

CIVIL PROCEDURE I
LAW 612 & 612A — Section 339A
Fall 2020

Instructors: Professor Matthew Sipe (msipe@ubalt.edu), Room 1010
Office Hours: Tuesdays, 2:00 to 4:30 pm, or by appointment

Admin. Assistant: Deborah Thompson (dthompson@ubalt.edu), Room 1112

Teaching Assistants (ILS): Annemarie Duerr (annemarie.duerr@ubalt.edu),
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Law Scholar (Civil Procedure): Michael Blanchard
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Class times: Mondays & Wednesdays, 1:30pm – 4:15pm, online.
We will occasionally meet Thursdays, 10:30am – 11:45 am, as well; do not
schedule other activities during this block.

TWEN: <https://lawschool.westlaw.com/twen/course/290024/join/KBFXK82C6K4PHTSEKVDQ>

Welcome to Civil Procedure I / ILS!

In this course, you will learn the first half of civil procedure and build the foundation for basic lawyering skills and professional values. This syllabus covers the materials, assignments, and assessments for the civil procedure portion of the course—a separate syllabus covers the equivalent information for ILS. Please read both syllabi carefully, as you need to know what the course requires in order to maximize your success in it.

Course Description

This combination course 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—as practicing lawyers do. It focuses on the process and procedures of a civil lawsuit, from filing a complaint through final appeal. It introduces the structure and operation of the state and federal court systems in the United States, concentrating on federal courts. Topics include pleadings, pre-trial motions, the discovery process, jury trial, judgments, relief, post-judgment motions, and appeals. Students will learn civil procedure through statutory interpretation, case analysis, rule synthesis, and legal research and 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; citation; and professional norms.

Course Objectives and Learning Outcomes

1. Accurately identify, explain and apply civil procedure rules;
2. Read and analyze cases by identifying the rule, holding, and determinative facts;
3. Identify the elements of a rule and apply rules to facts;
4. Research and properly cite legal authorities, such as cases, statutes and secondary sources;
5. Write predictive memoranda on legal issues, taking into account the weight and value of different authorities; and
6. Build legal writing and grammar skills.

Course Materials

These texts are required for Civil Procedure I. You must have them at the ready during class.

- STEPHEN C. YEAZELL & JOANNA C. SCHWARTZ, CIVIL PROCEDURE (10th ed., 2019), ISBN: #9781454897880 (“*Yeazell*”)
- STEPHEN C. YEAZELL & JOANNA C. SCHWARTZ, FEDERAL RULES OF CIVIL PROCEDURE WITH SELECTED STATUTES AND OTHER MATERIALS (2019), ISBN: #9781543806021

ILS materials are listed on the ILS syllabus.

Supplemental Aids

None of these texts are required, but if you are looking for additional review materials and resources, they are of high quality:

- 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 excellent West Academic Study aids, including podcasts: <http://law.ubalt.edu/library>

In particular, I would encourage you to purchase an abridged version of *Black’s Law Dictionary* (e.g., <https://tmsnrt.rs/2yfgSIN>). This book will serve as a helpful reference throughout many of your classes, not just Civil Procedure.

Law Scholar

Michael Blanchard is the Law Scholar for this course. He will provide you with a schedule and details for his sessions. They are not graded or mandatory, but you are encouraged to attend—you will benefit from the opportunity to further practice your skills.

Grades

You will receive one grade for Civil Procedure I and one grade for ILS. The Civil Procedure I grade will be composed of: (1) a midterm exam (20%); (2) a final exam (80%); and (3) professionalism (adjustments). The midterm and final examinations will test your knowledge of the subjects covered in this course, as well as your critical thinking, legal analysis, and argument skills.

The caliber of your professionalism may help or hurt your grade by up to one step (e.g., B+ to A-, or B- to C+). Professionalism means being on time and prepared to participate. “On time” means you are settled in and ready to engage when 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. Preparation for class is unlike most undergraduate courses; skimming the reading to obtain a general idea of what is going on is not sufficient. You will need to read and think about every word carefully, because that’s what lawyers have to do to be successful.

I encourage you to come to class even if you know that you are not prepared, but please notify me in advance—otherwise you may still be cold-called.

Law School Policies

Recording: 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.

Attendance: Come to class! It’s required, 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). This is an American Bar Association (ABA) Standard for Law Schools.

Amount of Work per Credit Hour: ABA Standards 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 per week for each credit earned in a class. ILS and Civ Pro are three credits each, for a total of six credits.

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. The Law School’s full Honor Code can be found at: https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm.

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. The Law School's policies and procedures related to Title IX and nondiscrimination 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 Karyn Schulz, Director, Center of Educational Access, Office of Disability and Access Services, at 410-837-4141 or kschulz@ubalt.edu.

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.

Student Success Resources: A helpful list of academic and support resources, from technical support to personal counseling, can be found at: <https://www.ubalt.edu/policies/academic/Student-Success-Resources-Syllabus-Addendum.pdf>.

COURSE TOPICS FOR CIVIL PROCEDURE I

This list gives you an overview of the course in terms of legal topics. Class assignments and topic coverage may change as the course progresses, in order to maximize student learning. I will notify you in advance of any such changes, however, via TWEN, email, or in class.

- I.** Introduction to Civil Procedure
 - a. Overview
 - b. The Lawyer's Responsibility

- II.** Pleadings
 - a. Functions of Pleading
 - b. Specificity and Allocation
 - c. Ethical Limitations in Pleading
 - d. Calendars and Timing
 - e. Responding to the Complaint
 - 1. Default
 - 2. Pre-Answer Motion
 - 3. Answer
 - 4. Reply
 - 5. Amendments

- III.** Discovery
 - a. Pre-Discovery
 - b. Discovery Tools
 - c. Scope
 - d. Experts
 - e. Disputes and Remedies

- IV.** Resolution without Trial
 - a. Default
 - b. Dismissal
 - c. Summary Judgment

- V.** The Trial
 - a. Judges and Juries
 - b. Pretrial Conference and Order
 - c. Judgment as a Matter of Law
 - d. New Trials
 - e. Limits on Judicial Power—the Black Box

- VI.** Appeal
 - a. Who May Appeal
 - b. Finality
 - c. Scope of Review

COURSE ASSIGNMENTS FOR CIVIL PROCEDURE I

Again, the class assignments listed below are subject to change as the course progresses, in order to maximize student learning. But I will notify you in advance of any such changes, via TWEN, email, or in class.

Although it is not listed explicitly alongside the textbook readings below, please note that you are also expected to also *look up and review any Rules of Federal Civil Procedure* that are discussed in your readings. If the reading talks about Rule 11, for example, you should find it in the Rules and read it very carefully before class. Likewise, with any reading you do, you should *look up words* that you don't already know. If they are legal terms, this is where *Black's Law Dictionary* can be particularly helpful. These are good habits for any future lawyer.

Week 1

- Class 1 – Aug. 24 (M) – Introduction to Civil Procedure: Overview
 - Read the Civ Pro and ILS syllabi over carefully.
 - *Yeazell*, p. 1-7 (up to *Hawkins*), 293-300, 332-34 (read text box at the top of the page)
 - As you do the reading, imagine you are a lawyer faced with a potential client. When a potential client walks in the door, (1) what kinds of information do you want to obtain and (2) what kinds of decisions do you need to make?
 - Enroll in the TWEN site, and complete the “Student Information Sheet” assignment: (<https://lawschool.westlaw.com/twen/course/290024/join/KBFXK82C6K4PHTSEKV DQ>) Turn in as a PDF file via TWEN.

- Class 2 – Aug. 26 (W) – Introduction to Civil Procedure: The Lawyer’s Responsibility
 - You are about to read your first judicial opinion and rules. To give you insights into how to read statutes, rules and judicial opinions, start by carefully reading *A Lawyer Writes*, p. 33-59. Many of the same techniques for statutes apply to the Federal Rules of Civil Procedure. **Take your time with this reading. It is probably the most important reading you will do during your first semester of law school.**
 - Now use the approaches laid out in *A Lawyer Writes* to do the reading in the Civil Procedure book.
 - *Yeazell*, p. 13-18. Brief *Bridges v. Diesel*. What court are we in? What are the underlying facts that gave rise to this lawsuit? What’s the procedural history? What’s the question presented that the court must decide? What’s the holding? What rule is being applied? What reasoning does the court use to reach the holding? What questions do you have about the case or the relevant rules?
 - Look closely at Rule 11(a), (b), and (c). Diagram Rule 11(b) and 11(b)(1). What obligations do they impose? On whom? What “red flag” words did you find?

Week 2

- Class 3 – Aug. 31 (M) – Pleading: Functions of Pleading
 - *Yeazell*, p. 361-80
- Class 4 – Sept. 2 (W) – Pleading: Functions of Pleading
 - *Yeazell*, p. 380-97

Week 3

- **Labor Day – Sept. 7 (M) – No Class**
- Class 5 – Sept. 9 (W) – Pleading: Specificity and Allocation
 - *Yeazell*, p. 397-408

Week 4

- Class 6 – Sept. 14 (M) – Pleading: Recap
 - Exercises will be posted on TWEN
- Class 7 – Sept. 16 (W) – Pleading: Ethical Limitations in Pleading
 - *Yeazell*, p. 409-21

Week 5

- Class 8 – Sept. 21 (M) – Pleading: Calendars and Timing
 - Exercises will be posted on TWEN
- Class 9 – Sept. 23 (W) – Pleading: Default, Pre-Answer Motions, and Answer
 - *Yeazell*, p. 421-35

Week 6

- Class 10 – Sept. 28 (M) – Pleading: Reply and Amendments
 - *Yeazell*, p. 435-53
- Class 11 – Sept. 30 (W) – Pleading: Recap II
 - Exercises will be posted on TWEN

Week 7

- Class 12 – Oct. 5 (M) – Midterm Review
 - Submit questions before class
- Class 13 – Oct. 7 (W) – **No Class**
 - Prepare for midterm exam

Week 8

- Class 14 – Oct. 12 (M) – **Midterm Exam**
- Class 15 – Oct. 14 (W) – Discovery: Pre-Discovery and Discovery Tools
 - *Yeazell*, p. 455-70, p. 476

Week 9

- Class 16 – Oct. 19 (M) – Discovery: Discovery Tools and Scope
 - *Yeazell*, p. 471-84
- Class 17 – Oct. 21 (W) – Discovery: Scope
 - *Yeazell*, p. 484-94

Week 10

- Class 18 – Oct. 26 (M) – Discovery: Scope and Experts
 - *Yeazell*, p. 495-507
- Class 19 – Oct. 28 (W) – Discovery: Disputes and Remedies
 - *Yeazell*, p. 507-22

Week 11

- Class 20 – Nov. 2 (M) – Discovery: Recap
 - Exercises will be posted on TWEN
- Class 21 – Nov. 4 (W) – Resolution Without Trial: Default and Dismissal
 - *Yeazell*, p. 523-32
- Class 22 – Nov. 5 (Thur) – Resolution Without Trial: Summary Judgment
 - *Yeazell*, p. 569-79

Week 12

- Class 23 – Nov. 9 (M) – Resolution Without Trial: Summary Judgment
 - *Yeazell*, p. 579-91
- Class 24 – Nov. 11 (W) – Resolution Without Trial: Recap
 - Exercises will be posted on TWEN

Week 13

- Class 25 – Nov. 16 (M) – Trial: Judges, Juries, and the Pretrial Order
 - *Yeazell*, p. 593-97, 606-23
- Class 26 – Nov. 18 (W) – Trial: Judgment as a Matter of Law
 - *Yeazell*, p. 623-42
- Class 27 – Nov. 19 (Thur) – Trial: New Trials and the Black Box
 - *Yeazell*, p. 642-59

Week 14

- Class 28 – Nov. 23 (M) – Appeal: Who May Appeal
 - *Yeazell*, p. 661-71
- Nov. 25 (W) – **No Class**

Final Meetings

- Class 29 – Nov. 30 (M) – Appeal: Finality
 - *Yeazell*, p. 672-81, 688-91
- Class 30 – Dec. 1 (Tue) – Appeal: Scope of Review
 - *Yeazell*, p. 691-702
- Final Review – Date / Time TBD

Dec. 3-4: Law School Makeup Days (as needed)

Dec. 5-7: Study Period

Dec. 8-16: Exam Period