-Trial Motions

New Trials

APPEALS

Time to Appeal

Scope of Appellate Review