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# Civil Procedure I (Fall 2023)—Draft 8/4/23

University of Baltimore School of Law

Prof. Anne-Marie Carstens ([acarstens@law.umaryland.edu](mailto:acarstens@law.umaryland.edu))

Office 508 · Office Hours W 4:30-6

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Course: ILS/Civil Procedure I, LAW 612 (Section 339A)

MW 3.00 – 4.15pm (Room 408)

Canvas page: <https://ubalt.instructure.com/courses/3104>

Administrative Assistant: Debbie Pinkham ([deborah.pinkham@ubalt.edu](mailto:deborah.pinkham@ubalt.edu))

Law Scholar: Jimmy Lindeman ([james.lindeman@ubalt.edu](mailto:james.lindeman@ubalt.edu))

## Welcome to ILS/Civil Procedure II

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In these two combined courses, you will learn the first half of federal civil procedure and build the foundation for basic lawyering skills and professional values. This syllabus covers the materials, assignments, and assessments for Civil Procedure I—a separate syllabus covers the equivalent information for ILS.

## Course Description

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These combined courses integrate rigorous instruction in legal analysis, research, and writing with the substantive law of federal civil procedure to give beginning law students an opportunity to combine skills and doctrine—just as practicing lawyers do. It focuses on the process and procedures of a civil lawsuit, from filing a complaint through final appeal. Topics include pleadings, pre-trial motions, the discovery process, juries, 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 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; citation; and professional norms.

## Class meetings

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- **Introduction to Lawyering Skills:** Mondays (and several Wednesdays) 1:30-2:45 for professor-led sessions, and Wednesdays 9-10:15 for TA-led sessions. Note that the ILS TA section is a required part of the ILS course; attendance and assignments are mandatory.
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- **Civil Procedure:** Mondays & Wednesdays from 3:00-4:15, in the time slot immediately following the coinciding ILS course. Law Scholar-led review sessions for Civil Procedure are highly recommended support for your success in ILS and Civil Procedure, but attendance in the Law Scholar sessions is optional and does not factor in either course grade.
- Monday, August 4 - NO CLASS (**Labor Day**)
- Wednesday, October 4 – IN-CLASS MIDTERM EXAM @ 1.30pm (ILS will not meet)
- Monday, October 9 – Extended ILS research session starting @ 1.30, no Civil Procedure
- Wednesday, November 22 – NO CLASS
- TBD – FINAL EXAM (3 hours)

## Course Materials

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- Required*
- 1) A. Benjamin Spencer, *Civil Procedure: A Contemporary Approach* 6th ed. 2021) ISBN-13: 978-1684675494
  - 2) Federal Rules of Civil Procedure, *available* [here](#) through the U.S. Courts\*
  - 3) Supplemental materials (posted on Canvas)

*Helpful Study Aids (Optional)*

- 1) Benjamin Spencer, *Acing Civil Procedure* (5th ed. 2019), *available for free* through the Library website at Library Research Tools/Databases/W/West Study Aids or [here](#)
- 2) Joseph W. Glannon, *Civil Procedure: Examples & Explanations*

## Law Scholar

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Jimmy Lindeman is the Law Scholar for this course and will lead optional review sessions throughout the semester. He will provide a schedule and information on review sessions. While neither graded nor mandatory, you are encouraged to attend—you will benefit from the opportunity to further practice what you have learned. Either way, I sincerely request that you treat Jimmy with the utmost level of professionalism, respect, and kindness throughout the course.

## Course Objectives and Learning Outcomes

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When you successfully complete this course, you will have developed the following skills and knowledge: 1) The ability to self-regulate learning; 2) The ability to accurately identify and explain Civil Procedure rules; 3) The ability to correctly apply Civil Procedure rules to hypothetical legal issues by making effective analogies, by distinguishing, and by drawing on relevant policy; 4) The ability to read cases and other sources of law effectively; 5) The ability to communicate legal analysis effectively in written form; 6) The ability to identify the rule, holding, and determinative facts of cases; 7) The ability to identify the elements of a rule; 8) The ability to research and properly cite legal authorities; 9) The ability to demonstrate the weight and value of different authority in legal analysis; and 10) The ability to synthesize large quantities of complex material.

## Grading

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You will receive separate grades for Civil Procedure I and for ILS. Your grade in this course will be based on a combination of assessments: (1) discussion posts (10%, full points if completed); (2) a midterm exam (20%), (3) a final exam (70%), and (4) 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 rhetorical 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 includes, among other things, treating your fellow students—and all members of our community—with kindness and respect. Professionalism also includes attendance and participation. To fully participate in class, you must have read the materials and made a good-faith effort on any relevant work that was assigned.

## Course Expectations

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*Preparing for Class*

The law school complies with Standard 310 issued by the ABA, which evaluates and accredits law schools. The rules governing course credit-hours provide that for each hour of classroom or other faculty instruction, students should devote twice that amount of time to out-of-class work, such as reading and synthesizing the assigned materials for understanding (before class), taking notes, synthesizing the materials prior to class, posting to a discussion board, revising and clarifying notes after class, and preparing for an exam. For a three-credit class such as

Property, students therefore should expect to spend approximately 6 hours per week preparing for class and for the exam, outside of our scheduled class meetings. [See ABA Standard 310.](#)

### Participation and Professionalism

All students are expected to participate in class discussions to engage respectfully and collaboratively with peers and others, as noted above. Note that your classroom contributions should focus on quality, not quantity: while every class reflects variations in that some students volunteer more than others, your contributions should not crowd out or interfere with your peers' ability to contribute meaningfully to class discussions. Each student should have the opportunity and space to articulate diverse viewpoints that enrich the classroom discussion and experience for everyone.

### Class Cancellation

If I must cancel a class, notices will be sent to students via UB email. (To comply with ABA 310, classes that are canceled must be made up.)

### Attendance Policy

**Please read all parts of this detailed Attendance Policy.**

Class attendance is a critical component of the learning process and reflects professional responsibility. Research demonstrates that students who regularly attend class are more likely to succeed. Additionally, the ABA accreditation standards mandate that a law school adopt, publish, and adhere to a policy for regular class attendance for all students. To comply, regular and punctual class attendance is a condition of receiving credit in all courses at the University of Baltimore's School of Law.

I therefore will take attendance at each class session. Each student is allowed a certain number of absences each semester. **I only record whether or not you are present in class and do not make determinations as to whether absences are excused or unexcused.** Under this attendance policy, there are no "excused" or "unexcused" absences. Absences for any reason are treated alike (with the exception of religious holidays or qualified disabilities) and work cannot be "made up" to make up for a missed class. Only the Associate Deans for Academic Affairs or the Dean of Students can determine that absences are excused, as set out below.

- If you are more than 15 minutes late, you may stay for class but may not sign in to be counted as present for that day.
- Representing that you are present when you are not present, whether you miss a class in whole or in part, constitutes an Honor Code violation and can have serious consequences. (See Academic Integrity section, below.)

#### Modality

For a student to be considered present, their 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.

#### 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.

Number of scheduled meetings	Number of absences
Fall and spring semesters, 2 or more meetings per week	4
Fall and spring semesters, 1 meeting per week	2
Summer semester	2

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.

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.

### Bases for Extensions

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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.

### Attendance Tracking Procedures

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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 course via myUB or at this link: <https://ubalt.instructure.com/courses/3104>. 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 their administrative assistant immediately.

## **Course Learning Management System**

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Students should use the course CANVAS page located at <https://ubalt.instructure.com/courses/3104>. The Canvas page includes links to this syllabus, announcements, assignments, and other class materials. You are responsible for self-enrolling and checking the website regularly for course information.

## **Zoom and Panopto**

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[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.) Explain whether you will use distance learning and how, and provide any guidelines for students on participating through these platforms]

## **Class Recording Policy**

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This course will be recorded, and students may access recordings for legitimate purposes, including for absences due to religious observance.

#### UB Law Recording Statement

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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

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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

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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.

Students should not use AI tools, including but not limited to ChatGPT, GPT-4, or Google Bard, on any assignment or examination without express permission. Some federal courts have begun requiring litigants to disclose any use of AI tools on any submission. As a federal litigation simulation course, you should therefore follow the same restriction reflecting in the following order from a federal judge:

**ORDERED that any submission that contains text drafted with the assistance of a generative artificial intelligence program on the basis of natural language prompts, including but not limited to ChatGPT and Google Bard, must be accompanied by: (1) A disclosure notice that identifies the program used and the specific portions of text that have been so drafted.**

Unauthorized or undisclosed use of AI tools constitutes an Honor Code violation.

The School of Law Honor Code and information about the process is available at [https://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/index.cfm](https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm).

#### Course Evaluations

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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

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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**

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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](mailto:ebrady@ubalt.edu) or the University's Office of Disability and Access Services at [das@ubalt.edu](mailto: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 5, 2023).

### **General student issues/Mental Health**

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For general student issues, students should contact Dean Paul Manrique ([pmanrique@ubalt.edu](mailto:pmanrique@ubalt.edu) or 410-837-5283). For mental health concerns, students can contact Dean Manrique or Stephen Mogar, the University's Clinical Case Manager ([smogar@ubalt.edu](mailto:smogar@ubalt.edu) or 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](mailto:mbaffy@ubalt.edu) or 410-837-6370). Prof. Baffy's office is located on the 5th floor in Room AL 513.



## INTRODUCTION TO CIVIL PROCEDURE: A CIVIL ACTION

### Class 1 – Aug. 21 (Mon.): Introduction to a Civil Action and the Role of Civil Procedure

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Post an “Introduction” in Discussions on our Canvas page at

<https://ubalt.instructure.com/courses/3104>

Read Spencer CB (our Civil Procedure casebook) pages 1, 7 – 16

Examine Rule 3 of the Federal Rules of Civil Procedure, available at

[https://www.uscourts.gov/sites/default/files/federal\\_rules\\_of\\_civil\\_procedure\\_december\\_1\\_2022\\_0.pdf](https://www.uscourts.gov/sites/default/files/federal_rules_of_civil_procedure_december_1_2022_0.pdf)

Review [Preparing a Complaint](#) in the federal district court for the District of Maryland (if the link does not work, click on “General Complaint Form” at this link:

<https://www.mdd.uscourts.gov/complaint>)

Prepare a mock complaint

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In this course, we will be studying the procedures and process governing a civil action in the federal courts.

Prior to our first class session, you should (1) post an Introduction about yourself to tell us a bit about yourself (see the Announcement in Canvas), (2) read the assigned pages from our casebook, (3) examine Rule 3 of the Federal Rules of Civil Procedure (it’s really short!), and (4) fill out a mock Complaint using the template on Preparing a Complaint, linked above from the website of the federal district court (trial court) for the District of Maryland.

Starting on page 11, the casebook briefly identifies the primary topics of a Civil Procedure course, most of which you will cover in your Civil Procedure I and II courses. This semester, we will focus on the rules and requirements governing the process of a civil action from the Complaint until a possible appeal, including Pleading, Discovery, Trials & Disposition Without Trial, and Judgments & Appeals. Topics that you will cover in your Civil Procedure II course include Personal Jurisdiction, Subject Matter Jurisdiction, and Venue.

**Prepare a mock complaint:** This is an ungraded exercise to introduce you to filing a lawsuit in federal court. You will not turn it in, but we will discuss in our first class. Here are your instructions:

1. Think of a well-known civil lawsuit or dispute. Make sure that it is a *civil* dispute between two parties, and not a *criminal* action where the government is prosecuting a person for an alleged crime. It can be a real civil action that you know from the news (Lizzo, Johnny Depp) or a fictional dispute (First Little Pigs against Big Bad Wolf for property damage). Feel free to search the news or get ideas from friends and family members.
2. Fill in the shaded portions of the complaint template, using information you know about the dispute. **Do not exceed the shaded spaces on the form.**
3. You do NOT need to worry about using the correct legal terms or requirements. The goal is just to give you a sense of what information starts a lawsuit—you are just starting law school, so no need to be perfect here.
4. You do NOT need to complete information for:
  - a. Personal Information (e.g., Addresses, Phone, Bar Numbers) or Signatures
  - b. Basis for Jurisdiction (page 4): you will study basis for jurisdiction in Civil Procedure II

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## Class 2 – Aug. 23 (Wed.): Introduction to a Civil Action and the Role of Civil Procedure

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Read Spencer CB 433 – 436

Read *A Lawyer Writes*, Ch. 2 (15-31, Sources and Systems of Law)

Examine Rule 11

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In this class, we will continue discussing the basics of a civil action in the federal court system.

We also will look at the ethical obligations of attorneys in the federal court system. Rule 11 provides that attorneys (or unrepresented parties) make certain representations with every filing, and a court “may impose an appropriate sanction” for violation of this rule—known as Rule 11 sanctions. What specific representation does every attorney make with every filing?

## *PLEADINGS & PRETRIAL MOTIONS*

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## Class 3 – Aug. 28 (Mon.): The Complaint

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## Class 4 – Aug. 30 (Wed.): Sufficiency of the Complaint

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**NO CLASS on Monday, September 4 (LABOR DAY)**

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## Class 5 – Sept. 6 (Wed.): Pleading Special Matters & Pleading in the Alternative; Prayer for Relief

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## Class 6 – Sept. 11 (Mon.): TROs & Preliminary Injunctions; Serving the Complaint

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## Class 7 – Sept. 13 (Wed.): Responding to the Complaint—Rule 12 Defenses and Objections

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## Class 8 – Sept. 18 (Mon.): Responding to the Complaint—More Rule 12 Defenses and Objections

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## Class 9 – Sept. 20 (Wed.): The Answer, including Affirmative Defenses and Counterclaims; Amending the Pleadings

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## Class 10 – Sept. 25 (Mon.): Rule 11 Sanctions

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## *PRETRIAL DISCOVERY*



Class 11 – Sept. 27 (Wed.): Scope of Discovery—Relevance (*Cormack*), Undue Burden, and Proportionality

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Class 12 – Oct. 2 (Mon.): Discovery of Electronically Stored Information (ESI)

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Class 13 – Oct. 4 (Wed.): Civil Procedure MIDTERM EXAM @ 1:30

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You will take a 75-minute midterm exam starting at 1:30pm, rather than our usual 3:00 starting time for Civil Procedure. ILS will not meet, nor will you have an ILS TA session on this date.

Oct. 9 (Mon): ILS Research Session—No Civil Procedure assignment

Class 14 – Oct. 11 (Wed.): Privileged Information—Attorney-Client Privilege and Work Product Protection

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Class 15 – Oct. 16 (Mon.): Discovery Devices

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Class 16 – Oct. 18 (Wed.): Discovery Disputes: Offenses, Sanctions & Preservation Obligations

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Class 17 – Oct. 23 (Mon.): Discovery Sanctions

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*RESOLUTION WITHOUT TRIAL*

Class 18 – Oct. 25 (Wed.): Resolution without Trial: Default & Dismissal

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Class 19 – Oct. 30 (Mon.): Resolution without Trial: Settlement; Summary Judgment (Rule 56)

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Class 20 – Nov. 1 (Wed.): Resolution without Trial: Summary Judgment (cont'd)

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Class 21 – Nov. 6 (Mon.): Resolution without Trial: Summary Judgment (cont'd)

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## THE JURY TRIAL & DISPOSITION DURING AND AFTER TRIAL

Class 22 – Nov. 8 (Wed.): Trial: Role of the Judge (including the Pretrial Order) & Selecting the Jury

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Class 23 – Nov. 13 (Mon.): Judgment as a Matter of Law (“JMOL”) (Rule 50)

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Class 24 – Nov. 15 (Wed.): Renewed JMOL (Rule 50) & Role of the Jury (Jury Instructions & Verdicts)

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Class 25 (New Trials) : After the Verdict—New Trial (Rule 59) & Relief from a Judgment or Order (Rule 60)

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Class 26 – Nov. 20 (Mon.): Appeal: Appellate Review

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**NO CLASS on Wednesday, November 22: Hope you enjoy the Thanksgiving break!**

Class 27 – Nov. 27 (Mon.—double-session makeup and regular class, 1:30-4:15): The Final Class

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Makeup Days: Nov. 30-Dec. 1

Study Period: Dec. 2-5

Exam Period: Dec. 6-14