

Civil Procedure II

Law 601 Sections 311 and 321

Spring 2017
Professor Dionne Koller

Syllabus

Professor Dionne Koller

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Office Hours:

Tue. and Thurs. 5-6pm
and by appointment

Assistant:

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Course Meeting Times:

Tuesday and Thursday, 10:30-11:45 am (sec. 311) and 1:30-2:45 pm (sec. 321).

****Room assignments are available through MyUB.***

Course Description:

This course covers those advanced topics necessary to a complete understanding of the civil litigation process including: personal jurisdiction and venue, federal subject-matter jurisdiction, the substantive law to be applied by the courts (the Erie Doctrine), complex litigation (including joinder of additional claims and parties and class actions) and former adjudication.

Required Texts:

Stephen C. Yeazell and Joanna C. Schwartz, *Civil Procedure* (9th ed., 2016) (“Yeazell”);

Stephen C. Yeazell and Joanna C. Schwartz, 2016-2017 *Federal Rules of Civil Procedure* (“Rules Supplement”)*

*Note that you may choose to use whatever FRCP publication that you wish. However, you are responsible for having the *most recent version* of the FRCP and statutory provisions, and you will not be permitted to use the rules online during the exams.

Course Goals/Learning Outcomes:

At the conclusion of this course, students will be able to articulate and accurately apply significant concepts in the law that governs Civil Procedure, including:

1. Constitutional limits on litigation, including personal jurisdiction, subject matter jurisdiction, and the *Erie* Doctrine.
2. Statutory and common law limits on litigation, including long-arm statutes, venue, transfer, removal, *forum non conveniens*, and claim and issue preclusion.
3. Rules for complex litigation, including those involving joinder of claims and parties and class actions.

Course Guidelines and Expectations:

American Bar Association Standards for Law Schools 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 for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

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, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Attendance – Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the final examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences may be compelled to withdraw from the course 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).

Therefore, under ABA rules, students who have more than **FIVE** absences may not be eligible to complete the course. Absences due to religious holidays are not included in this policy, but you must let me know in advance if you will miss a class for this reason and an appropriate make-up will be scheduled. Please note that under this policy, there are no “excused” or “unexcused” absences. Absences for any reason are treated alike (with the exception for religious holidays) and work cannot be “made up” to make up for a missed class. In addition, please note the following:

- Your attendance in class is established by signing the attendance sheet.
- If you are more than 15 minutes late, you may stay for class but you may not sign the attendance sheet.

•Your attendance, as well as multiple late arrivals, may be used in the final calculation of your grade to break a tie between grade steps. That is, students with better attendance and fewer late arrivals will earn a higher grade.

Class Cancellation—If a class must be canceled, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore 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.

Computers -- You are permitted to use laptops for note-taking and for the exam. Please respect your classmates (who may be distracted by you) and yourself by refraining from using your laptop to engage in activities not related to class. Please be aware that if computer use becomes distracting to me or other students I reserve the right to ban laptops in our classroom.

Course Supplements – There are no additional materials needed, beyond the required texts, to be successful in this course. However, if you wish to consult additional materials for assistance with particular topics, I recommend the following: Glannon, *Civil Procedure Examples and Explanations* and Shreve and Raven-Hansen, *Understanding Civil Procedure*.

Disability Policy—If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

Federal Rules of Civil Procedure – For all rules referred to in your reading materials, it is expected that you will review them in your Rules Supplement in connection with the assigned material, even if they are not separately assigned on the syllabus. Note that if you are not using an updated 2016-2017 Rules Supplement, it is *your* responsibility to ensure that you have the most recent version of any particular rule or statutory provision that we are discussing in class.

Professionalism – Learning cannot effectively take place in an environment that is unprofessional or uncivil. To that end, I expect that you will observe basic professional courtesies such as arriving on time, respecting different viewpoints, turning off your cell phone, staying off the internet in class, not getting up in the middle of class to leave the room, coming to class prepared to participate, and otherwise observing norms of professional behavior. *Multiple failures to behave in a professional manner may be taken into account in determining final grades to break a tie between grade steps.*

Title IX 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>.

TWEN -- Each of you should enroll in the TWEN Virtual Classroom for this course. You have access to TWEN through Westlaw. It is your responsibility to check TWEN for any course announcements. In addition, you should rely on TWEN for course materials such as updated copies of the syllabus and materials that I use in class.

Grading -- The final grade will be based on the following: Mid-Term Exam: 25%; Final Exam: 75%. Both exams are closed book, but you will be allowed to bring your Rules Supplement in to the exam. You may not access the rules from your computer or other electronic device.

Jan. 10 The Constitutional Framework for Litigation

Due: *Yeazell*, p. 63-80

Jan. 12 Personal Jurisdiction

Due: *Yeazell*, p. 63-80 (cont.); start 80-91

Jan. 17 Personal Jurisdiction – Specific jurisdiction and Minimum Contacts

Due: finish *Yeazell*, p. 80-91

Jan. 19 Personal Jurisdiction

Due: *Yeazell* p. 91-114

Jan. 24 Personal Jurisdiction

Due: *Yeazell*, p. 91-114 (cont.); start p.114-132

Jan. 26 Personal Jurisdiction

Due: finish *Yeazell*, p. 114-132

Jan. 31 Personal Jurisdiction – General Jurisdiction

Due: *Yeazell*, p. 132-143

Feb. 2 Personal Jurisdiction – General Jurisdiction

Due: *Yeazell*, p. 132-143, (cont.); start p. 143-151

Feb. 7 Personal Jurisdiction -- Presence

Due: finish *Yeazell*, p. 143-151; p. 151-154

- Feb. 9** Consent and Notice
Due: finish *Yeazell*, p. 154-170
- Feb. 14** Service of Process and Long Arm Statutes
Due: *Yeazell*, p. 171-175
- Feb. 16** Venue, Transfer, and Forum Non Conveniens
Due: start *Yeazell*, p. 175-199
- Feb. 21** Venue, Transfer, and Forum Non Conveniens
Due: finish *Yeazell*, p. 175-199
- Feb. 23** Subject Matter Jurisdiction – Federal Question
Due: *Yeazell*, p. 205-220
- Feb. 28** Subject Matter Jurisdiction – Diversity
Due: *Yeazell*, p. 220-234
- Feb. 29** Supplemental Jurisdiction and Removal
Due: *Yeazell*, p. 234-251
- Mar. 2** Supplemental Jurisdiction and Removal
Due: *Yeazell*, p. 234-251 (cont.)
- Mar. 7** *Erie Doctrine*
Due: *Yeazell*, p. 255-267
- Mar. 9** *Erie Doctrine*
Due: *Yeazell*, p. 267-283; p. 289-291
- Mar. 14** *Erie Doctrine*
Due: finish *Yeazell*, p. 267-283; p. 289-291

- Mar. 16** **Midterm**
- Mar. 21 & 23** **Spring Break**
- Mar. 23** Claim Preclusion
Due: *Yeazell*, p. 715-727
- Mar. 28** Claim Preclusion/Issue Preclusion
Due: *Yeazell*, p. 727-749
- Mar. 30** Issue Preclusion
Due: finish *Yeazell*, p. 727-749; p. 749-761
- April 4** Joinder of Claims
Due: *Yeazell*, p. 783-798
- April 6** Joinder of Parties
Due: *Yeazell*, p. 798-812
- April 11** **Midterm Exam Review**
- April 13** Class Actions
Due: *Yeazell*, p. 840-848; start p. 861-878
- April 18** Class Actions
Due: finish *Yeazell*, p. 861-878
- April 20** Finish and Review
- April 25** **Make-Up Day (if necessary)**