

## *Welcome to Civil Procedure I!*

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**Class times:** Civil Procedure: Mondays and Wednesdays, 3:00 to 4:15 pm

**Office Hours:** Wednesdays, 4:30 to 5:30 pm, or by appointment. Please sign up on Sakai or email me to set up a time if no slots are available on Sakai.

### **Welcome to Law School and Civil Procedure I!**

This is the class where you learn the procedural steps for making a lawsuit happen or defending against one. Even if you don't end up litigating cases in the long run, all lawyers are expected to know and understand what procedure is and how it works, and this is a bar-tested subject. We will also be working quite a bit on how to read and take apart rules and on how courts interpret rules through judicial opinions. I am excited to work with you this semester on this challenging and important topic. ***Please make sure to read this syllabus carefully, so that you will know exactly what the course is about and how to maximize your learning opportunities and success.***

### **Course Description**

This course focuses on the process and procedures of a civil lawsuit, from the filing of the complaint through the final appeal. The course will provide an introduction to the structure and operation of the state and federal court systems in the United States, and will concentrate on cases brought in the federal courts, conducted pursuant to the Federal Rules of Civil Procedure. Topics include pleadings, pre-trial motions, the discovery process, trial by jury, judgments and relief, motions after judgment, and appeals.

### **Course Objectives and Learning Outcomes**

By the end of this course, you should be able to:

1. Identify specific Rules of Civil Procedure that apply to a set of facts.
2. Break apart Rules of Civil Procedure into parts, explain what they mean, and identify ambiguities in the rule.
3. Apply Rules of Civil Procedure to a specific set of facts to reach a conclusion or make a prediction.
4. Properly brief cases (judicial opinions) that interpret and apply Rules of Civil Procedure, and articulate how they interpret and apply the rules.
5. Identify policy reasons behind rules and consider extent to which rules achieve stated goals, such as justice, speed, and inexpensive determination of actions.
6. Understand the steps in the lifecycle of a case and the kinds of procedural issues that arise in federal courts.
7. Begin to appreciate how procedure plays into strategic decision-making.

## **Course Methods and Materials**

- This course uses a mix of live (synchronous) in-person class meetings, pre-recorded mini-lectures, and online problem sets to give you various ways to access and practice applying course material, and to accommodate different learning styles. If needed for public health or other exceptional reasons, we may hold classes over Zoom. You will be notified if this becomes necessary.
- **Sakai site:** This is where the course lives online. It includes the syllabus, links to pre-recorded videos, assignments, and other materials. It also contains links for any Zoom class meetings and information about how to use Zoom along the left side of the page. Explore the website!
  - **The “Lessons” tab on the left of the Sakai page will contain the assignments for each week and will be posted by Friday morning each week at the latest.**
  - To access Sakai, **which you must do to get the content you need to prepare for the first day of class,** log on to the MyUB Portal at <http://myub.ubalt.edu>. In the Tools section, click the Sakai link. Any Sakai courses you are enrolled in will display as tabs across the top of the screen. Click on the Civil Procedure tab. **The Sakai page will be available at least one week before classes begin.** Review the “Getting Started” tab and do the work assigned for the first day of class, in the “Week One” tab.
- You are also required to purchase:
  1. Stephen C. Yeazell and Joanna C. Schwartz, *Civil Procedure* (10th ed., 2019) (“Yeazell”)
    - **Make sure you buy a HARD COPY (not an electronic copy) of this book. You will need to refer to it during class, and an electronic copy will not suffice.**
  2. Stephen C. Yeazell and Joanna C. Schwartz, *Federal Rules of Civil Procedure with Selected Rules and Statutes* (2020)
    - **Make sure you buy a HARD COPY (not an electronic copy) of this book. You will need to refer to it during class and during exams, so a hard copy is essential.**
  3. Practice Perfect Civil Procedure.
    - This is an online program which includes short lectures and practice problems. You will be assigned practice problems periodically throughout the semester to deepen your understanding of the rules and give you a chance to practice. You can also build your own quizzes on this software as you prepare for the midterm and final exams. Please note that you will also be able to use this software next semester when you take Civ Pro II.
- Please note that there is a bundled ISBN Number for these three materials, which gives you a discount: 9781543829877. You can purchase it here: <https://www.wklegaledu.com/Bundle-Yeazell-SUP-10-PP>
- You will need your Casebook and Rules book with you for class each day.

## **How will I know I’m learning? And how will you grade me?**

The Civil Procedure grade will be composed of **a midterm exam (20%), a final exam (60%), other learning activities (20%), and professionalism.** Both the midterm and final examinations will test your knowledge of the subjects covered in this course, by requiring you to identify, interpret and apply relevant rules of Civil Procedure to factual scenarios and to reach conclusions or make predictions. The midterm is intended to give you feedback on how you are doing relatively early in the semester, so that you can adjust your study habits and seek out additional learning support if necessary. The other learning activities include things like submitting a case

brief, submitting the student information sheet, submission of screenshots of completed PracticePerfect exercises, watching videos and answering questions, and other activities intended to deepen your learning and help you reflect on it. **If you do not do these activities, you will not understand what is going on in class, and you will lose points amounting to up to 20% of your grade, thereby reducing your final grade.** The work assigned is intended to help you learn, and if you don't do it, you will get a lower grade.

**Professionalism** may help or hurt your grade by up to one step (e.g., B+ to A-, or B- to C+). Professionalism means being present, on time and prepared to participate – the basics required of any lawyer! “On time” means you are seated and ready to go 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 must do to be successful. Professionalism also means engaging in respectful and civil dialogue in writing, in discussions during class, and in debates and conversations.

When we have online classes, you are required to turn your camera, and you must be dressed appropriately for class (no PJs!). **Please note that if you do not have your camera on, you are still expected to be prepared and ready to participate in class when called on.**

*I realize emergencies can come up! If you are not prepared because of an emergency, or your technology is not working (it happens to all of us), please email your assigned Law Scholar and Professor Grossman as soon as possible before class to let him/her know.*

### **Technological Requirements**

We have all learned a lot about technology in the last 18 months. The good news is that this will help you be a better lawyer, as lawyers are using all kinds of technology these days! Here's what you need for our class, from a technology standpoint.

- A functioning computer, webcam, microphone, and speaker.
- Learn how to use Zoom by clicking on the Zoom link on the left side of the Sakai page.
- Use your ubalt email address for all platforms utilized in this course so that I can track your work and give you credit for it.
- If we hold class on Zoom, your first and last name should be clearly displayed. **This is essential** because I will use your names for attendance, participation, etc.

### **Where can I get extra help if I'm confused?**

- If you have questions about **deadlines** or what **assignments** are due, please ask your Law Scholar.
- If you **have questions about a topic we have covered in class**, you are invited to post in a discussion board at the end of each unit with your questions, to attend office hours, or to send me an email. Sometimes students benefit from consulting some secondary sources. Here are a few that may be helpful:
  - Joseph W. Glannon, *Civil Procedure: Examples and Explanations*
  - Shreve and Raven-Hansen, *Understanding Civil Procedure*

- Please note that the library also has free access to several West Academic Study aids, including podcasts, at [law.ubalt.edu/library](http://law.ubalt.edu/library). **Use them! They are free! And good!**
- Having trouble with **Sakai**? Contact UB Sakai and Technical Support, at [ubsakaisupport@ubalt.edu](mailto:ubsakaisupport@ubalt.edu), call toll free at 1.855.501.0856, or the [live chat](#), available 24/7. You will speak with a Sakai Technician who will provide immediate assistance to help resolve your problem or connect you with another staff member who can provide additional support.
- Having **general technology issues**? Contact the Office of Technology Services (OTS), at [callcenter@ubalt.edu](mailto:callcenter@ubalt.edu), or 410.837.6262. The Office of Technology Services (OTS) provides overall technology support to the UB community.

*Please know that I am doing my best to make this course as meaningful and effective a learning experience as I can. Please feel free to reach out to me with questions or concerns. I am excited to work with and learn with you!*

### **Distance Learning and Course Recordings**

Under ABA Guidelines, up to one-third of this course may be conducted via distance learning (e.g., through recorded lectures, problem sets, over Zoom, etc.). Faculty are required to record classes for the purposes of accommodating a disability, for students who cannot attend or for students who wish to review may have access to the full class content. These recordings will be available on the Sakai page at the Panopto tab. All class recordings are for the sole use of the class and may not be reproduced by students for any other purpose. Faculty cannot reproduce students' voices or images from the class for any other purpose without additional student consent. All such recordings are protected by a UB login process based on where they are posted. Students may mute their microphone or turn off their camera if they do not consent to be recorded, but this may mean they need to find additional ways to participate in the class discussion. Students may be required to turn on their cameras and participate in graded class activities. In addition, students who turn off their camera and do not remain present for the class session may be subject to the Honor Code for misrepresenting attendance.

### **Law Scholars**

Dan Grossman (3L), Taylor Miller (3L) and Leah Rowell (2L) are the Law Scholars for this course. They will provide you with a schedule for her sessions. Law Scholar sessions are not graded or required, but you are strongly encouraged to attend them because you will practice the skills you use in class. This is also an opportunity to get to know your classmates better.

### **OTHER LAW SCHOOL POLICIES**

**Attendance:** Come to class! It's required by the American Bar Association, 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). Please be aware that I am required to monitor your attendance to ensure you are meeting the requirements. Please make sure you use your ubalt email address to register for everything so that I can verify your attendance. If you don't, I cannot give you credit.

**Class Cancellation:** If class is cancelled, you will receive an email letting you know.

**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:** 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 [here](#).

**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](mailto:kschulz@ubalt.edu).

**Mental health/general student issues:** Dean Paul Manrique ([pmanrique@ubalt.edu](mailto:pmanrique@ubalt.edu); 410-837-5283) or Ms. Keri Hickey, Director of Student Support ([khickey@ubalt.edu](mailto:khickey@ubalt.edu); 410-837-4414). Both are located in the 7th floor Dean's Suite and welcome students to walk in (in person!) and are also able to schedule phone and zoom appointments.

**Academic Support:** Prof. Marta Baffy ([mbaffy@ubalt.edu](mailto:mbaffy@ubalt.edu); 410-837-6370.). Prof. Baffy is located on the 5th floor in Room 513. If you find yourself struggling in several of your classes, this is the right person to reach out to.

**Bar Exam Support/Questions:** Prof. Neal Kempler ([nkempler@ubalt.edu](mailto:nkempler@ubalt.edu); 410-837-4358). Prof. Kempler is located on the 5th floor in Room 514.

## **COURSE TOPICS FOR CIVIL PROCEDURE**

- 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