

**UNIVERSITY OF BALTIMORE SCHOOL OF LAW
ILS/CIVIL PROCEDURE I
FALL 2023**

Courses: **Civil Procedure I
Law 612
Section 419E**

**Introduction to Lawyering Skills (“ILS”)
Law 612A
Section 419E**

Instructor: **Professor John Bessler**
CONTACT INFORMATION:
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Office Phone #: (410) 837-4690
Email: jbessler@ubalt.edu

PROFESSOR BESSLER’S OFFICE HOURS: I will generally be at the law school before our evening class meets. If I am not in my office, I will also usually stick around after the Civil Procedure I class to answer any questions you may have. I am also available by email or telephone if you would like to discuss anything related to the course. Telephone calls or meetings at mutually convenient times can also be arranged by appointment.

Administrative Assistant: **Tiffany Ralph**
Email: tralph@ubalt.edu

ILS Adjunct Professor: **Hon. Paul Cucuzzella**
Email: Paul.Cucuzzella@mdcourts.gov

ILS Teaching Assistants: **Hannah Miller**
Email: hannah.miller@ubalt.edu
Erin Turvey
Email: erin.turvey@ubalt.edu

Civ. Pro. I Law Scholar: **Shannon Kress**
Email: shannon.kress@ubalt.edu

Note: Exams at the University of Baltimore School of Law are subject to anonymous grading, and students may not communicate directly with the professor during exam periods about exam-related questions or issues. During exam periods, communicate with Tiffany Ralph about any issues (or with any questions) that may come up.

ILS/Civil Procedure Meeting Days/Time: The ILS/Civil Procedure I class will meet on Mondays and Wednesdays from 6:15 p.m.-9:00 p.m. (There will be a break from 7:30-

7:45 p.m. each night.) There are multiple aspects to the ILS/Civil Procedure I course, including sessions led by Professor Bessler, the Adjunct Professor (Associate Judge Paul Cucuzzella, Baltimore City Circuit Court), and two Teaching Assistants (Hannah Miller and Erin Turvey). Professor Bessler will cover the entire Civil Procedure I component of the course on Mondays from 6:15-7:30 p.m. and Wednesdays from 7:45-9:00 p.m.; Judge Cucuzzella will lead the class sessions on Wednesdays from 6:15-7:30 p.m.; and the TA sessions will be led by the TAs (Hannah Miller and Erin Turvey) on Mondays from 7:45-9:00 p.m. The TAs will be scoring various citation assignments, and Professor Bessler and Judge Cucuzzella will be dividing up one-on-one conferences for the ILS portion of the course.

Note: The class schedule also lists Tuesdays from 7:45-9:00 p.m. as a potential meeting for the ILS/Civil Procedure I class. The ILS/Civil Procedure I class will ordinarily not meet on Tuesday nights, but the classroom and that time is reserved on Tuesdays in the event we need to use it, either because a class session needs to be rescheduled or for some other reason. In other words, the ILS/Civil Procedure I class will generally only meet on Mondays and Wednesdays.

Course Description for ILS/Civil Procedure 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 coursework 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.

Course Materials: The required and optional texts for the Civil Procedure I course and for the ILS course 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 CANVAS/TWEN (with links, as applicable) and/or Panopto, or be e-mailed or distributed in the form of handouts.

Required Texts for Civil Procedure I:

Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, Helen Hershkoff, Adam N. Steinman & Troy McKenzie. *Civil Procedure: Cases and Materials* (West, 13th ed. 2022) (“Casebook”). ISBN#: 978-1636591810

Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, Helen Hershkoff, Adam N. Steinman & Troy McKenzie, *2023-2024 Civil Procedure Supplement* (“Supplement”). ISBN#: 9798887860183 – 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 for Civil Procedure I:

Joseph W. Glannon, *Civil Procedure: Examples & Explanations* (7th ed. 2013), Joseph W. Glannon, *Civil Procedure: Examples & Explanations* (8th ed. 2018), or Joseph W. Glannon, *Civil Procedure: Examples & Explanations* (9th ed. 2023) [ISBN – 978-1543839333]. The optional text, *Civil Procedure: Examples & Explanations*, 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).

Required Texts for ILS:

1. The Bluebook: A Uniform System of Citation (21st ed. 2020) (“*The Bluebook*”) - <https://www.legalbluebook.com> (available digitally or in print edition). You will need to purchase either the digital or print edition of *The Bluebook*. ISBN-13: 978-0578666150.

2. Dionne E. Anthon, The Bluebook Uncovered (2020) (“Anthon”) (to be available online, with this book keyed to the new (21st) edition of *The Bluebook* – you will be provided information on how to access *The Bluebook Uncovered*).

3. Amy E. Sloan, Researching the Law: Finding What You Need When You Need It (4th ed. 2023) (“Sloan”) (a digital copy, which the law school will be providing, will be available online; you will be provided information on how to access *Researching the Law*).
4. Amy E. Sloan & Steven D. Schwinn, Basic Legal Research Workbook (Wolters Kluwer, 5th ed. 2016) (“BLRs”). ISBN-13: 978-1543804584.
5. Richard K. Neumann, Jr., Sheila Simon & Suzianne D. Painter-Thorne, Legal Writing (5th ed. 2015) (“Neumann”). ISBN-13: 978-1543858648.
6. Core Grammar for Lawyers - CoreGrammerforLawyers.com. *Note:* The University of Baltimore will provide the codes at orientation in order to access this online resource. The University of Baltimore has purchased an institutional license for this resource. The teaching assistants will also be able to answer any questions you have about it at your first class with them.

Optional Texts for ILS:

- Richard C. Wydick, Plain English for Lawyers (Carolina Academic Press: 4th ed. 2015) or Richard C. Wydick & Amy E. Sloan, Plain English for Lawyers (Carolina Academic 6th ed. 2019) [ISBN-13: 978-1531006990] (or any other edition);
- Bryan A. Garner, Legal Writing in Plain English (University of Chicago Press, 2nd ed. 2013) (or any other edition); and
- William Strunk, Jr. & E.B. White, The Elements of Style (Allyn and Bacon, 4th ed. ed. 2000) (or any other edition).

Student Learning Outcomes for Civil Procedure I:

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.

Student Learning Outcomes for ILS:

By the end of this course, you will be able to: (1) properly cite legal authority; (2) thoroughly research the law using online legal research platforms; (3) clearly articulate legal issues in written form; (4) summarize facts in written form relevant to a legal issue in a clear, organized and coherent manner; and (5) effectively organize written legal analysis in accordance with IRAC structure (issue, rule, application, conclusion).

Grading for Civil Procedure I: The final grade for the three-credit 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 25% of the grade, and the final exam will be worth 75% of the grade. Students must also complete a civil procedure-related court observation assignment. See below (containing information about the court observation assignment).

Grading for ILS: There will be a closed memo. assignment, an open memo. assignment, and various library and citation assignments. The details pertaining to the allocation of scores for the ILS assignments and the ILS portion of the course will be announced before or at the start of the fall semester.

Note: The Civil Procedure I and ILS courses are 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.

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 per 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. See ABA Standard 310.

Court Observation Assignment: In addition to the other course requirements, for the Civil Procedure I course you are required to listen to or watch one *civil* court argument of

your choice (appellate or otherwise) during the course of the semester. You must personally attend, listen to, or watch the civil proceeding online, and you must prepare your own one- or two-page summary of what you observed. On or before Wednesday, November 22, 2023, 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 watching or 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.

Reading Assignments: Required reading assignments for Civil Procedure I are set forth below. The reading assignments may be amended or supplemented 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.

Note: During the semester, the Civil Procedure I 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.

Attendance/Modality: Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. For detailed information on UB law’s attendance policies, please see the student handbook. For a student to be considered present, the student’s attendance must be consistent with the modality of the specific class meeting. For example, if a class meeting is in-person, a student must attend in-person to be considered present. If a class meeting is virtual, a student must attend virtually to be considered present.

To keep attendance, this class will use the **Qwickly** plug-in on Canvas. To be considered present for an in-person class, you must be in person. To be considered present in a Zoom class, you must be in the Zoom classroom. *Incorrectly reporting attendance is an honor code violation.*

If you anticipate missing a class or have missed a class due to a religious holiday, COVID, or bereavement, you must contact your professor and their administrative assistant to be deemed present for the class missed. If you have a problem with your attendance form submission, you should also contact your professor and administrative assistant.

Student Attendance Requirements: As detailed in the chart below, the number of absences a student may accrue is determined by the total number of times a course is scheduled to meet throughout the semester.

Regular Semester Hours		
Credit Hours	Meetings Per Week	
	1	2
2	2 absences	5 absences
3	2 absences	5 absences
4	--	5 absences

A student whose accrued absences exceed the limits above will be withdrawn from the course with a grade of FA (failure due to excessive absence) unless the Associate Dean for Academic Affairs extends the limit, up to the following maximums: (1) in the fall and spring semesters, up to 4 additional absences for a course scheduled to meet 2 or more times per week; (2) in the fall and spring semesters, up to 2 additional absences for a course scheduled to meet once per week; (3) in the summer semester, up to 1 additional absence. A student whose accrued absences exceed the extended limit will be withdrawn from the course with a grade of FA.

Bases for Extensions: The Associate Dean for Academic Affairs can extend the number of absences a student may accrue based on a student’s religious observance or extraordinary individual circumstances.

Extraordinary individual circumstances include, but are not limited to, the following: bereavement (as defined in the [University of Baltimore Student Bereavement Policy](#)), significant physical or mental health incidents, and attendance at activities required for academic credit, such as clinic court appearances and moot court competitions.

Minor illnesses, doctor’s appointments, traffic, practice rounds for student competitions, personal events, and professional events (including those sponsored by the law school) are examples of circumstances that do not qualify as extraordinary individual circumstances.

A student must provide documentation for extraordinary individual circumstances upon request and must provide advance notice to the Faculty Member whenever possible.

You are expected to attend each class and to be on time. (Note: Absences should be very rare. Your success in the class will depend upon your regular attendance at class sessions.) A student who misses class or who is present, but unprepared for class, may be treated as absent.

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.

Attendance Tracking Procedures

To keep attendance, this class will use attendance software called **Qwickly**. Qwickly is hosted in Canvas, UB's official learning management system. With Qwickly the professor will have a choice to either take attendance manually OR to have you check-in using a pin number generated at the start of class.

To check-in for class using a pin number, you must log into the Canvas site for the Civil Procedure I course via myUB or at this link: <https://ubalt.instructure.com/courses/3102>.

To check-in for class using a pin number, you must log into the Canvas site for the ILS course via myUB or at this link: <https://ubalt.instructure.com/courses/3098>.

Click "Qwickly Attendance (Law)" on the left side of the navigation bar and enter the pin. Qwickly will automatically email you if you are marked absent for the day. If you believe this email was sent in error, please contact the professor and the administrative assistant (Tiffany Ralph) immediately.

Course Learning Management System:

This course has a CANVAS/TWEN page with links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling and checking the website regularly for course information. The Canvas link for the Civil Procedure I course is as follows: <https://ubalt.instructure.com/courses/3102>. The Canvas link for the ILS course is as follows: <https://ubalt.instructure.com/courses/3098>. **There are separate CANVAS/TWEN pages for the Civil Procedure I and the ILS components of the course, so if you are enrolled in both Civil Procedure I and ILS make sure to check and join both pages.** *Note:* Links to any Panopto recordings will be available through Panopto.

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.

Zoom and Panopto:

Under ABA Guidelines, up to 1/3 of your course may be conducted via distance learning (e.g., through recorded lectures located on Panopto, over Zoom, etc.). You will be notified in advance if a particular class will be conducted via Zoom or involve a distance learning component.

Class Recording Policy:

I will endeavor to record all Civil Procedure I classes on Panopto or, if applicable, on Zoom.

UB Law Recording Statement:

Any class recordings, audio or video, are for the sole use of that specific class instruction and study and may not be used or reproduced by students for any other purpose. Similarly, students may not capture video, audio, images or chat text from a class without permission from the instructor for use specific to that class instruction and study, and such images may not be used or reproduced by students for any other purpose. Violating these directions is an honor code violation.

UB University Recording Statement

All class 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. Students may be required to turn on their cameras and participate in graded class activities. 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 Cancellation: If the instructor must cancel a class, notices will be sent to students via UB 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 in-person or online, 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 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 School of Law Honor Code and information about the process is available at https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm.

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.

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:

The law school works hard to ensure compliance with the Americans with Disabilities Act (ADA). For detailed information on reasonable accommodations, please see the student handbook.

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 Erin Brady, the Law School's Director of Student Support, at ebrady@ubalt.edu or the University's Office of Disability and Access Services at das@ubalt.edu. *Note that classroom accommodation requests should be submitted 2 weeks before the start of the semester (by August 7, 2023). Exam accommodation requests should be submitted no later than 2 weeks after the start of the semester (by September 4, 2023).*

General student issues/Mental Health:

For general student issues, students should contact Dean Paul Manrique (pmanrique@ubalt.edu; 410-837-5283). For mental health concerns, students can contact Dean Manrique or Stephen Mogar, the University's Clinical Case Manager (smogar@ubalt.edu; 410.837.6388). Dean Manrique's office is located in the AL 7th floor Dean's Suite and he welcomes students to walk in. Both Dean Manrique and Mr. Mogar are also able to schedule phone and Zoom appointments.

Academic Support:

For questions about academic challenges including preparing for and participating in your classes, reviewing and outlining for exams, and studying for and taking exams, students can contact Prof. Marta Baffy (mbaffy@ubalt.edu; 410-837-6370.). Prof. Baffy's office is located on the 5th floor in Room AL 513.

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.

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.

Fall Semester Law Scholar: Shannon Kress (shannon.kress@ubalt.edu) – Your law scholar for the Civil Procedure I will provide you with any additional 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.

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.

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. 21, 2023, 6:15-7:30 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, Helen Hershkoff, Adam N. Steinman & Troy McKenzie. *Civil Procedure: Cases and Materials* (West, 13th ed. 2022) (“Casebook”), pp. 1-28, 36-39, 304-308, 326; Jack H. Friedenthal, Arthur R. Miller, John E. Sexton, Helen Hershkoff, Adam N. Steinman & Troy McKenzie, *2023-2024* (“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. 23, 2023, 7:45-9:00 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. 608-617; 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) (read excerpt in Casebook only); Dioguardi v. Durning, 139 F.2d 774 (2d Cir. 1944);

Conley v. Gibson, 355 U.S. 41 (1957) (read excerpt in Casebook only); Swierkiewicz v. Sorema N.A., 534 U.S. 506 (2002) (read excerpt in Casebook only)

Monday, Aug. 28, 2023, 6:15-7:30 p.m.:

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

Reading Assignment: Casebook, pp. 617-628; Supplement – Fed. R. Civ. P. 8, 12, 84; Supplement - Plaintiff's Complaint in Bell Atlantic Corp. v. Twombly; Johnson v. City of Shelby, 135 S. Ct. 346 (2014) (available on WESTLAW or LEXIS)

Assigned cases: Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007); Johnson v. City of Shelby, 135 S. Ct. 346 (2014)

Wednesday, Aug. 30, 2023, 7:45-9:00 p.m.:

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

Reading Assignment: Casebook, pp. 628-647; Supplement – Fed. R. Civ. P. 8, 10, 12, 84; Supplement - First Amended Complaint in Ashcroft v. Iqbal; Reinholdson v. Minnesota, No. Civ. 011650 (RHK/JMM), 2002 WL 32658480 (D. Minn. Nov. 21, 2002) (posted on TWEN site under “Course Materials”)

Assigned cases: Ashcroft v. Iqbal, 556 U.S. 662 (2009); Erickson v. Pardus, 551 U.S. 89 (2007) (read excerpt in Casebook only); Reinholdson v. Minnesota, No. Civ. 011650 (RHK/JMM), 2002 WL 32658480 (D. Minn. Nov. 21, 2002)

Monday, Sept. 4, 2023, 6:15-7:30 p.m.:

NO CLASS – Labor Day / University Closed

Wednesday, Sept. 6, 2023, 7:45-9:00 p.m.:

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

Reading Assignment: Casebook, pp. 647-663; Supplement – Fed. R. Civ. P. 9

Assigned cases: Kearns v. Ford Motor Co., 567 F.3d 1120 (9th Cir. 2009);

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. 11, 2023, 6:15-7:30 p.m.:

Topics: Responding to the complaint; answers; affirmative defenses; motions to dismiss; motions for more definite statement; duty to investigate; signature requirement; Rule 11; sanctions

Reading Assignment: Casebook, pp. 663-684; 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)); 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>

Assigned cases: Garcia v. Hilton Hotels International, 97 F. Supp. 5 (D. P.R. 1951); Swanson v. Citibank, N.A., 614 F.3d 400 (7th Cir. 2010); Bergeron v. Northwest Publications Inc., 156 F.R.D. 518 (D. Minn. 1996); Monica Del Carmen Gonzalez-Servin v. Ford Motor Co., No. 11-1665, slip. op. (7th Cir. Nov. 23, 2011)

Wednesday, Sept. 13, 2023, 7:45-9:00 p.m.:

Topics: Motion for judgment on the pleadings; Rule 11; signature requirement; duty to investigate; ethical considerations for lawyers; sanctions

Reading Assignment: Casebook, pp. 684-688, 699-717; Fed. R. Civ. P. 11, 12(c) & 23.1

Assigned cases: Kegerise v. Susquehanna Township School Dist., 321 F.R.D. 121 (M.D. Pa. 2016); Surowitz v. Hilton Hotels Corp., 383 U.S. 363 (1966); Hedges v. Yonkers Racing Corp., 48 F.3d 1320 (2d Cir. 1995)

Monday, Sept. 18, 2023, 6:15-7:30 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. 688-699; 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., 560 U.S. 538 (2010)

Wednesday, Sept. 20, 2023, 7:45-9:00 p.m.:

Topics: Pre-trial/settlement conferences and pre-trial orders; trials; the rule of judges vs. juries; jury instructions; verdict forms; dismissals and default judgments; magistrate judges

Reading Assignment: Casebook, 49-50, 987-995, 1036-1046, 1128-1129, 1133-1145; 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); Nick v. Morgan's Foods, Inc., 270 F.3d 590 (8th Cir. 2001); 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); Nollenberger v. United Air Lines, Inc., 216 F. Supp. 734 (S.D. Cal. 1963), *vacated* 335 F.2d 379 (9th Cir.), *cert. dismissed*, 379 U.S. 951 (1964)

Monday, Sept. 25, 2023, 6:15-7:30 p.m.:

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

Reading Assignment: Casebook, pp. 904-920; Cummins v. General Motors Corp., 365 F.3d 944 (10th Cir. 2004) (read full text of case online on WESTLAW or LEXIS); Supplement – Fed. R. Civ. P. 26, 29, 30 & 31

Assigned cases: Cummins v. General Motors Corp., 365 F.3d 944 (10th Cir. 2004); Fassett v. Sears Holding Corp., 319 F.R.D. 143 (M.D. Pa. 2017); Strike 3 Holdings, LLC v. Doe, Subscriber Assigned IP Address 108.51.209.163, 2018 WL 385418 (D. D.C. 2018); Polycast Technology Corp. v. Uniroyal, Inc., 1990 WL 138968 (S.D.N.Y. 1990)

Wednesday, Sept. 27, 2023, 7:45-9:00 p.m.:

Topics: Pretrial devices for obtaining information; discovery; physical and mental examinations; requests for admission; depositions; duty to supplement; use of discovery at trial

Reading Assignment: Casebook, pp. 42-46, 897-903, 921-923, 925, 934-943, 981-985; 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); In re Petition of Sheila Roberts Ford, 170 F.R.D. 504 (M.D. 1997); Schlagenhauf v. Holder, 379 U.S. 104 (1964); Tatman v. Collins, 938 F.2d 509 (4th Cir. 1991)

Monday, Oct. 2, 2023, 6:15-7:30 p.m.:

Topics: Discovery; interrogatories; document requests, subpoenas

Reading Assignment: Casebook, pp. 926-934; Supplement – Fed. R. Civ. P. 33, 34 & 45; Supplement (Form 50 - Request to Produce Documents and Tangible Things)

Assigned cases: 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) (read excerpt in Casebook only)

Wednesday, Oct. 4, 2023, 7:45-9:00 p.m.:

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

Reading Assignment: Casebook, pp. 944-967; 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. 9, 2023, 6:15-7:30 p.m.:

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

Reading Assignment: Casebook, pp. 968-981, 1002-1007, 1383-1391, 1397-1403; Velez v. Awning Windows, Inc., 375 F.3d 35 (1st Cir. 2004) (available on WESTLAW or LEXIS); 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. 11, 2023, 7:45-9:00 p.m.:

Topics: Right to jury trial; judges vs. juries

Reading Assignment: Casebook, pp. 1047-1074, 1083-1084, 1091-1093; Supplement - U.S. Const., amend. VII & Fed. R. Civ. P. 38, 39 & 42(b)

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) (read excerpt in Casebook only); Curtis v. Loether, 415 U.S. 189 (1974)

Monday, Oct. 16, 2023, 6:15-7:30 p.m.:

**MIDTERM EXAM TO BE DISTRIBUTED AND ADMINISTERED IN
CLASS – FORMAT: OPEN BOOK**

NO READING ASSIGNMENT

Wednesday, Oct. 18, 2023, 7:45-9:00 p.m.:

Topics: Summary judgment; adjudication without a trial

Reading Assignment: Casebook, pp. 1009-1027; Supplement – Fed. R. Civ. P. 56

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

Monday, Oct. 23, 2023, 6:15-7:30 p.m.:

Topics: Summary judgment; adjudication without a trial

Reading Assignment: Casebook, pp. 1027-1036; Bias v. Advantage Intern., Inc., 905 F.2d 1558 (D.C. Cir. 1990) (available on WESTLAW or LEXIS); 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) (read excerpt in Casebook only); Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986) (read excerpt in Casebook only)

Wednesday, Oct. 25, 2023, 7:45-9:00 p.m.:

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

Reading Assignment: Casebook, pp. 1150-1161, 1165-1170; Supplement – Fed. R. Civ. P. 59, 60 & 61

Assigned cases: Magnani v. Trogi, 218 N.E.2d 21 (Ill. App. Ct. 1966); Robb v. John C. Hickey, Inc., 20 A.2d 707 (N.J. Cir. Ct. 1941); 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)

Monday, Oct. 30, 2023, 6:15-7:30 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. 1111-1128, 1145-1150; 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); Lansford-Coaldale Joint Water Authority v. Tonolli Corp., 4 F.3d 1209 (3d Cir. 1993)

Wednesday, Nov. 1, 2023, 7:45-9:00 p.m.:

Topics: Selection and composition of the jury; juries and verdict forms

Reading Assignment: Casebook, pp. 53-58; 1093-1106

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); Diniero v. United States Lines Co., 288 F.2d 595 (2d Cir. 1961)

Monday, Nov. 6, 2023, 6:15-7:30 p.m.:

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

Reading Assignment: Casebook, pp. 1106-1117, 1170-1177

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. 8, 2023, 7:45-9:00 p.m.:

Topics: Appeals/appellate review; final judgment rule

Reading Assignment: Casebook, pp. 68-72, 1213-1223; Johnson v. City of Shelby, 135 S. Ct. 346 (2014) (available online on WESTLAW or LEXIS); Supplement – Fed. R. Civ. P. 54(b), 58; 28 U.S.C. §§ 1291-1292; Fed. R. App. P. 1, 4, & 28 (Note: The full text of the Federal Rules of Appellate Procedure can be found online.)

Assigned case: Hicks v. United States, 368 F.2d 626 (4th Cir. 1966); Liberty Mutual Ins. Co. v. Wetzel, 424 U.S. 737 (1976); Johnson v. City of Shelby, 135 S. Ct. 346 (2014)

Monday, Nov. 13, 2023, 6:15-7:30 p.m.:

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

Reading Assignment: Casebook, pp. 1188-1205; Supplement – Fed. R. Civ. P. 64, 65, 66 & 69 (NOTE: Reading assignment for in-class pleading exercise to be determined prior to the commencement of work on the pleading exercise.)

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

Wednesday, Nov. 15, 2023, 7:45-9:00 p.m.:

Review of midterm exam; pleading assignment (cont.)

NO READING ASSIGNMENT

Monday, Nov. 20, 2023, 6:15-7:30 p.m.:

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

Reading Assignment: Casebook, pp. 1239-1255; 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); International Ore & Fertilizer Corp. v. SGS Control Servs., Inc., 38 F.3d 1279 (2d Cir. 1994); Corcoran v. City of Chicago, 27 N.E.2d 451 (Ill. 1940); Pullman-Standard v. Swint, 456 U.S. 273 (1982)

Wednesday, Nov. 22, 2023, 7:45-9:00 p.m.:

Pleading exercise (cont.); course evaluation

Reading Assignment: TBD

Assignment Reminder: Nov. 22 by 5:00 p.m. EST is the deadline for completion of the court observation assignment for Civil Procedure I. See above for details about the court observation assignment (posted on the Civil Procedure I TWEN page, with the completed court observation assignment to be submitted via that TWEN page).

Monday, Nov. 27, 2023, 6:15-7:30 p.m.:

Pleading exercise (cont.)

Reading Assignment: TBD

Wednesday, Nov. 29, 2023, 7:45-9:00 p.m.:

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

Reading Assignment: None

Note: Information on Final Exam for the Civil Procedure I course to be announced near the end of the semester.