

UNIVERSITY OF BALTIMORE SCHOOL OF LAW
Civil Procedure I
Syllabus
Law 600 Section 339C Fall 2023

Welcome to Civ Pro I. **Read this syllabus carefully.** You need to know this information to succeed in this course. Note that the syllabus also includes a section on “Standard School and University Policies.” If you’ve read these once already for another course, you do not need to read them again.

Note what I have done here to save you some time. I have explicitly carved out some topics that you may not need to read in this syllabus if you’ve already read that material for another class. I do this because your time is valuable. However, you **must** read the other material in this syllabus because it **is** important to our course and you **haven’t** read it before.

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Course Title

Civil Procedure I
Law 600
Section 339C

Instructor Information

Professor William Hubbard (whubbard@ubalt.edu)
Law Scholar: Donnie Waldron (donald.waldron@ubalt.edu)

Administrative Assistant

Latosha Davis (ldavis@ubalt.edu)

Class Times and Office Hours

Class times: Monday and Wednesday: 1:30 pm – 2:45 pm
Office Hours (in person or Zoom): Tuesday from 1:00 p.m. to 3:00 p.m. or by appointment. Office Hours Zoom Link: <https://ubalt.zoom.us/j/285586048>

Course Materials

Required: Stephen C. Yeazell and Joanna C. Schwartz, *Civil Procedure* (11th ed., 2023) (“Yeazell”), ISBN-13: 979-8886141993

Recommended: I recommend that you have a hardcopy of the Federal Rules of Civil Procedure. [This one](#) works well, but it is by no means the only one out there.

Course Description

Civil Procedure I 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 and relief, post-judgment motions, and appeals. Students will learn civil procedure through statutory interpretation, case analysis and 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 (office memo); case law and statutory research; citation; and professional norms.

Course Objectives and Learning Outcomes

At the conclusion of this course, students will be able to articulate and accurately apply significant concepts in the law that governs Civil Procedure, including:

- Pre-litigation considerations

- Pleadings and amended pleadings
- Motions to dismiss
- Discovery
- Summary judgment
- Judgment as a Matter of Law
- Post-trial motions
- Appeals

Modality (In-Person and Online Classes)

This class will generally be taught in-person according to the class schedule. At least one class will be taught online (the Wednesday before Thanksgiving, November 22, 2023). Additionally, if the law school is closed for weather, we will be holding class via Zoom. You will access Zoom via our learning management platform, Canvas.

Professionalism

Professionalism is critical to the practice of law. We must be honest, dependable, and diligent. Our clients trust us with sensitive information and rely on us to help them resolve difficult, important problems. We must be respectful yet firm in our positions. We often operate in adversarial contexts supervised by judges who are skeptical of our arguments and unimpressed by our complaints. Above all, we must be mindful of the strategic consequences of our choices. Expressing frustration or anger towards a judge – even when justified – may undermine a client’s case. Disrespecting a decision maker can hurt our clients.

I take professionalism seriously. If you fail to act professionally, there will be consequences. For example, I may lower your final grade. Professionalism matters to lawyers in many contexts. Lawyers must be professional in communications with clients, in negotiation with opposing counsel, and in arguing to judges. Likewise, the professionalism requirement for this course applies in any context associated with our course, not just in class. If you make an unprofessional comment in class, that counts. If you send an unprofessional email to a TA, that counts, too.

But I recognize you are not lawyers yet. You are here to learn how to be a lawyer, including how to operate as a professional. Professionalism can also be a vague concept, sometimes making it hard to learn. If you engage in unprofessional conduct, I may talk to you. I have had students say and do things that would get them fired from a law firm. And those students were in no way penalized for their mistakes. I’ve also had students who reacted to discussions of professionalism negatively. Those reactions undermined the performance of those students in my class and will hinder the success of those students in their legal careers. If I speak to you about professionalism, I strongly encourage you to listen and try to learn. I am trying to help you, not cramp your style.

Ultimately, I think professionalism is empowering. We develop professional personas that allow us to do things we wouldn’t or shouldn’t do in our personal lives. I can professionally

disagree with a judge. I can professionally proclaim in public that opposing counsel's argument is unpersuasive, unsupported, and unnecessary. Lay the foundations of this part of your lawyerly arsenal now.

Canvas Site

This course has a Canvas webpage that we will use for our classes. You can find the Canvas site [here](#). **You are responsible for enrolling in the Canvas page and for checking it regularly for course information. This is not optional.** Who knows? I might accidentally post answers to the exam. The Canvas webpage will also be a forum for you to ask questions and for me to post answers.

Law Scholar Sessions

Donnie Waldron is our Law Scholar for this course. He will provide you with a schedule for his sessions. Law Scholar sessions are not graded or required, but you are encouraged to attend them. Donnie is here to help you. Be nice to him. If you him grief, you will answer to me.

Grades

- Midterm Exam (20%): There will be a closed book, in-class, timed midterm.
- Final Exam (80%): There will be a closed book, in-class, timed final exam.
- Class participation: I may adjust your grade one grade step to reflect outstanding contribution to the class or egregious lack of contribution, e.g., raising a grade from a B+ to an A- for great participation, lowering a grade from an A- to a B+ for poor participation.
- Professionalism: I may adjust your grade one grade step to reflect a lack of professionalism, e.g., lowering a grade from an A- to a B+ for unprofessionalism.

Class Participation

I hope that you will all actively participate in class discussions and contribute your thoughts and ideas. I encourage you to volunteer in class, but I will also be cold calling on people at random.

Attendance

Attending class is one of your primary responsibilities as a student. Indeed, if you get too many absences you may not be able to take the final exam in this course (see below). For detailed information on UB law's attendance policies, please see the student handbook.

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. Using Qwickly, You will check-in with 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 course via myUB or at this link above. Click “Quickly Attendance (Law)” on the left side of the navigation bar and enter the pin. Quickly will automatically email you if you are marked absent for the day. If you believe this email was sent in error, please immediately contact Tosha, my administrative assistant (ldavis@ubalt.edu).

If you are tardy but have an excuse, talk to me after class. I may give you permission to sign in late. If and only if I give you permission to sign in late, you *must* send an email to me and my assistant Latosha Davis (ldavis@ubalt.edu) stating your excuse and that I gave you permission to sign in late. *Incorrectly reporting attendance is an honor code violation.*

If you anticipate missing a class or have missed a class due to a religious holiday 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.

Failure Due to Absences

Our class meets 28 times. A student whose accrued absences exceed the limits listed below will be withdrawn from the course with a grade of FA (failure due to excessive absence).

Absences	Result	Summary
1 to 3	No effect whatsoever	These absences don’t directly affect your grade.
4	FA unless excused by Professor Hubbard	I can excuse your fourth absence, but if I don’t, you get an FA in the course.
5 or more	FA unless excused by the Associate Dean for Academic Affairs	The Academic Dean can excuse absences beyond 4, to prevent you from getting an FA. I cannot excuse these absences.

As you can see from the chart, some absences may not affect your grades. But don’t fool yourself. Missing class almost surely will lower your grade. Conversely, the more engaged you are in any class the more you will learn and the better you will perform. Law is not a spectator sport.

As described below, the process for excusing a fourth absence is a little different from the standard for excusing five or more absences.

Excusing a Fourth Absence by Professor Hubbard

I will always excuse absences that are based on a student’s (1) religious observance or (2) 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.

I also have discretion to excuse other absences. In making this determination, I consider various factors including explanations for other absences. I am less likely to excuse a student's fourth absence if the other three absences lack any justification. I may also excuse absences based on illnesses, doctor's appointments, traffic, practice rounds for student competitions, personal events, or professional events.

Excusing Five or More Absences by the Associate Dean for Academic Affairs

The Associate Dean for Academic Affairs can extend the number of absences a student may accrue based on a student's (1) religious observance or (2) 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. A student who anticipates accruing excessive absences may be eligible for a Leave of Absence and should contact the Dean of Students to discuss available options.

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.

I cannot excuse any absence beyond your fourth absence.

Course-Work 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](#).

Our course is a three-credit course. That means the ABA thinks that you should expect **at least six hours** of out-of-class work per week for our class. I think that number is low. Based on student evaluations in previous years about half of my students spend **at least 8 hours** each week outside of class time working on this course. Some students spent considerably more time than that on this class.

Moreover, you are required to be on time and prepared to participate in class. "On time" means you are in your seat ready to start 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. **You cannot simply skim the reading to get a general idea. You need to read and think about every word, because that's what lawyers have to do to be successful.**

You are expected to read and understand **all** the Rules of Federal Civil Procedure that are cited in your readings. If the reading talks about Rule 11, for example, look it up in the Federal Rules of Civil Procedure, and read it carefully. You are also expected to look up any words that you don't know in the readings. If they are legal terms, *Black's Law Dictionary* is a great resource. I will often ask students in class to define words. Yep. It's gonna be like that.

Class Recordings

I will be recording most of our classes so that you can review that material from time to time. All class recordings are for the sole use of the class and may not be reproduced by students for any other purpose. I will not 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.

Email Logistics

You can also email me at whubbard@ubalt.edu. Note that if you email me from an email account other than your University of Baltimore account, the University's spam filter may prevent me from getting your email. To be on the safe side, always use your University of Baltimore email account to contact me.

Also, you should add your University of Baltimore account to your computer or smartphone. Lawyers pay attention to details, and written communications are critical. (I've got 4 different email accounts on my phone.)

Computers and the Internet

I encourage you to handwrite your notes. Numerous studies show that for the vast majority of students, laptops are distracting, and they actually make you do worse on exams. Phones are even worse. Here's a recent study, FYI:

https://www.usnews.com/news/education-news/articles/2018-07-27/study-cellphones-laptops-in-the-classroom-lead-to-lower-test-scores?src=usn_fb

Class Cancellation

If I must cancel a class, notices will be sent to students via email. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule. *Also, there is no such thing as a "10-minute rule."*

Also, I am extremely unlikely to cancel class. If the law school is closed due to weather, we will hold classes via Zoom. No more snow days. Because law school.

Zoom Policies

- a. Authentication Requirement

- i. You must use an authenticated account to join the Zoom classes for this course. As noted below, I will take attendance through Zoom using authenticated accounts.
- b. Camera and Microphone
 - i. I strongly encourage you to turn on your camera during class. Seeing your faces helps me to gauge your comprehension.
 - ii. Moreover, conversations are better when you can see someone's face.
 - iii. If you have a reason for not using your camera, please let me know.
 - iv. Students may mute their microphone or turn off their camera if they do not consent to be recorded, but this may mean you need to find additional ways to participate in the class discussion.
 - v. 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.
- c. Raising your hand
 - i. If you want to speak in our class, please use the "Raise Hand" function in Zoom. Please do not simply start talking.
- d. Chat
 - i. I strongly prefer if you ask questions orally using the "Raise Hand" function rather than through a public or private chat.
 - ii. Of course, if you are having microphone issues, you can use Chat to ask questions
 - iii. Please do not use Chat to provide commentary on the class. While I love a good joke as much as the next person, such comments are distracting for other students.
- e. Recording
 - i. I will be recording every Zoom class and posting the recordings to Panopto, which you can access through our Sakai website.
 - ii. 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.
 - iii. 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.
 - iv. 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.
- f. Professionalism

- i. Even though we are meeting via Zoom, I expect you to behave like a professional in class.

Reading Assignments

Class	Date	Subject	start	stop
2	8/23/2023	Intro	1	6
2	8/23/2023	Litigation Context	205	210
2	8/23/2023	Financing Litigation	234	242
3	8/28/2023	Overview: Pre-suit Investigation	11	14
3	8/28/2023	Overview: Pleadings	14	21
4	8/30/2023	Overview: Discovery	24	29
4	8/30/2023	Overview - Summary Judgment and Trial	29	38
5	9/4/2023	Overview - Appeals	40	45
5	9/4/2023	Pleadings	259	262
6	9/6/2023	Summons and Calendaring Dates	Read Rules 1 to 6	
7	9/11/2023	Pleadings	262	273
8	9/13/2023	Pleadings	273	287
9	9/18/2023	Applying Twiqbal	287	289
10	9/20/2023	Pleading Special Cases and pleading mechanics	289	298
11	9/25/2023	Rule 11	298	305
12	9/27/2023	Responding to the Complaint - Part 1	305	314
13	10/2/2023	Answer	314	327
14	10/4/2023	Discovery - I	331	342
15	10/9/2023	Discovery - II	342	351
16	10/11/2023	Midterm Exam (in class)	0	0
17	10/16/2023	Discovery - III	351	366
18	10/18/2023	Discovery - IV	366	371
19	10/23/2023	Discovery - Compelling Disclosure	371	380
20	10/25/2023	Default and dismissal	385	393
21	10/30/2023	MSJ	416	424
22	11/1/2023	MSJ	424	434
23	11/6/2023	Trial and Judges	437	440
23	11/6/2023	Juries and Pretrial Conference	447	461
24	11/8/2023	Judgment as a Matter of Law	461	475
25	11/13/2023	New Trials	476	487
26	11/15/2023	Appeal - Adversity, preservation, and other barriers	491	497
27	11/20/2023	Appeals - Finality	497	505
28	11/22/2023	Appeals - Injunctions and other interlocutory appeals	510	513
28	11/22/2023	Appeals - Scope of Review	513	520

Standard School and University Policies

The topics below reflect policies of the law school and the university, not the particular policies of my course.

Course Evaluations

It is a requirement¹ of our courses that students complete course evaluations. 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.

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.

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

¹ The law school requires that I tell you that you should complete teaching evaluations. Giving me a positive evaluation is not a requirement.

information about the process is available at https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm.

Once you lose your reputation for honesty, it is hard to get it back, especially in the legal profession. Know the Honor Code, and stick to it.

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.

Title IX Sexual Harassment and Sexual Misconduct 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>.

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 Tony DuLaney, the University's Clinical Case Manager (tdulaney@ubalt.edu; 410.837.5159). 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. Dulaney 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.