Welcome! This is the second half of a two-semester course in Civil Procedure. As you know, courses in Civil Procedure address the procedural rules that govern how, when and where parties resolve a dispute through the use of civil litigation, primarily in federal court. In Civil Procedure I, you explored the fundamentals of pursuing or defending a civil lawsuit with respect to a simple one-plaintiff/one-defendant lawsuit from its cradle (the complaint) to its grave (settlement or judgment) and beyond (appeals). This semester, we will focus on the preliminary consideration of choosing a forum (personal jurisdiction, subject matter jurisdiction, and venue), ascertaining the appropriate law to apply (the Erie Doctrine), joinder of additional claims and parties to an action, class actions, and the binding effect of prior decisions (the preclusion doctrines).

A. LEARNING OUTCOMES

This course is designed to teach foundational Civil Procedure concepts as well as core analytic skills. By the end of this course, you will: (1) understand and be able to apply the Federal Rules of Civil Procedure assigned in this course; (2) be able to present legal analysis in IRAC (Issue, Rule, Analysis Conclusion) format; (3) be able to draft a “framework” for reconciling rules into a decision tree for use in legal analysis and on an exam; (4) be able to apply new facts to legal doctrine; (5) develop some level of comfort around thinking and speaking “on your feet”; (6) understand and practice basic tenets of attorney professionalism; (7) learn how to work through a legal program collaboratively and in small groups; (8) understand the difference between law and policy and be able to articulate the policy rationales and critiques of a rule; (9) understand how the Federal Rules of Civil Procedure intersect with jurisdictional concepts in complex litigation; and (10) understand basic concepts of litigation strategy.

B. REQUIRED TEXTS AND ADDITIONAL ASSIGNMENTS

The assigned texts for this class are:

1. Friedenthal, Miller, Sexton and Hershkoff, Civil Procedure: Cases and Materials Compact Twelfth Edition for Shorter Courses (Thomson
West 2018). You can save 15% if you purchase from westacademic.com; use the code UBALTLAW.

2. Friedenthal, Miller, Sexton and Hershkoff, 2017-2018 Civil Procedure Supplement (Thomson West 2018). Note that any current version of the Federal Rules of Civil Procedure will do, meaning it must reflect the rules as of December 2017. Online access is not sufficient. You must bring a hard copy of the rules with you to class every day.

3. There will be occasional supplemental readings, which will be posted on TWEN. You must enroll in TWEN for this course.

4. The syllabus includes additional worksheets designed to reinforce class material. They will be posted on TWEN. Please bring written responses to the next class period. From time-to-time, I may assign additional worksheets that are not listed on the syllabus.

C. OPTIONAL READING

Glannon, Civil Procedure: Examples and Explanations. No readings will be assigned from this book, but many students find it very helpful.

Emanuel, Crunchtime: Civil Procedure. This book contains sample flowcharts, which I highly recommend that students construct for themselves in every law school class.

D. CLASS TIMES

Class will meet on Tuesdays and Thursdays from 9:00-10:15 a.m.

E. ATTENDANCE

Please be on time for class and prepare to remain seated for the full session, absent extenuating circumstances.

According to law school policy, class attendance is a primary obligation of each student. A student who exceeds the maximum allowable absences will get a zero for class professionalism (see Part G, below), may in addition lose up to a full letter grade for the final grade in the class (e.g., a B to a B- or a B to a C), may be compelled to withdraw from the course, and/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.

The sole means of establishing attendance is by signing the attendance sheet. Students are responsible for making sure that they sign the attendance sheet each day. Please do not approach me after I have left the classroom or on some later date and tell me that you were in class on a particular day. I cannot “back-fill” assignment sheets. If you forget to sign in, you will be counted as absent for that day.

F. CLASS PARTICIPATION

Class will be conducted by calling on volunteers and asking various questions of the material. If all volunteers have spoken I will call on other students at random.

You will need to prepare carefully in order to participate in class discussion, which is required in this course. Preparing the material in advance and coming to class each day is also the single best thing you can do to learn the material and perform well on the exams. But most importantly, preparation and participation are the most basic elements of professional competence. A lawyer who does not show up or is unprepared for hearings or client meetings may not only lose the case, but may also be fined, disciplined or sued.

Accordingly, “passing” when called on or informing me that you did not prepare the particular material that is at issue are not acceptable practices in this class. If you are unable to provide the basic facts of a problem or a case when called on, you will be considered unprepared for class. That said, I realize that you are juggling lots of competing responsibilities as law students. Accordingly, if you are unprepared for class at some point during the semester, please notify me in advance of class and I will not call on you that day. I do not need to hear your reasons for being unprepared.

I understand that some people are more comfortable than others voluntarily raising a hand to participate. If you are one of those people, you can still do well if you are fully prepared when I call on you. Nonetheless, I do recommend that you try to push yourself out of your comfort zone and raise your hand when you feel particularly strong on a subject. If you email me or let me know in advance that you would like to discuss a particular problem, case or topic, I will be sure to call
on you that day so that you can participate when you are feeling particularly confident.

G. CLASS PREPARATION

The outline of assignments identifies the cases that will be the primary focus of class discussion. For each case assigned, please come prepared to discuss the procedural posture of the case, the issue(s) before the court for resolution, the rule or standard to be applied, the court’s analysis of the rule or standard as applied to the facts of the case, and the court’s conclusion. You should also be attuned to the policy rationale underlying the court’s holding and any countervailing arguments set forth in concurring or dissenting opinions. In some instances, cases that we will discuss in class are summarized in the notes in your book, rather than appearing in full or amended text. Although you are responsible for the assigned reading in its entirety, the outline of assignments highlights the cases from the notes that you should consider with particular care.

When the assignment refers to a rule from the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”), a statute from the United States Code, or a provision of the United States Constitution, you should very carefully read the relevant provision and come to class prepared to discuss it in detail.

H. PROFESSIONALISM

Class professionalism is 10% of your final grade. In order to maximize your class professionalism grade, you must:

(a) come to class on time;

(b) come to class having read and thought about the material and having prepared thoughtful, written responses to the worksheets and assignments posted on TWEN;

(c) demonstrate a good faith effort to respond to my questions when I call on you

(d) participate fully in small group work;

(f) follow the policy referenced above if you are unprepared, with no exceptions;
(g) do not “surf the net” during class;

(g) do not leave the room during class unless it is an emergency which you discuss with me afterwards; and

(h) show respect and professional behavior towards your classmates and towards me during class and in any written correspondence.

Note that every student begins class with full credit for professionalism. In other words, it is assumed that you will all follow all the requirements and automatically receive the full 10% at the end of the semester. This aspect of your final grade is only yours to lose.

I. GRADING

Your grade in this course will be based on:

- a final exam consisting of multiple choice and one or more essay questions (70%);

- a midterm exam (20%); and

- class professionalism, discussed above (10%).

The exams will be open book. You may bring hard copies of any document or book into the exam.

I do not have sample exams and answers for your review, but we will do worksheets throughout the semester to reinforce the material and thus prepare you for the exam.

The School of Law Honor Code applies to this class.

J. OFFICE HOURS AND ADMINISTRATIVE ASSISTANCE

My office is on the 10th floor. Office hours are by appointment. You can also see me after class or send an email to schedule an appointment. I am happy to discuss any questions or concerns that you have related to this course or law school and practice in general.
My assistant is Deborah Pinkham (deborah.pinkham@ubalt.edu). Her office is on the 5th floor.

K. LAPTOPS

Laptops are permitted except in the event that we have a guest speaker. During class, please do not use laptops to check email, surf the net, or engage in activities other than note-taking. The Law School Honor Code applies to this policy.

L. CLASS RECORDINGS

If you are unable to attend class due to a religious holiday, please contact my assistant, Deborah Pinkham (deborah.pinkham@ubalt.edu), at least 24 hours in advance and she will arrange to have the class taped. Please note that I cannot guarantee that a taping request will be fulfilled because the logistics are beyond my control. You may audiotape the class on your own, but please destroy the tapes at the end of the semester.

M. DISABILITY POLICY

If you are a student with a documented disability who requires an academic accommodation, please contact Karyn Schulz, Director, Center of Educational Access, Office of Disability and Access Services, at 410-837-4141 or kschulz@ubalt.edu.

N. OUTLINE OF ASSIGNMENTS

The following outline sets forth the order of assignments, which are from the casebook unless otherwise indicated. There will be times when we will not get through an entire assignment in a single class period.

Given the numerous variables that can affect the speed at which we move through the material, the syllabus may be modified as the semester progresses. I will keep you posted.

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Introduction, Notice and Service of Process

Personal Jurisdiction


September 20: No new assignment. Wrap-up/review of Personal Jurisdiction.

Subject Matter Jurisdiction: Diversity


Midterm Exam

October 2: The midterm is open book. Please bring your laptops. It will be 60 minutes long and consist of a single essay question. The topic is personal jurisdiction.

Subject Matter Jurisdiction: Federal Question Jurisdiction

Subject Matter Jurisdiction: Supplemental Jurisdiction


Joinder of Claims


Joinder of Parties and Class Actions


October 23:  No new assignment. Wrap-up/review of subject matter jurisdiction and joinder.

**The Binding Effect of Prior Decisions: The Preclusion Doctrines**


**Ascertain the Applicable Law: The Erie Doctrine**


**Removal**


**Venue**

Transfer and Forum Non Conveniens


Final Review Session

November 27: Prepare Course Framework Assignment (posted on TWEN).

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