

UNIVERSITY OF BALTIMORE SCHOOL OF LAW

FALL 2021

**Course: Civil Procedure I (evening) LAW 612 429E**

**Instructor: Jack Lynch**

**Office: 410-837-4629**

**Home: 301-962-3414**

**Email: [jlynch@ubalt.edu](mailto:jlynch@ubalt.edu)**

**Office hours: After any Civil Procedure class, or anytime by appointment**

**Law scholar: Kristen McManus**

**Days/Time: Mon., Weds., 7:45—9 pm**

**Course description:** This course focuses on the process and procedures of a civil lawsuit, from filing of the complaint to appeal. The course will provide an introduction to the operation of the federal courts under the Federal Rules of Civil Procedure. Topics include pleading, discovery, pretrial motions, trial by jury, judgments and relief from judgment, motions after judgment and appeal.

**Course materials:** Mainly a casebook, Civil Procedure, by Stephen Yeazell and Joanna Schwartz, 10<sup>th</sup> ed. ISBN: 13:978-1-4548-9788-0. You will also need a booklet containing the Federal Rules of Civil Procedure. Rather than letting some law professor make money selling public domain material, I suggest you print the PDF of the Federal Rules of Civil Procedure published on-line by the House Judiciary Committee. It is 11p pages. I will occasionally assign cases not contained in the casebook. You may find them on Lexis or Westlaw. Make sure to get your Lexis and Westlaw passwords during Orientation as I will soon be putting things on the TWEN website at the beginning of the semester.

**Student learning outcomes:** OMG!! As if this were not self-explanatory, but here goes!!! The objective of this course is for students to be able to address and resolve issues concerning—

- The give and take of pleading
- The scope and tactics of discovery
- The significance of the pretrial process
- When a case may be terminated without trial
- When a case is triable by jury
- When a jury's verdict may be set aside by a trial judge
- The what, when and how of appeal

**Grading:** The final grade will be based on the exam, but there will be three graded essay exams during the semester, the average grade of which will count only if it is higher than the final exam grade. In that instance, it will count 20%.

**Course expectations:** ABA standards call for 2 hours of work outside of class for each hour per week in class. Although I have tried to limit the reading assignments to a reasonable amount of reading per class, I think you may find the material takes longer to grasp than that in your past academic experiences or even in other law school courses. If you have difficulty with the material, please do not hesitate, ever, simply to email me to see whether I may help you with the difficulty. I have stated my expectations for you; you should have the same for me. It is a requirement of this course that students complete a course evaluation. It will be available later in the semester. I will not see any results until after I have turned in my grades for the course and they are completely anonymous. They sometimes bruise my ego, but they are very helpful, as Robbie Burns wrote: "O wad some Power the giftie gie us. To see oursel as other see us! It wad frae monie a blunder free us."

**Attendance:** Students who miss more than 5 class meetings may be required to withdraw from the course with a grade of FA, or may be precluded from taking the final exam. I will be taking attendance. If you need to miss classes, as particularly working evening students need to do, please let me know.

**Computers:** LOL!! There is a large cadre of busybody law professors who would like to ban computers in law school classrooms. After we have lived and died by computer for the last year and a half, I would like to see them try that now.

**Class cancellation:** I will email everyone if that becomes necessary. This class will meet on 9-14, a Tuesday, in lieu of 9-15, which is a religious holiday that I observe.

**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 and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, inappropriate communication about exams, misrepresentation about any academic matter, including attendance, and impeding the Honor code process. The School of Law Honor Code and information about the process are available at [http://law.ubalt.edu/academics/policies/honor\\_code/](http://law.ubalt.edu/academics/policies/honor_code/).

**Title IX Sexual misconduct and nondiscriminatory 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 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 Keri Hickey, Director of Student Support in the Office of Academic Affairs, at [khickey@ubalt.edu](mailto:khickey@ubalt.edu)

## ASSIGNMENTS

CLASS	TOPIC	READING
8/23	Why go to court?	Casebook, pp. 299-316
8-25	Pleading	Casebook, pp. 361-80; FRCP 8 (a); Mendes v. Johnson, 389 A. 2d 781 (D.C. 1978); Harris v. Jones, 380 A. 2d 611 (Md. 1977).
8-30	Pleading	Casebook, pp. 19-20; 377-402.
9-1	Pleading	Casebook, pp. 403-25; FRCP 11.
9-6	Labor Day	
9-8	Pleading	Casebook, pp. 425-444; FRCP 12 (b), (c), (e), (f), 8 (b), (c), 15.
9-13	Conclude pleading	Casebook, pp. 445-53; FRCP 15 (c)
9-14	First practice essay exam	
9-20	Discovery	Casebook, pp. 455-77; FRCP 26 (a) (1), 30,33, 34, 35.
9-22	Discovery	Casebook, pp. 477-94.
9-27	Discovery	Casebook, pp. 495-507; Peterson v. U.S., 52 F.R.D. 317 (S.D. Ill. 1971); McDougall v. Dunn, 478 F. 2d 468 (4 <sup>th</sup> Cir. 1972); Rodrigues v. Hrinda, 56 F.R.D. 11 (W.D. Pa. 1972).
9-29	Discovery	Casebook, pp. 507-22; Mullaney v. Aude, 730 A. 2d 759 (Md. Ct. Spec. App. 1999); Rubin v. Gray, 370 A. 2d 600 (Md. Ct. Spec. App. 1977); FRCP 26 (c), 37.
10-4	Pretrial	Casebook, pp. 619-22; FRCP 16 (d), (e); Eagle-Picher v. Balbos, 578 A. 2d 228 (Md. Ct. Spec. App. 1990) (read only portion pertaining to pretrial order).
10-6	Second practice essay exam	
10-11	Summary judgment	Casebook, pp. 569-91.; FRCP Rule 56.
10-13	Trial by jury	Casebook, pp. 38, 47, 51; Curtis v. Loether, 415 U.S. 189 (1974).
10-18	Trial by jury	Beacon Theatres , Inc. v. Westover, 359 U.W. 500 (1959); Dairy Queen v. Wood, 369 U.S. 469 (1962); Ross v. Bernard, 396 U.S. 531 (1970).
10-20	Dismissal, judgment as a matter of law	Casebook, pp. 529-32; 626-42; Arshack v. Carl M. Freeman Assocs., Inc., 272 A. 2d 30 (1971); FRCP 41, 50 (a), (b).
10-25	Motion for new trial	Casebook, pp. 642-59; FRCP 59. Tierco of Maryland, Inc. v. Williams, 849 A. 2d 504 (2004).

- 10-27 Third practice essay exam
- 11-1 Appeal Casebook, pp. 661-81. 28 U.S.C. §§1291, 1292 (a), (b).; FRCP 54.
- 11-3 Appeal Casebook, pp. 682-90; *Cohen v. Beneficial Industrial Loan Co.*, 337 U.S. 541 (1949); *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368 (1981); *Clark v. Elza*, 406 A. 2d 922 (Md. 1979) (as to *Cohen* and *Clark*, read only appealability issue in cases).
- 11-8 Injunctions Casebook, pp. 315-332; FRCP 65.
- 11-10 Law Scholar explains how to ACE Lynch's Exam!!
- 11-17 Elementary joinder Casebook, pp. 777-97; FRCP 13, 14, 18, 20.
- 11-22 Review
- 12-29 Review
- 12-1 Zoom Q & A—Virtual Happy Hour