Instructors: Professor Nienke Grossman, ngrossman@ubalt.edu, Room 512
Office Hours: Tuesdays, 1:15 to 2:15 pm, or by appointment
Admin. Assistant, Laurie Schnitzer, lschnitzer@ubalt.edu, Room 1008
Teaching Assistants (ILS): Bryan Cleary, Bryan.Cleary@ubalt.edu (2L)
Brittany Feinberg, Brittany.Feinberg@ubalt.edu (3L)
Law Scholar (Civil Procedure), Eunice Ahaghotu, eunice.ahaghotu@ubalt.edu

Class times: Civil Procedure: Tuesdays and Thursdays, 10:30 to 11:45 am, Room 102
ILS: Tuesdays and Thursdays, 9 to 10:15 am, Room 102
We also have Wednesdays, 1:30 – 2:45 pm available, Room 402, and we will use it from time to time. Do not schedule other activities for this time 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 lists required materials, assignments and assessments for ILS. Please read both syllabi carefully, as you need to know what the course requires to be successful in it!

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 and Learning Outcomes
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.
• Stephen C. Yeazell and Joanna C. Schwartz, Civil Procedure (10th ed., 2019) (“Yeazell”)
• 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.
• ILS materials are listed on the ILS syllabus.

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%) (October 3), 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, because that’s what lawyers have to do to be successful.

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, including podcasts, at law.ubalt.edu/library. Use them! They are free! And good!

Law Scholar: Eunice Ahaghotu is the Law Scholar for this course. She will provide you with a schedule for her sessions. Law Scholar sessions are not graded or required, but you are encouraged to attend them because you will practice the skills you use in class.
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:

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. That’s at least twelve hours of work per week for this course outside of class.

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. If the University is open, students should presume that classes are running on the normal schedule.

Course Evaluations: It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

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:

Title IX Sexual Harassment and Sexual Misconduct Policy: The University of Baltimore’s Sexual Misconduct and Nondiscrimination policy is 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/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 accommodation for academic programs, exams, or access to the University’s facilities, please contact the Office of Academic Affairs, at ublawacadaff@ubalt.edu or (410) 837-4468.
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. 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. Establishing the Law
      3. 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. Judges and Juries
   b. Sharing Power with a Jury
   c. The Final Pretrial Conference and Order
   d. The Directed Verdict
   e. The New Trial
   f. The Limits of Judicial Power

VI. Appeal
   a. Who can Appeal
   b. When a Decision May Be Reviewed (Finality); 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 any words that you don’t know in the readings. If they are legal terms, Black’s Law Dictionary is a great resource.

Week 1

- Class 1 - Tuesday, August 20: Introduction to Civil Procedure
  - Read the Civ Pro and ILS syllabi over carefully.
  - Yeazell, p. 1-7 (up to Hawkins), 293-300, 332-34 (read text box at the top of the page)
  - As you do the reading, imagine you are a lawyer faced with a potential client. When a potential client walks in the door, (1) what kinds of information do you want to obtain and (2) what kinds of decisions do you need to make?
  - 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 22: Introduction to Civil Procedure: Stating the Case, The Lawyer’s Responsibility, and how am I supposed to read in law school?!
  - You are about to read your first judicial opinion and rules. To give you insights into how to read statutes, rules and judicial opinions, start by carefully reading A Lawyer Writes, p. 33-59. Many of the same techniques for statutes apply to the Rules of Civil Procedure. Take your time with this reading. It is probably the most important reading you will do during your first semester of law school.
  - Now use the approaches laid out in A Lawyer Writes to do the reading in the Civil Procedure book.
  - Yeazell, p. 13-18. Brief Bridges v. Diesel (p. 14). What court are we in? What are the underlying facts that gave rise to this lawsuit? What’s the procedural history? What’s the question presented that the court must decide? What’s the holding? What rule is being applied? What reasoning does the court use to reach the holding? What questions do you have about the case or the relevant rules?
  - Look closely at Rule 11(a), (b) and (c). Diagram Rule 11(b) and 11(b)(1). What obligations do they impose? On whom? Bring a hard copy of your diagram of Rule 11(b) to class. What “red flag” words did you find?
Week 2

- Class 3 - Tuesday, August 27: Introduction to Civil Procedure: The Complaint, The Response, Amendment; Factual Development – Discovery
  - Yeazell, p. 18-27; 31-37

- Class 4 - Thursday, August 29: Introduction to Civil Procedure: Pretrial Disposition; Trial
  - Yeazell, p. 37-47
  - 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 3: Introduction to Civil Procedure: Appeals; Start Story of Pleading
  - Yeazell, p. 50-59. Although we skipped some parts of chapter 1, which will be covered in your Civil Procedure II class next semester, take a look at Assessment Questions 1-4. These are the kinds of multiple choice questions you will get asked on a midterm or final exam, or the bar exam. See if you understand the questions and how you would answer them.
  - Yeazell, p. 361-68 – What differences exist between the 16th Century Complaint and the 20th Century Complaint?
  - What is the *Haddle v. Garrison* complaint about? What factual allegations does it make? What legal claims does it assert?

- Class 6 – Thursday, September 5: Pleading: The Story of Pleading
  - Yeazell, p. 366-80
  - 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 10: Pleading: Sorting Strong Cases from Weak Ones
  - Yeazell, p. 380-97
  - We will be discussing *Conley v. Gibson* (p. 388), *Bell Atlantic v. Twombly* (p. 390), and *Ashcroft v. 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?
• Class 8 – Thursday, September 12: Pleading: Sorting Strong Cases from Weak Ones (cont’d); Applying Twiqbal
  o Reread Yeazell, p. 385-97
  o What questions do you have about Twiqbal? What are the take-aways you want to remember about Twiqbal?
  o TWEN: Read Simms v. Hao Complaint
  o You represent Hao. Using Twiqbal, how would you argue that the complaint should be dismissed?
  o If you represented Ms. Simms, how would you argue her complaint should withstand a motion to dismiss?

Week 5
• Class 9 - Tuesday, September 17: Pleading: Special Cases: Requiring and Forbidding Specificity in Pleading; Allocating the Elements of a Claim
  o Yeazell, p. 397-410
  o Does it make sense to have different pleading standards for different claims?
  o In Jones v. Bock, why does it matter who bears the burden of pleading exhaustion?

• Class 10 - Thursday, September 19: Ethical Limitations in Pleading I
  o Yeazell, p. 409-21
  o Closely read Rule 11(b) again (we did this on the second day of class!), 11(c)(1) and 11(c)(2).
    o (1) decide how many rules there are,
    o (2) analyze each rule to determine what it means,
    o (3) break down the rule into its parts,
    o (4) look at each of the parts separately to figure out what it does, and
    o (5) rewrite the rule in a way that helps you use it.

Week 6
• Class 11 - Tuesday, September 24: Responding to the Complaint: Default, Pre-Answer Motion, Answer
  o Yeazell, p. 421-433
  o Rule 12 is the source of much litigation and is extremely important. Take the time to break it down carefully.

• Class 12 - Thursday, September 26: Responding to the Complaint: Answer, Reply, Amendments
  o Yeazell, p. 433-453

Week 7
• Class 13 - Tuesday, October 1 – No Class. Prepare for Midterm and Memo Conferences.

• Class 14 - Thursday, October 3 - In Class MIDTERM
Week 8

- Class 15 - Tuesday, October 8: Discovery: Modern Discovery – Discovery before Discovery and Crafting a Discovery Plan; Tools of Discovery (Required Disclosures, Requests for Production, Interrogatories and Requests for Admissions)
  - Yeazell, p. 455-470, p. 476
  - How would you define “discovery”? What obligations do individuals have before litigation takes place? What disclosures are mandatory once litigation commences? What are the various tools available to litigants in conducting discovery?
  - Do the problems in the book to practice how to apply the various rules.

- Class 16 - Thursday, October 10: Tools of Discovery cont’d (Depositions, Physical and Mental Evaluations, Pretrial Witness Lists and Pretrial Order); Scope of Discovery – Relevance; Proportionality, Burden and Privacy I
  - Yeazell, p. 471-85

Week 9

- Class 17 - Tuesday, October 15: Discovery: Scope of Discovery – Proportionality, Burden and Privacy; Privilege, Trial Preparation Material
  - Yeazell, p. 485-501

- Class 18 - Thursday, October 17: Discovery: Trial Preparation cont’d; Experts

Week 10

- Class 19 - Tuesday, October 22: Discovery: Ensuring Compliance and Controlling Abuse of Discovery
  - Yeazell, p. 507-22

- Class 20 - Thursday, October 24: Resolution Without Trial: Default and Dismissal
  - Yeazell p. 523-32

Week 11

- Class 21 - Tuesday, October 29: Resolution Without Trial: Summary Judgment
  - Yeazell, p. 569-79

- Class 22 - Thursday, October 31: Resolution Without Trial: Summary Judgment
  - Yeazell, p. 579-91
Week 12

- Class 23 - Tuesday, November 5: The Trier and the Trial: Judges, Juries, Final Pretrial Conference and Order
  - Yeazell, p. 593-97 (Judges)
  - Yeazell, p. 606-618 (When may a jury decide? Choosing and Challenging Jurors)
  - Yeazell, p. 619-23 (Final Pretrial Conference and Order)
  - 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
  - This seems like an especially long reading, but it’s not! There’s a lot of basic background information here about how judges and juries are selected and challenged. We are going to focus our class discussion on when the right to a jury trial exists and on final pretrial conferences and orders, but you are also responsible for knowing how judges and juries are selected and challenged.

- Class 24 - Thursday, November 7: Judges guiding Juries; Judges Controlling Juries: The Directed Verdict
  - Yeazell, p. 623-642

Week 13

- Class 25 - Tuesday, November 12: The Trial: New Trial and The Limits of Judicial Power (Reexamination Clause and Jury as a Black Box)
  - Yeazell, p. 642-59

- Class 26 - Thursday, November 14: Appeal - Who can Appeal?
  - Yeazell, p. 661-73

Week 14

- Class 27 - Tuesday, November 19: Appeal – When a decision may be reviewed: “Finality”
  - Yeazell, p. 672-81, 688-91
  - Civil Judgment Form: http://www.uscourts.gov/sites/default/files/ao450.pdf. This is what a judgment is supposed to look like.

- Class 28 - Thursday, November 21: Scope of Review; Review Questions
  - Yeazell, p. 691-702
  - Please email me by Wednesday, November 20 at 3 pm, if there are specific questions you would like me to go over in class about Civ Pro I. If we have time, we will go over them.
Nov. 26-27 (Tuesday/Wednesday): Make up days

Nov. 28-29 (Thurs, Fri): Thanksgiving

Nov. 30-Dec. 2: Study Period

Dec. 4-13: Exam Period