

Professor John Bessler
Office: Angelos Law Center 1108
Office Phone: (410) 837-4690
Cell Phone: (612) 386-4495
jbessler@ubalt.edu

Administrative Assistant:
Deborah Thompson
Office Phone: (410) 837-4635
dthompson@ubalt.edu

University of Baltimore School of Law
Fall 2021

Civil Procedure I
Law 612 – Section 419E

Course Times:
Mondays & Wednesdays – 7:45 p.m.-9:00 p.m.

Location: Check the Law School class schedule for the room assignment

Office Hours: To be announced / By appointment (TBD)

Civil Procedure I - Course Syllabus and Overview

Catalog/Course Description for ILS/Civ. Pro. I: 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 the way lawyers must in the practice of law. The course is taught by full-time, tenured and tenure-track professors in sections with one-on-one conferences. 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. Students will learn the law of civil procedure through statutory interpretation, case analysis and rule synthesis, print and online legal research, and legal 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, print and electronic; citation form; and professional norms and ethics. The fall semester course will focus on relevant issues pertaining to the litigation process, including issues relating to a party's decision to file a lawsuit. The course will include an overview of the civil litigation system so as to give you a bird's eye view of it from start to finish. The

class will have a particular focus on the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure. Specific topics to be covered are set forth below and may be modified, as necessary, throughout the semester.

Learning Outcomes: By the end of this course, you will: (1) be able to read procedural rules, cases and other sources of law effectively; (2) have the skill to identify the rule, holding, and determinative facts of cases; (3) be able to state the facts surrounding the history of the Federal Rules of Civil Procedure; (4) be able to understand the nature of a pleading; (5) be able to draft a pleading; (6) be able to explain the structure of the federal and state court systems; (7) be able to recite how the Federal Rules of Civil Procedure work and the relationship of rules to one another; (8) be able to describe pleading standards and the discovery process; (9) be able to articulate how discovery and other pre-trial motions are made and used; (10) be able to state how trials are conducted, including the order of presentation of evidence; (11) be able to state the difference between verdicts and judgments; (12) be able to explain the proper use of, and timing requirements for, post-trial motions and appeals; and (13) be able to describe ethical and confidentiality issues lawyers face in the practice of law and be equipped to handle those issues.

Law Scholar: Mik Berzins (mikelis.berzins@ubalt.edu) – Mik will provide you with contact information and a schedule for law scholar sessions. Note that the law scholar is an additional resource for you but is *not* a graded or required part of the course. Students are strongly encouraged, but not required, to attend the law scholar sessions.

First Class Reading Assignment for Civil Procedure I:

Monday, Aug. 23, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Introductions; course overview; how to read a case; structure of state and federal courts; survey of the civil action; defining “civil procedure”; the purpose and scope of the Federal Rules of Civil Procedure; remedies; federal vs. state procedural rules; litigation and alternatives to it

Reading Assignment: Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *Civil Procedure: Cases and Materials* (West, 11th ed. 2013) (“Casebook”), pp. 1-27, 34-38; Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *2021-2022 Civil Procedure Supplement* (“Supplement”), U.S. Const. art. III, 28 U.S.C. § 1331, 28 U.S.C. § 1332(a)-(c), Fed. R. Civ. P. 1, 2 & 3

Assigned case: Case v. State Farm Mutual Automobile Ins. Co., 294 F.2d 676 (5th Cir. 1961)

Course Materials

The required and optional texts are set forth below. Reading assignments from the required texts will be distributed periodically during the semester. I may also periodically assign other readings, recorded lectures, or videos to view. These will either be posted on TWEN (with links, as applicable) and/or Panopto, or be e-mailed or distributed in the form of handouts.

Required Texts:

Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *Civil Procedure: Cases and Materials* (West, 11th ed. 2013) (“Casebook”) **ISBN: 13:978-0-314-28016-9**

Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *2021-2022 Civil Procedure Supplement* (“Supplement”) – **ISBN: 13:978-1647088750** The Supplement contains the Federal Rules of Civil Procedure, selected provisions of the United States Constitution, the United States Code, and the Federal Rules of Appellate Procedure, and various other materials, including recent U.S. Supreme Court cases. Whenever a case or other assigned reading refers to a rule, statute or constitutional provision, you should carefully read that rule, statute or provision in the Supplement.

Optional Text:

Joseph W. Glannon, *Civil Procedure: Examples & Explanations* (Aspen, 7th ed. 2013) or Joseph W. Glannon, *Civil Procedure: Examples & Explanations* (Wolters Kluwer, 8th ed. 2018). **ISBN: 13:9781454894025** This optional text contains information about the “Steps in the Litigation Process” and various topics to be addressed in the course (e.g., motions to dismiss, amendments to pleadings, the scope of discovery, and methods of discovery).

ASSIGNMENTS

Reading Assignments: Required reading assignments will be distributed over the course of the semester. It is expected that students will have read the assigned pages and be prepared for class.

Deadlines: Assignments must be turned in at the announced times and places. The course will include pleading exercises, a court observation assignment, a midterm exam, and a final written exam. Failure to complete or turn in an assignment on time or in the manner specified will have negative consequences for your grade.

Court Observation Assignment: In addition to the other course requirements, you are required to listen to or watch one *civil* appellate court argument of your choice during the course of the semester. You may listen to or watch the civil appellate proceeding online, and you must prepare your own one- or two-page summary of what you observed. On or before Monday, November 29, 2021 by 5:00 p.m. EST, you must submit a one- or two-page summary via the TWEN page for the Civil Procedure I course describing the nature of the proceeding you watched or listened to online, including the names of the parties, the docket number of the case (if available), the name of the court, and what, if anything, you learned from observing and listening to the court proceeding. Failure to complete this assignment will result in your grade being reduced by one step (e.g., B+ to B). Please include your name when you submit the assignment. Extensions of time will not be granted for this assignment.

Other assignments may also be given out periodically during the course of the semester.

Note: During the semester, the class will be divided into small “law firms” for purposes of doing assigned group work. Group projects may include drafting complaints, answers, or other legal documents. These group projects will also give you a chance to get to know one another better. Some of you may also find it useful to form study groups.

EVALUATION

Evaluation: The final grade for the Civil Procedure I component of the course will be based on a midterm and a final exam. The midterm and the final exam will be in the form of essay questions. Students are identified by confidential exam numbers, which are obtained online on MyUB before the exam period. Exam numbers are randomly generated by the registrar’s office and assigned to each student. The midterm exam will be worth 10% of the grade, and the final exam will be worth 90% of the grade.

The Civil Procedure I course is subject to the law school’s mandatory grading range for first-year courses. Under the mandatory grading range, each faculty member teaching a section of any first-year course shall have an average grade for the section taught by that faculty member (i.e., the arithmetic average of all of the grades assigned to students in the section) that is no lower than 2.67 and is no higher than 3.00. The law school’s mandatory grading range is more fully described on the law school’s website.

Attendance: Class attendance is a primary obligation of each student and you are expected to attend each class and to be on time. Satisfactory attendance is a condition of continued enrollment in the course, and the ability to take the final exam is also conditioned on satisfactory attendance. Per American Bar Association (“ABA”) and law school policies you may have no more than five absences. (Note: Absences should be very rare. Your success in the class will depend upon your regular attendance at class sessions.) A student who exceeds the maximum allowable absences may be compelled to withdraw from the course or may be barred from sitting for the final exam. A student who is forced to withdraw or who is barred from sitting for the final exam may receive a

grade of “FA” (failure due to excessive absence) in the course. A student who misses class or who is present, but unprepared for class, may be treated as absent. The law school’s attendance policy can be found online. An attendance sheet will be distributed at the beginning of each class session, so be sure to sign in every day that our class meets. Signing the class sign-in sheet is your responsibility.

Note: If any class session is held via Zoom over the course of the semester, please note that Zoom automatically records attendance (including duration). However, for this to work, you must use your ubalt e-mail and make sure your Zoom account is configured with your real name. Faculty are required to record Zoom classes for the purposes of accommodating a disability, for students who cannot attend or so students who wish to review may have access to the full class content. All 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. 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.

Class Participation: Class participation is expected and demonstrates that you have read and reflected on the issues raised in the reading assignments. You are expected to complete all reading assignments and to consistently participate in class discussion in order to demonstrate that you have read and thoughtfully reflected on the issues raised in the assignments. Grades may be raised or lowered up to a full letter grade (e.g., A to B or C to B) based on the overall quality of a student’s class participation.

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 the evaluation is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

Professionalism: Learning cannot effectively take place in an environment that is unprofessional or that is not civil in nature. To that end, I expect that you will observe basic professional courtesies such as arriving on time, respecting different viewpoints, silencing your cell phone, avoiding unnecessary distractions (e.g., surfing the Internet for a non-class-related purpose), coming to class prepared to participate, and otherwise observing norms of professional behavior.

OTHER ISSUES

TWEN and Panopto: I will use Westlaw’s TWEN website to communicate with the class. (Go to lawschool.westlaw.com and link to TWEN.) You are responsible for checking it regularly. **There will be separate TWEN pages for the Civil Procedure I**

and the ILS components of the course, so be sure to sign up for both TWEN pages if you are enrolled in both of the courses. *Note:* Links to any Panopto recordings will be available through Panopto.

Office Hours: I will announce regular office hours at the beginning of the semester. You are also welcome to contact me via e-mail (jbessler@ubalt.edu) or telephone (cell: 612-386-4495). I also have an open-door policy, so please feel free to stop by my office, which is on the 11th floor of the law school.

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 the School of Law. Violations of academic integrity include, but are not limited to: cheating; plagiarism; misuse of library materials; use of another's book or study materials without consent; unapproved multiple submissions; material misrepresentation of one's academic history or standing; misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports. [Reference to School of Law Honor Code, https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm]

Title IX Sexual Harassment and Sexual Misconduct Policy: The University of Baltimore's Sexual Harassment and Sexual Misconduct policies are 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>.

Laptops: For the course, laptops may be used for note-taking and other course-related work. During class time, however, surfing of the Internet for a non-course-related purpose is prohibited. Accessing the Internet for a non-course-related purpose is not conducive to classroom learning, and it would also be extremely distracting—and thus unfair—to your classmates. Please be respectful, professional and engaged whenever class is in session and you are using your computer. *Note:* There is some social science research indicating that students who take notes by hand fared better on tests than those who typed notes on a laptop. Whether you use a laptop for note-taking is up to you, but whatever you decide to do, you should remember that the purpose of note-taking is to gain an understanding of the material and not simply to indiscriminately transcribe what is said in class. We will, from time to time, be doing legal research and pleading assignments, so you will need your laptop for those assignments. Students may use laptops for the midterm exam and the final exam.

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 ublawaacadaff@ubalt.edu or (410) 837-4468.

Mental health/general student issues: Dean Paul Manrique (pmanrique@ubalt.edu; 410-837-5283) or Ms. Keri Hickey, Director of Student Support (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; 410-837-6370.). Prof. Baffy is located on the 5th floor in Room 513.

Writing Center: Information about the UB Law Writing Center may be found here: http://law.ubalt.edu/academics/academic-support/legal_writing_center/index.cfm. Claudia Diamond, Assistant Dean – Academic and Writing Support, will send an announcement to faculty and students when the Writing Center is open for business.

Class Cancellation: If a class is cancelled, notices will be sent to students via e-mail. If there is inclement weather, students should visit the University of Baltimore web page or call the University's Snow Closing Line at (410) 837-4201. If the University is not closed, students should presume that classes, whether online or otherwise, are running on the normal schedule.

Helpful Civil Procedure Research Sources: Wright & Miller, Federal Practice and Procedure; Moore's Federal Practice. These are two popular civil procedure treatises used by practicing lawyers.

Course Coverage: Below is a listing of topics that will be covered in the course. I may modify the syllabus or reading assignments during the course of the term. I will announce any such modifications in class or through a posting on TWEN.

TOPICS TO BE COVERED IN CIVIL PROCEDURE I:

INTRODUCTION/OVERVIEW

An Introduction to Civil Procedure

Defining "Civil Procedure"

Historical Origins of the Federal Rules of Civil Procedure

Overview of the Litigation Process

Adversarial vs. Inquisitorial Systems

Alternatives to Litigation/ADR

PLEADING

Forms of Pleading

Rules of Pleading

Pleading Special Matters

Federal Pleading / Civil Cover Sheets

Complaints

Answers

Replies

Amendments to Pleadings

Duty to Investigate / Ethical Considerations

Sanctions – Rule 11

PRE-TRIAL/SETTLEMENT CONFERENCES & MOTIONS

Pre-trial / Settlement Conferences

Motions to Dismiss

Motions for Summary Judgment

DISCOVERY

Disclosure Requirements

Interrogatories

Document Requests

Requests for Admission

Depositions

Electronic Discovery

Sanctions

Attorney-Client Privilege

Work Product Doctrine

Experts

JURY TRIALS

Right to a Jury Trial

Seventh Amendment

REMEDIES, JUDGMENTS AND POST-TRIAL MOTIONS

Damages

Injunctions

Declaratory Relief

Verdicts

Judgments / Default Judgments

Post-Trial Motions

New Trials

APPEALS

Time to Appeal

Notices of Appeal

Scope of Appellate Review

Civil Procedure I Reading Assignments

Monday, Aug. 23, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Introductions; course overview; how to read a case; structure of state and federal courts; survey of the civil action; defining “civil procedure”; the purpose and scope of the Federal Rules of Civil Procedure; remedies; federal vs. state procedural rules; litigation and alternatives to it

Reading Assignment: Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *Civil Procedure: Cases and Materials* (West, 11th ed. 2013) (“Casebook”), pp. 1-27, 34-38; Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, and Helen Hershkoff, *2021-2022 Civil Procedure Supplement* (“Supplement”), U.S. Const. art. III, 28 U.S.C. § 1331, 28 U.S.C. § 1332(a)-(c), Fed. R. Civ. P. 1, 2 & 3.

Assigned case: Case v. State Farm Mutual Automobile Ins. Co., 294 F.2d 676 (5th Cir. 1961)

Wednesday, Aug. 25, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Overview of civil litigation process; history of pleading; origins of Federal Rules of Civil Procedure; rule-making power and rules of procedure; modern pleading; adversarial vs. inquisitorial systems

Reading Assignment: Casebook, pp. 553-65; Supplement, Fed. R. Civ. P. 7, 8, 10, 12(a)-(b), 84; Supplement - “Flow Chart of a Civil Action”; 28 U.S.C. §§ 2071-2072

Assigned cases: Gillispie v. Goodyear Service Stores, 128 S.E.2d 762 (N.C. 1963); Dioguardi v. Durning, 139 F.2d 774 (2d Cir. 1944); Conley v. Gibson, 355 U.S. 41 (1957)

Monday, Aug. 30, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Pleading standards; pleading in the alternative; modern pleading

Reading Assignment: Casebook, pp. 565-79; Supplement – Fed. R. Civ. P. 8, 12, 84; Supplement - Plaintiff’s Complaint in *Bell Atlantic Corp. v. Twombly*

Assigned cases: Swierkiewicz v. Sorema N.A., 534 U.S. 506 (2002); Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007); Johnson v. City of Shelby, 135 S. Ct. 346 (2014) (available on WESTLAW or LEXIS)

Wednesday, Sept. 1, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Pleading standards; pleading in the alternative; modern pleading; civil cover sheets

Reading Assignment: Casebook, pp. 579-93; Supplement – Fed. R. Civ. P. 8, 12, 84; Supplement - First Amended Complaint in *Ashcroft v. Iqbal*

Assigned cases: Ashcroft v. Iqbal, 556 U.S. 662 (2009); Erickson v. Pardus, 551 U.S. 89 (2007); Reinholdson v. Minnesota, No. Civ. 011650 (RHK/JMM), 2002 WL 32658480 (D. Minn. Nov. 21, 2002) (posted on TWEN site under “Course Materials”)

Monday, Sept. 6, 2021, 7:45 p.m.-9:00 p.m.:

NO CLASS – Labor Day

Wednesday, Sept. 8, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Pleading special matters; pleading issues and forms; ad damnum clauses

Reading Assignment: Casebook, pp. 599-610; Supplement – Fed. R. Civ. P. 9

Assigned cases: Denny v. Carey, 72 F.R.D. 574 (E.D. Pa. 1976); Denny v. Barber, 576 F.2d 465 (2d Cir. 1978); Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308 (2007); Ziervogel v. Royal Packing Co., 225 S.W.2d 798 (Mo. Ct. App. 1949)

Monday, Sept. 13, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Answers; affirmative defenses; motions to dismiss; motions for more definite statement; duty to investigate; signature requirement; Rule 11; sanctions

Reading Assignment: Casebook, pp. 610-21; Supplement – Fed. R. Civ. P. 8, 12 & Supplement (Form 30 – Answer Presenting Defenses Under Rule 12(b) & Form 40 – Motion to Dismiss Under Rule 12(b))

Assigned cases: American Nurses' Ass'n v. Illinois, 783 F.2d 716 (7th Cir. 1986); Bergeron v. Northwest Publications Inc., 156 F.R.D. 518 (D. Minn. 1996) (available on TWEN site under “Course Materials”); Monica Del Carmen Gonzalez-Servin v. Ford Motor Co., No. 11-1665, slip. op. (7th Cir. Nov. 23, 2011), *available at* <http://www.abajournal.com/files/DG0R2WE8.pdf>

Wednesday, Sept. 15, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Rule 11; signature requirement; duty to investigate; ethical considerations for lawyers; sanctions

Reading Assignment: Casebook, pp. 641-44, 648-57; Fed. R. Civ. P. 11 & 23.1

Assigned cases: [Surowitz v. Hilton Hotels Corp.](#), 383 U.S. 363 (1966); [Hedges v. Yonkers Racing Corp.](#), 48 F.3d 1320 (2d Cir. 1995)

Monday, Sept. 20, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Service and filing of pleadings and other papers; replies; amendments to pleadings; the “relation back” doctrine; supplemental pleadings

Reading Assignment: Casebook, pp. 626-40; Fed. R. Civ. P. 5, 6, 7 & 15

Assigned cases: [Beeck v. Aquaslide ‘N’ Dive Corp.](#), 562 F.2d 537 (8th Cir. 1977); [Krupski v. Costa Crociere, S.p.A.](#), 130 S. Ct. 2485 (2010)

Wednesday, Sept. 22, 2021, 7:45 p.m.-9:00 p.m.:

Pre-trial/settlement conferences and pre-trial orders; trials; jury instructions; verdict forms; dismissals and default judgments; magistrate judges

Assigned reading: Casebook, 976-84, 1072-86; Supplement - Fed. R. Civ. P. 16, 41, 49, 51 & 55

Assigned cases: [McCants v. Ford Motor Co.](#), 781 F.2d 855 (11th Cir. 1986); [Wojtas v. Capital Guardian Trust Co.](#), 477 F.3d 924 (7th Cir. 2007); [Coulas v. Smith](#), 395 P.2d 527 (Ariz. 1964); [Link v. Wabash R. Co.](#), 370 U.S. 626 (1962); [Securities and Exchange Commission v. Koenig](#), 557 F.3d 736 (7th Cir. 2009)

Monday, Sept. 27, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Mandatory disclosures; the mechanics of discovery; the scope of discovery; depositions; client interviewing skills

Reading Assignment: Casebook, pp. 831-34, 838-59; Supplement – Fed. R. Civ. P. 26, 29, 30 & 31

Assigned cases: Cummins v. General Motors Corp., 365 F.3d 944 (10th Cir. 2004) (available online on Westlaw or Lexis); Polycast Technology Corp. v. Uniroyal, Inc., 1990 WL 138968 (S.D.N.Y. 1990); Kelly v. Nationwide Mut. Ins. Co., 188 N.E.2d 445 (Ohio Ct. Common Pleas 1963); Marrese v. American Academy of Orthopaedic Surgeons, 726 F.2d 1150 (7th Cir. 1984) (en banc), *reversed on other grounds*, 470 U.S. 373 (1985)

Wednesday, Sept. 29, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Discovery; physical and mental examinations; requests for admission; depositions; duty to supplement; use of discovery at trial

Reading Assignment: Casebook, pp. 40-44, 870-85; Supplement – Fed. R. Civ. P. 27, 28, 32, 35 & 36; Supplement (Form 51 – Request for Admissions Under Rule 36)

Assigned cases: DiMichel v. South Buffalo Ry. Co., 80 N.Y.2d 184 (1992); Schlagenhauf v. Holder, 379 U.S. 104 (1964); Tatman v. Collins, 938 F.2d 509 (4th Cir. 1991)

Monday, Oct. 4, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Discovery; interrogatories; document requests, subpoenas

Reading Assignment: Casebook, pp. 860-869; Supplement – Fed. R. Civ. P. 33, 34 & 45; Supplement (Form 50 - Request to Produce Documents and Tangible Things)

Assigned cases: In re Auction Houses Antitrust Litigation, 196 F.R.D. 444 (S.D.N.Y. 2000); Cable & Computer Technology, Inc. v. Lockheed Saunders, Inc., 175 F.R.D. 646 (C.D. Cal. 1997); Zubulake v. UBS Warburg LLC, 217 F.R.D. 309 (S.D.N.Y. 2003)

Wednesday, Oct. 6, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Discovery; attorney-client privilege; work product; privilege logs; experts; voir dire

Reading Assignment: Casebook, pp. 885-907; Supplement – Fed. R. Civ. P. 26(a)-(b)

Assigned cases: Hickman v. Taylor, 329 U.S. 495 (1947); Upjohn Co. v. United States, 449 U.S. 383 (1981)

Monday, Oct. 11, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Sanctions and judicial supervision of discovery; duty to cooperate in adversarial system; case management/ADR; magistrates

Reading Assignment: Casebook, pp. 909-914, 919-37; Supplement – Fed. R. Civ. P. 16, 37, 53, 72 & 73

Assigned cases: Cine Forty-Second Street Theatre Corp. v. Allied Artists Pictures Corp., 602 F.2d 1062 (2d Cir. 1979); Velez v. Awning Windows, Inc., 375 F.3d 35 (1st Cir. 2004); In re Peterson, 253 U.S. 300 (1920)

Wednesday, Oct. 13, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Right to jury trial; judges vs. juries

Reading Assignment: Casebook, pp. 987-1007; Supplement - U.S. Const., amend. VII & Fed. R. Civ. P. 38 & 39

Assigned cases: Beacon Theatres, Inc. v. Westover, 359 U.S. 500 (1959); Dairy Queen, Inc. v. Wood, 369 U.S. 469 (1962); Ross v. Bernhard, 396 U.S. 531 (1970); Curtis v. Loether, 415 U.S. 189 (1974)

Monday, Oct. 18, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Summary judgment; adjudication without a trial

Reading Assignment: Casebook, pp. 947-66; Supplement – Fed. R. Civ. P. 56

Assigned cases: Adickes v. S.H. Kress & Co., 398 U.S. 144 (1970); Celotex Corp. v. Catrett, 477 U.S. 317 (1986)

Wednesday, Oct. 20, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Summary judgment; adjudication without a trial

Reading Assignment: Casebook, pp. 966-76; Supplement – Fed. R. Civ. P. 56

Assigned cases: Bias v. Advantage Intern., Inc., 905 F.2d 1558 (D.C. Cir. 1990); Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986); Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986)

Monday, Oct. 25, 2021, 7:45 p.m.-9:00 p.m.:

Topics: New trials; harmless error; relief from judgments or orders

Reading Assignment: Casebook, pp. 1097-99, 1102-1006, 1111-1114, 1125-1128; Supplement – Fed. R. Civ. P. 59, 60 & 61

Assigned cases: Magnani v. Trogi, 218 N.E.2d 21 (Ill. App. Ct. 1966); Duk v. MGM Grand Hotel, Inc., 320 F.3d 1052 (9th Cir. 2003); Aetna Casualty & Surety Co. v. Yeatts, 122 F.2d 350 (4th Cir. 1941)

Wednesday, Oct. 27, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Taking the case from the jury; judgment as a matter of law; findings of fact and conclusions of law

Reading Assignment: Casebook, pp. 1061-1072; Supplement – Fed. R. Civ. P. 50, 52

Assigned cases: Denman v. Spain, 135 So.2d 195 (Miss. 1961); Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133 (2000); Baltimore & Carolina Line, Inc. v. Redman, 295 U.S. 654 (1935); Roberts v. Ross, 344 F.2d 747 (3d Cir. 1965)

Monday, Nov. 1, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Selection and composition of the jury

Reading Assignment: Casebook, pp. 1032-47

Assigned cases: Flowers v. Flowers, 397 S.W.2d 121 (Tex. Ct. Civ. App. 1965); Edmonson v. Leesville Concrete Co., 500 U.S. 614 (1991)

Wednesday, Nov. 3, 2021, 7:45 p.m.-9:00 p.m.:

MIDTERM EXAM TO BE DISTRIBUTED AND ADMINISTERED –

FORMAT: ONE ESSAY QUESTION

NO READING ASSIGNMENT

Monday, Nov. 8, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Order of trial; Power to grant conditional and partial new trials

Reading Assignment: Casebook, pp. 1047-54, 1116-23

Assigned cases: Fisch v. Manger, 130 A.2d 815 (N.J. 1957); Doutre v. Niec, 138 N.W.2d 501 (Mich. Ct. App. 1965)

Wednesday, Nov. 10, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Appeals/appellate review; final judgment rule

Reading Assignment: Casebook, pp. 1159-70; Supplement – Fed. R. Civ. P. 54(b), 58; 28 U.S.C. §§ 1291-1292; Fed. R. App. P. 1, 4, & 28 (Note: Fed. R. App. P. 28 can be found online (e.g., on LEXIS or WESTLAW) but is not reprinted in the Supplement).

Assigned case: Liberty Mutual Ins. Co. v. Wetzel, 424 U.S. 737 (1976); Johnson v. City of Shelby, 135 S. Ct. 346 (2014) (available online on Westlaw or Lexis)

Monday, Nov. 15, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Securing and enforcing judgments; methods of collecting and enforcing the judgment; remedies; pleading exercise

Reading Assignment: Casebook, pp. 1133-53; Supplement – Fed. R. Civ. P. 64, 65, 66 & 69

Assigned case: Griggs v. Miller, 374 S.W.2d 119 (Mo. 1963)

Wednesday, Nov. 17, 2021, 7:45 p.m.-9:00 p.m.:

Topics: Time to appeal; standards of appellate review; pleading exercise (cont.)

Reading Assignment: Casebook, pp. 1187-1201; Supplement – Fed. R. Civ. P. 52, 58; Fed. R. App. P. 3, 4, 5 & 10

Assigned cases: Electrical Fittings Corp. v. Thomas & Betts Co., 307 U.S. 241 (1939); Corcoran v. City of Chicago, 27 N.E.2d 451 (Ill. 1940); International Ore & Fertilizer Corp. v. SGS Control Servs., Inc., 38 F.3d 1279 (2d Cir. 1994) Pullman-Standard v. Swint, 456 U.S. 273 (1982)

Monday, Nov. 22, 2021, 7:45 p.m.-9:00 p.m.:

Review of midterm exam; pleading assignment (cont.)

NO READING ASSIGNMENT

Reminder: Nov. 29th by 5:00 p.m. EST is the deadline for completion of the court observation assignment. See assignment above (posted on TWEN) for details about court observation assignment.

Wednesday, Nov. 24, 2021, 7:45 p.m.-9:00 p.m.:

Pleading exercise (cont.); course evaluation

Reading Assignment: TBD

Monday, Nov. 29, 2021, 7:45 p.m.-9:00 p.m.:

Pleading exercise (cont.); end of semester review of material

Note: Information on Final Exam to be announced near the end of the semester.