Civil Procedure I/Introduction to Lawyering Skills
Master Syllabus (Civ Pro) – Fall 2018
Law 612 and 612A—Section 329

Instructors:  Professor Nienke Grossman, ngrossman@ubalt.edu, Room 512
Office Hours: Tuesdays, 10:30 to 11:30 am, or by appointment
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Law Scholar (Civil Procedure), Travis Jones, Travis.Jones@ubalt.edu

Class times:  Civil Procedure: Tuesdays and Thursdays, 1:30 to 2:45 pm, Room 608
ILS: Tuesdays and Thursdays, 3 to 4:15 pm, Room 608
We also have Thursdays, 10:30 - 11:45 am available, and we will use it from time to time. Do not schedule other activities for this slot.

Welcome to Civil Procedure I/ILS
This is the class where you learn Civil Procedure I and build the foundation for basic lawyering skills and professional values. While the course description and objectives for Civil Procedure I/ILS and general law school policies are listed on this syllabus, the assignments and assessments focus on Civil Procedure. A separate ILS Syllabus provides materials, assignments and assessments for ILS. Please read both syllabi carefully.

Course Description
This course integrates rigorous instruction in legal analysis, research, and writing with the substantive law of civil procedure to give beginning law students an opportunity to combine skills and doctrine as practicing lawyers do. It focuses on the process and procedures of a civil lawsuit, from filing a complaint through final appeal. It introduces the structure and operation of the state and federal court systems in the United States, concentrating on federal courts. Topics include pleadings, pre-trial motions, the discovery process, jury trial, judgments and relief, post-judgment motions, and appeals. Students will learn civil procedure through statutory interpretation, case analysis and rule synthesis, and legal research and writing projects. Legal analysis, research, and writing skills will be developed through course-work that includes critical case reading, analysis and briefing; common law principles and processes; factual analogy and distinction; rule synthesis and application; objective/predictive writing (office memo); case law and statutory research; citation; and professional norms.

Course Objectives
1. Accurately identify, explain and apply Civil Procedure rules,
2. Read and analyze cases and other sources of law by identifying the rule, holding, and determinative facts of cases,
3. Identify the elements of a rule and apply rules to facts,
4. Research and properly cite legal authorities, such as cases, statutes and secondary sources,
5. Write predictive memoranda on legal issues, taking into account the weight and value of different authority, and
6. Build legal writing and grammar skills.
Course Materials
These are REQUIRED. You must bring them to Civ Pro every day.

- Course Website: You must self-enroll in the TWEN website for this course using your Westlaw password.
- I STRONGLY encourage you to purchase the abridged version of Black’s Law Dictionary, available at https://tmsnrt.rs/2vfgSIN. This book will help you to understand all of your classes.

Grades
You will receive one grade for Civil Procedure and one grade for ILS. The Civil Procedure grade will be composed of a midterm exam (20%) (Thursday, October 4), final exam (80%), and professionalism. The midterm and final examinations will test your knowledge of the subjects covered in this course, as well as your critical thinking, legal analysis, and argument skills.

Your professionalism - or lack thereof - may help or hurt your grade by up to one step (e.g., B+ to A-, or B- to C+). Professionalism means being on time and prepared to participate. “On time” means you are in your seat by the time class begins. “Prepared” means you have read the work assigned, briefed the relevant cases, carefully analyzed the rules mentioned in the readings, and looked up any words or terms in the readings that you did not understand. This is not like your undergraduate political science class, where you just skimmed the reading and got a general idea of what was going on. You need to read and think about every word!

I encourage you to come to class even if you are not prepared, but you must notify me that you are not prepared and you may not sign in on the attendance sheet. Also, you may not leave the room during class time unless you are experiencing an emergency.

Helpful Study Aids (not required)
- Joseph W. Glannon, *Civil Procedure: Examples and Explanations*
- Shreve and Raven-Hansen, *Understanding Civil Procedure*
- Terrill Pollman, Judith Stinson, Elizabeth Stinson, *Legal Writing: Examples and Explanations*
- Terri LeClerq, *Guide to Legal Writing Style*
- Please note that the library also has free access to several West Academic Study aids at law.ubalt.edu/library. Use them! They are free!

Law Scholar: Travis Jones is the Law Scholar for this course. He will provide you with a schedule for his sessions. Law Scholar sessions are not graded or required, but you are encouraged to attend sessions.
Computers: I strongly encourage you to handwrite your notes. Studies show that for the vast majority of students, laptops are distracting, and they actually make you do worse on exams. Want to get the best grades in the class? Don’t use your laptop. Here’s a recent study, FYI: https://www.usnews.com/news/education-news/articles/2018-07-27/study-cellphones-laptops-in-the-classroom-lead-to-lower-test-scores?src=usn_fb

OTHER LAW SCHOOL POLICIES

Attendance: Come to class! It’s required, and it helps you learn. A student who exceeds five absences in this course may be compelled to withdraw, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This is an American Bar Association (ABA) Standard for Law Schools.

Amount of Work per Credit Hour: ABA Standards establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work per week for each credit earned in a class. ILS and Civ Pro are three credits each, for a total of six credits.

Class Cancellation: If class is cancelled, you will receive an email letting you know. If there is inclement weather, please visit UB’s web site or call the University's Snow Closing Line at (410) 837-4201.

Academic Integrity: Once you lose your reputation for honesty, it’s hard to get it back, especially in the legal profession. Know the Honor Code and stick to it. Here’s the link: https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm.

Title IX Sexual Harassment and Sexual Misconduct Policy: 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/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB’s nondiscrimination policies can be found at: http://www.ubalt.edu/titleix.

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.
COURSE TOPICS FOR CIVIL PROCEDURE
The list of topics and assignments are subject to change to maximize student learning. I will notify you in advance of any changes, via TWEN or in class.

I. Introduction to Civil Procedure
   a. Introductory Problem
   b. Overview of Procedure
      1. Stating the Case
         a. The Lawyer’s Responsibility
         b. The Complaint
         c. The Response
         d. Amendment of Pleadings
      2. Factual Development – Discovery
      3. Pretrial Disposition – Summary Judgment
      4. Trial
      5. Appeals

II. Pleadings
   a. Functions
      1. Story Telling
      2. Sorting Strong Cases from Weak Ones
   b. Ethical Limitations in Pleading
   c. Responding to the Complaint
      1. Default
      2. Pre-Answer Motion
      3. Answer
      4. Reply
      5. Amendments

III. Discovery
    a. Modern Discovery
    b. Stages of Discovery
    c. Scope of Discovery
    d. Experts
    e. Compliance

IV. Resolution without Trial
    a. Default and Default Judgments
    b. Dismissal
    c. Summary Judgment

V. The Trial
   a. Sharing Power with a Jury
   b. The Final Pretrial Conference and Order
   c. The Directed Verdict
   d. The New Trial
   e. The Limits of Judicial Power

VI. Appeal
   a. When a Decision May Be Reviewed (Finality)
   b. Scope of Review
COURSE ASSIGNMENTS FOR CIVIL PROCEDURE

The list of topics and assignments are subject to change to maximize student learning (and we may not cover every topic). All changes will be emailed to you and posted on the TWEN site in the Syllabus folder.

• Please note that, like any legal professional, you are expected to LOOK UP ALL the RULES of Federal Civil Procedure that are cited in your readings. If the reading talks about Rule 11, for example, look it up in the Federal Rules of Civil Procedure, tab it, and read it carefully. You are also expected to look up words that you don’t know in the readings.

Week 1

• Class 1 - Tuesday, August 21: Introduction to Civil Procedure
  o Read the Civ Pro and ILS syllabi over carefully.
  o Yeazell, p. 1-5, 299-306, 338-40
  o Legal Writing, p. 129-32 (This book is required for ILS and is listed on the ILS syllabus.)
  o As you do the reading, imagine you are a lawyer faced with a potential client. When a potential client walks in the door, what kinds of information do you want to obtain and (2) what kinds of decisions do you need to make?
  o Enroll in the TWEN site and fill out the student information sheet on TWEN, print it out, and bring it to the first day of class.

• Class 2 - Thursday, August 23: Introduction to Civil Procedure: Stating the Case
  o TWEN: Kerr, “How to read cases”
  o Yeazell, p. 14-19
  o Brief Bridges v. Diesel (p. 14). What are the underlying facts that gave rise to this lawsuit? What’s the procedural history? In other words, what has already happened procedurally in the case? What’s the question presented that the court must decide?
  o Make sure to look closely at Rule 11(a), (b) and (c). Break down Rule 11(b) and 11(b)(1). What obligations do they impose? On whom? Bring your breakdown of Rule 11(b) to class.
Week 2

- Class 3 - Tuesday, August 28: Introduction to Civil Procedure: Stating the Case: The Complaint, The Response—Motions and Answer; Factual Development – Discovery; Pretrial Disposition
  - Yeazell, p. 19-28; 32-38

- Class 4 - Thursday, August 30: Introduction to Civil Procedure: Pretrial Disposition; Trial
  - Yeazell, p. 38-49
  - Prepare a written case brief of Houchens v. Am. Home Ass. Co., 927 F.2d 163 (4th Cir. 1991) to turn in at the beginning of class.

Week 3

- Class 5 - Tuesday, September 4: Introduction to Civil Procedure: Appeals; Start Story of Pleading
  - Yeazell, p. 52-61. Try questions Q1, Q2 and Q4 without looking at the answers. For each question, discuss them with someone else in our class. Then look at the answers. Did you get the right answer for the right reasons? If you got an answer wrong, do you understand why?
  - Review the life cycle of the case. Make a diagram of each stage of the case and what rules we have identified for each stage. Review your notes from the semester so far. What questions do you have?
  - Yeazell, p. 367-72 – What differences exist between the 16th Century Complaint and the 20th Century Complaint?

- Class 6 – Thursday, September 6: Pleading: The Story of Pleading
  - Yeazell, p. 372-386
  - What is the Haddle v. Garrison complaint about? What factual allegations does it make? What legal claims does it assert? What courts was this complaint litigated in? What was the question presented in each case? Did the Supreme Court get it right? Why or why not?
Week 4

- Class 7 - Tuesday, September 11: No Class

- Class 7 Make Up and Class 8 – Thursday, September 13: **Class will meet from 10:30 am until 11:45 am AND from 1:30 to 2:45 pm** to make up for Tuesday’s class.
  - 10:30 to 11:45 am: Pleading: Sorting Strong Cases from Weak Ones
    - *Yeazell*, p. 386-403
    - We will be discussing *Conley v. Gibson* (p. 388), *Bell Atlantic v. Twombly* (p. 390), and *Iqbal*. This is a line of cases in which the Court interprets Rule 8(a)(2) over time. How does the Court understand what is required under Rule 8(a)(2) in each case? How does this change over time? What are the implications of this change?
  - 1:30 to 2:45 pm: Continue Sorting Strong Cases from Weak Ones

Week 5

- Class 9 - Tuesday, September 18: Pleading: Special Cases: Requiring and Forbidding Specificity in Pleading; Allocating the Elements of a Claim
  - *Yeazell*, p. 403-416

- Class 10 - Thursday, September 20: Ethical Limitations in Pleading I
  - *Yeazell*, p. 416-29
  - Closely read Rule 11(b) again (we did this on the second day of class!), 11(c)(1) and 11(c)(2).
    - (1) decide how many rules there are,
    - (2) analyze each rule to determine what it means,
    - (3) break down the rule into its parts,
    - (4) look at each of the parts separately to figure out what it does, and
    - (5) rewrite the rule in a way that helps you use it.
  - You may rewrite the rule as they do in the Legal Writing book, or you may draw a picture using blocks and arrows. Make sure to distinguish between elements or factors, causal terms, results, and exceptions. I encourage you to work with someone else on this exercise. Bring a hard copy of your break down of the rules to class.

Week 6

- Class 11 - Tuesday, September 25: Responding to the Complaint: Default, Pre-Answer Motion, Answer
  - *Yeazell*, p. 429-441
  - Rule 12 is the source of much litigation and is extremely important. Take the time to break it down carefully.

- Class 12 - Thursday, September 27: Responding to the Complaint: Answer, Reply, Amendments
  - *Yeazell*, p. 441-458
Week 7

- Class 13 - Tuesday, October 2 – No Class. Prepare for Midterm and Memo Conferences.

- Class 14 - Thursday, October 4 - In Class MIDTERM

Week 8

- Class 15 - Tuesday, October 9: Discovery: Modern Discovery and Stages of Discovery
  - Yeazell, p. 463-481
  - TWEN: Sample Interrogatories

- Class 16 - Thursday, October 11: Discovery: Scope of Discovery –Relevance, Proportionality and Privacy
  - Yeazell, p. 481-492

Week 9

- Class 17 - Tuesday, October 16: Discovery: Scope of Discovery – Privilege, Trial Preparation Material
  - Yeazell, p. 493-502

- Class 18 - Thursday, October 18: Discovery: Experts and Compliance
  - Yeazell, p. 502-516
  - TWEN: Zubulake article

Week 10

- Class 19 - Tuesday, October 23: Discovery: Experts and Compliance
  - Yeazell, p. 516-23

- Class 20 - Thursday, October 25: Resolution Without Trial: Default and Dismissal
  - Yeazell p. 527-536

Week 11

- Class 21 - Tuesday, October 30: Resolution Without Trial: Summary Judgment
  - Yeazell, p. 578-588

- Class 22 - Thursday, November 1: Resolution Without Trial: Summary Judgment
  - Yeazell, p. 588-598
Week 12

- Class 23 - Tuesday, November 6: The Trial: Juries and Final Pretrial Conference
  - Yeazell, p. 615-622; 629-633
  - TWEN: Rule 106: Local Rules, Federal District Court, Maryland, p. 20-24
  - Sample of Final Pretrial Order: https://www.fjc.gov/sites/default/files/2012/CivLit2D_Form36.pdf

- Class 24 - Thursday, November 8: The Trial: The Directed Verdict
  - Yeazell, p. 636-651

Week 13

- Class 25 - Tuesday, November 13: Guest Lecture

- Class 26 - Thursday, November 15: The Trial: New Trial and The Limits of Judicial Power (Reexamination Clause and Jury as a Black Box)
  - Yeazell, p. 651-63

Week 14

- Class 27 - Tuesday, November 20: Appeal: When A Decision May be Reviewed: Finality
  - Yeazell, p. 669-70; 680-90

- Thursday, November 22: No Class (Thanksgiving)

Week 15

- Class 28 - Tuesday, November 27: Appeal: Scope of Review
  - Yeazell, p. 701-710

Make up days for weather, November 29-30

Study period, Dec. 1-3

Exam period, Dec. 4-14