

University of Baltimore School of Law

Course

LLM Civil Procedure
LawG 600-319G

Contact Information

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Course Description

Subject matter jurisdiction; personal jurisdiction; venue; pleading; joinder of claims and parties; discovery; pre-trial motions; choice of law; right to trial by jury; judge-jury relations; appellate review; res adjudicata. Primary emphasis is on the Federal Rules of Civil Procedure and federal statutes; secondary emphasis is on the Maryland Rules of Procedure, Maryland statutes, and the common law.

Overview

In Civil Procedure, we will study the procedures that govern how a significant portion of civil disputes (not criminal cases) in the United States get resolved. We will focus primarily on federal courts, examining the Federal Rules of Civil Procedure (the “FRCP”), Title 28 of the United States Code (the “Judicial Code”), the United States Constitution, and Supreme Court opinions construing them. Beyond learning procedural law, we will examine strategic, ethical, professional, and other considerations pertinent to United States civil litigation.

The first part of the course will deal essentially with one critical procedural question: where can a lawsuit properly be brought? The question may seem simple, but the answer turns on whether a court has the authority to hear the subject matter of the suit (subject matter jurisdiction), whether that court has authority over the defendant (personal jurisdiction), and the appropriateness of the court’s location within a particular court system (venue).

The remainder of the course will focus more heavily on the Federal Rules of Civil Procedure, which are quite similar to the rules used in many state courts. You will learn basic procedural concepts, such as what a complaint is (it’s the document that starts the

case), how defendants respond to complaints, how parties learn about the facts of a case (discovery), how courts resolve cases short of a trial, and how courts determine which state's law should apply to a case (choice of law).

We will spend a large part of the course on the more heavily bar tested areas, i.e., jurisdiction and venue, pretrial procedures and motions. By the end of this course, you will have learned the basic structure for civil litigation in the United States. .

Course Materials

Required Materials:

- ChartaCourse. Please note that this is an ONLINE textbook. You will need to go to www.chartacourse.com to sign up for this text. Instructions on how to sign up for the course are available in this video: <https://www.youtube.com/watch?v=L-CXpl7NLjU>.
- When creating a ChartaCourse username- first letter of your first name + your full last name. Please also use your UB email address. For example: Optimus Prime would use oprime@ubalt.edu.
- If you have any problems signing up for ChartaCourse (this is unlikely), please email kim.woodgate@chartacourse.com. Please copy Professor Daniels on this email.

- *Federal Rules of Civil Procedure* ("FRCP") (Any post-2016 version of the FRCP including the Glannon supplement is acceptable.)

Suggested Materials. The following materials are suggested but not required. A copy of these materials will be available in the library.

- Glannon, *Civil Procedure: Examples and Explanations* (7th edition, 2013)
- Glannon, *The Glannon Guide to Civil Procedure* (3rd edition, 2013)

Course Website: The main website for this course is ChartaCourse. However, the course also has a TWEN site, which will be used to facilitate online discussions of class materials during non-class hours. You are expected to register for TWEN and, unless otherwise indicated, are responsible for anything posted there. You'll first need to register your password, by going to www.lawschool.westlaw.com, and clicking "TWEN" at the top of the page. You will then be asked to enter your Westlaw password. When you register, please be sure to include the e-mail address at which you wish to be contacted. This is the address I will use for any announcements, and you should check that account at least the day before each class. If you're having trouble registering or adding this course on TWEN, you should contact Westlaw for help. If the trouble persists, please let me know.

Student Learning Outcomes

This course seeks to

- Prepare practice-ready students;
- Create a strong understanding of the federal rules of civil procedure, applicable statutes and policy;
- Teach students to apply those rules to new fact patterns;
- Improve the ability to analyze cases, i.e., how to dissect cases into facts, issue, procedure, precedent, rule, etc.;
- Recognize the procedural posture of a case;
- Enhance issue spotting, writing and analytical skills, and
- Build practical skills, including drafting documents.

Course 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 each week 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.

Exams and Grading

I will base your grade on a midterm (20%) and a final exam (80%). I will also consider your class participation, preparation, and attendance. Class participation will not count towards your final grade. However, instances of continued unpreparedness, poor attendance, or excessive lateness or failure to turn in any written assignments could have an adverse effect.

Attendance

Class attendance is mandatory. I expect everyone to attend class each day and to arrive on time. Walking in after class has begun is disrespectful to your fellow students. Attendance is recorded on a sign-in sheet that is circulated at the beginning of each class. It is your responsibility to ensure that your attendance is properly recorded.

Excessive absences. The University of Baltimore, School of Law allows a maximum of five (5) absences. Absences due to observance of religious holidays are not included in this policy. ***If you are deemed absent from class more than five times, you will be dropped from the course with a failing grade, and will not be allowed to take the final exam.***

If you contact me to tell me that you are ill, your car broke down, or a loved one had surgery, I always like to hear from you. Please do not hesitate. However, I do not have the authority to excuse an absence—whether for the above-listed or any other reasons—and I have no discretion in this regard. It is your responsibility to monitor your absences, and if you anticipate missing more than five classes, you are strongly advised to contact Dean Sloan regarding the possibility of withdrawal before it is too late to do so.

Classroom Policies

Reading Assignments. I expect all students to attend class and complete all reading assignments. Many reading assignments include cases or notes that refer to the U.S. Constitution (“U.S. Const.”), Title 28 of the United States Code (“USC”), and specific rules of the Federal Rules of Civil Procedure (“FRCP”). When you see such a reference, you should read the relevant text of the Constitution, statute, or rule. You should read *all* provisions contained in the readings.

Preparation and Participation. It is imperative that students learn to think on their feet and clearly articulate their views. Explaining your perspective is a valuable way to better understand the material. Accordingly, I will call on students throughout the semester. This is not intended to frighten or embarrass you, but instead to help you improve your communication skills and make sure that everyone in the class participates in discussions. If you are called upon, you are expected to answer. Please come prepared to discuss the cases and materials that have been assigned. Volunteers are welcome. I will, however, randomly call on students to ensure that everyone participates and develops the reasoning and oral presentation skills that are essential to lawyering.

Leaving class, no re-entry. If you leave class early without permission or without a genuine emergency, you may be counted absent. In addition, you may not reenter the room until class is over.

CLASS PREPARATION

In general. Each student should be well prepared for class discussion each day. Thus:

- Please bring your Rules Supplement to each and every class.
- Being prepared includes carefully reading the assigned materials more than once, looking up unfamiliar words in a dictionary (legal or otherwise), briefing assigned cases, re-reviewing the assigned materials immediately

prior to class, and perhaps consulting one of the study aids listed on the course website. An online legal dictionary is available at <http://dictionary.law.com>.

- If you do not know if you are preparing enough, a good rule of thumb is that you should spend **at least** twice as much time preparing before class as you spend in class. In other words, for a 75-minute class, you should prepare an absolute minimum of two and a half hours. Many students prepare much more than that.

Passes. One time per semester, if you are unprepared, you may tell me **before class begins** and I will not call on you. However, if you do not tell me in advance, and I call on you and determine in my sole and absolute discretion that you are unprepared, you may be marked as absent. If this happens more than once, your final grade may be lowered.

Basics of case recitation. Early in the semester, we will spend time discussing briefing and how to recite a case. As a starting point for the first week, you should be able to answer the following basic questions when called upon to discuss any assigned case:

1. What are the material facts of this case?
2. In what trial court was this case filed? State or federal? What was the disposition of that court? If there was an appeal, to what appellate court? What was the disposition of the appellate court? (Same questions if there are further appellate proceedings.)
3. Who were the plaintiffs and defendants in the trial court? On appeal, which parties are the appellants/appellees or petitioners/respondents?
4. What are the legal issues?
5. What are the arguments that each side makes?
6. What is the holding? How does the court justify its holding?

Moreover, these questions are merely *preliminary* to deeper exploration of the materials. But if you are not prepared to answer these basic questions, you are likely unprepared for class.

Class Cancellation

If the instructor must cancel a class, 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.

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/.

Title IX Sexual Misconduct and Nondiscrimination 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 academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

Syllabus

ALL ASSIGNMENTS AND READINGS ARE AVAILABLE ON CHARTACOURSE.

Week 1	Introduction to American Courts
Week 2	Subject Matter Jurisdiction , 28 USC §1332 and Article III of the US Constitution <ul style="list-style-type: none">• Complete Diversity Requirement and Citizenship Determinations• Diversity: Corporate Citizenship and Non-Incorporated Businesses
Week 3	Subject Matter Jurisdiction , continued <ul style="list-style-type: none">• Amount in Controversy• Constitutional Scope of Diversity
Week 4	Subject Matter Jurisdiction <ul style="list-style-type: none">• Federal Question: Well-Pleaded Complaint Rule,• Constitutional Scope of Federal Question Jurisdiction, Removal , 28 USC §§ 1441, 1446, 1447 SMJ/Removal Review
Week 5	Personal Jurisdiction <ul style="list-style-type: none">• Introduction to Personal Jurisdiction, The Modern Era, (long arm statutes)

Week 6	Types of Personal Jurisdiction <ul style="list-style-type: none"> • Specific Jurisdiction, General Jurisdiction, PJ Review
Week 7	Notice , FRCP Rule 4 Venue , 28 USC §§ 1391, 1404 Notice and Venue Review
Week 8	Introduction to Pleadings , FRCP Rules 3, 7(a), 8(a), 8e, 10 Heightened Pleading
Week 9	Responding to the Complaint Answers, FRCP Rules 8, 12, 55 Veracity in Pleadings and Rule 11, FRCP Rule 11
Week 10	Joinder, FRCP Rules 18 and 20 <ul style="list-style-type: none"> • Claim and Party Joinder by Plaintiffs Joinder, FRCP Rules 13 and 14 <ul style="list-style-type: none"> • Counterclaims/Crossclaims
Week 11	Scope of Discovery, FRCP Rule 26(b) Discovery Tools, FRCP Rules 26(a), 30(a)-d, 33, 34, 36 and 37 Work Product, FRCP Rule 26(b)(3)
Week 12	Adjudication Without a Jury, Summary Judgment, FRCP 56
Week 13	Second Guessing the Jury: Directed Verdict/JNOV, FRCP 59 Appeals

Week 14	Review
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