

UNIVERSITY OF BALTIMORE SCHOOL OF LAW

Syllabus—Part One

Spring 2020

“I am not one of those who think that procedure is just folderol or noxious moss. Procedure—the fair, orderly and deliberative method by which claims are to be litigated—goes to the very substance of the law.” *Cook v. Cook*, 342 U.S. 126, 133 (Frankfurter, J., concurring).

**Course:** Civil Procedure II, Section 601-319

**Instructor:** Jack Lynch

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**Days/Times:** Mon./Weds. 3:00-4:15

**Law scholar:** Brittany Feinberg

**Course description:** This course includes the topics of federal subject matter jurisdiction, personal jurisdiction, venue, choice of law in federal court actions based on diversity jurisdiction, former adjudication, mandatory joinder, interpleader, intervention and class action. The course focuses mostly on federal law, but Maryland law on some topics will be explored.

**Course materials:** Only one book is required, *Understanding Civil Procedure* by Gene R. Shreve, et al. (6<sup>th</sup> ed., 2019). You should be able to get it used. We are going to have to read many cases. They are listed on the syllabus. There will be links to such cases on the TWEN site for this course. The listing corresponds to classes listed by date on the syllabus.

**Student learning outcomes:** Most of the material in this course is some of the most difficult that you will encounter in law school. Concerning subject matter jurisdiction, you will be expected to master the most common bases of federal jurisdiction so that you will be able to determine whether a case may be brought and maintained in (or removed to) federal court. You will be expected to be able to determine what issues state or federal law must be applied to suits in federal court based on diversity jurisdiction. You will be expected to be able to select an appropriate forum within the federal and Maryland system and to determine whether it is constitutionally fair to compel the defendant to defend a suit in such forum. You will be expected to assess the effect of a judgment on further litigation of the same claim or issues. You will be expected to master how modern joinder rules have increased consolidation of litigation of claims and when they do not do so.

**Grading:** The final grade will be based on the final exam. There will, however, be two practice essay exams during the semester. The questions on such practice exams will take a form similar to questions on the final exam. The exams will be graded, but the grades will not count. The purpose of the practice exams is to provide some indication of student progress in grasping and applying course material as well

as to provide practice for the final exam. I will also from time to time spend class time to distribute multiple choice questions pertaining to the subject matter. After students answer such questions we will discuss what the correct answer is and why. This is also to provide an indication of student comprehension of the material and to practice for the multistate bar exam, which now includes questions on civil procedure.

**Course expectations:** ABA standards call for 2 hours of work outside class for each hour per week in class. I have tried to limit assignments to a reasonable amount of reading for class, but some of this material is quite difficult and may require more time to master. If you have difficulty with the material at any time while you are reading it, please do not hesitate to email me to ask questions about it. I will get back to you as soon as possible. Law school should be one time when you do not have to face difficult issues alone.

**Attendance:** Students who miss more than 5 class meetings may be required to withdraw from the course with a grade of FA, or may be precluded from taking the final exam.

**Course website:** This course uses a TWEN site for posting materials. You are responsible for enrolling on this site at the beginning of the semester.

**Computers:** Many law school professors think that use of laptops is a terrible way to take notes in a law school class. They are probably right. But you are adults and you are paying to keep the lights on in the building. Therefore, I defer to you as such; use laptops if you like.

**Class cancellation:** It is winter and this is not Alaska. We may have cancellations. If there is inclement weather, please visit the University of Baltimore website or call the Snow Closing Line at 410-837-4201.

**Academic integrity:** No cheating allowed! The Law School's Honor Code may be found at <http://law.ubalt.edu/academics/policiesandprocedures/honorcode/>.

**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 member 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 procedure related to Title IX and UB's nondiscrimination policies can be found at <http://www.ubalt.edu/title ix>

**Disability policy:** If you are a student with a documented disability who requires an academic accommodation, please contact Keri Hickey at 410-837-4141.

Date	Subject	Reading
1-13	Subject matter juris.	Shreve, pp. 90-99; U.S. Const, art. III §2 (on your phone) 28 U.S.C. §1331; Bell v. Hood, 327 U.S. 678 (1946); Louisville & Nashville R. Co. v. Mottley, 211 U.S. 149 (1908).

1-15	Subject matter juris. Fed. qtn., diversity	Grable & Sons Metal Products v. Darue Engineering & Mfg., 545 U.S. 308 (2005); Probs. 1 and 2. Shreve, pp. 115-28; Hertz Corp. v. Friend, 559 U.S. 77 (2011).
1-22	Diversity	Shreve, pp. 100-12; Kramer v. Caribbean Mills, Inc., 394 U.S. 823 (1969); 28 U.S.C. §1332; Snyder v. Harris, 394 U.S. 332 (1969); 28 U.S.C. §1332 (d).
1-27	Subject matter juris. Removal, suppl. jur.	28 U.S.C. §§1441, 1447; Shreve, pp. 128-33; 28 U.S.C. §1367; Shreve, pp. 133-51; Revere Copper & Brass, Inc. v. Aetna Cas. & Surety Co., 426 F. 2d 709 (5thCir. 1970);
1-29	Suppl. jur	Owen Equip. & Erection Co., 437 U.S. 365 (1978); Exxon Mobil Corp. v. Allapattah, 545 U.S. 546 (2005). Prob. 3.
2-3	Erie	Shreve, pp. 143-73; Erie R. Co. v. Tompkins, 304 U.S. 64 (1938); Guaranty Trust Co. v. York, 326 U.S. 99 (1945).
2-5	Erie	Probs. 4 (a) (b) (c)
2-10	Erie	Hanna v. Plumer, 380 U.S. 460 (1964); Shady Grove Orthopedic Assocs, P.A. v. Allstate Ins. Co., 559 U.S. 393 (2010).
2-12	Service of process	Federal Rule 4 (c), (d) (h) (k); Probs 5, 6.
2-17	Personal juris.	Shreve, pp. 19-28; Pennoyer v. Neff, 95 U.S. 714 (1877); Burhnam v. Superior Court, 405 U.S. 604 (1990); Milliken v. Meyer, 311 U.S. 457 (1940); Mullane v. Central Hanover Trust Co., 339 U.S. 306 (1950).
2-19	Personal juris.	Shreve, pp. 28-38; International Shoe Co. v. Washington, 326 U.S. 310 (1945); Mc Gee v.

Int'l life Ins. Co., 355 U.S. 200 (1957).

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| 2-24 | Personal Juris. | Md. (Cts. & Jud. Proc.) Code Ann., §6-103 (b) (1)-(6). Shreve, pp. 38-49; Hanson v. Denckla, 357 U.S. 235 (1958). Shaffer v. Heitner, 433 U.S. 186 (1977); Worldwide Volkswagen v. Woodson, 444 U.S. 286 (1980). |
| 2-26 | Personal juris. | Shreve, pp. 49-68; Goodyear Dunlop Tires Operation v. Brown, 131 S. Ct. 2486 (2011); J. McIntyre Mach, Ltd. v. Nicastro, 131 S. Ct. 2780 (2011); BNSF Ry. Co. v. Tyrell, 137 S. Ct. 1549 (2017).                 |
| 3-2  |                 | First practice exam  |