

SYLLABUS: CIVIL PROCEDURE FALL 2001 EVENING SECTION

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First Assignment: For the first class, please read pages 1-18 in the Hazard casebook.

Class Hours: Tuesdays & Thursdays, 8:00 to 9:50 p.m., Room 225.

Reaching Me: When not teaching, I generally can be found in my office, Room 306, from about 10 a.m. to 7 p.m. Feel free to stop by my office anytime or to call me with questions, including at home if you cannot reach me at work. You are also welcome to call or email to schedule an appointment.

Participation: I will call on students at random and also sometimes solicit volunteers. Students whom I judge to be routinely unprepared over the course of the semester will receive a one-third grade reduction (A+ to A, A to A-, etc.). If you are concerned about whether your participation has been satisfactory to date, please contact me outside of class.

Exam: The grade for the course will be based on the exam, which is currently scheduled for December 13th at 1 p.m. The exam will be open-book; you may bring in any materials, including commercial outlines and group study outlines. It will include both a multiple choice section and a fact pattern essay section. I will provide further details later in the course. There is no paper option for this course.

TWEN: There is a TWEN website for this course. Please sign up for this site, so that you can receive email concerning the course, for example in the event that class is cancelled. It currently includes: a discussion forum in which are welcome to post comments about civil procedure as well as about the course; a syllabus and a supplemental reading (the *Ortiz* case, as indicated below); outlines of the material that we will discuss; and copies of outlines from last year. The current outlines (which do not yet include material from the end of the course, since I am not sure how much of that material we will cover) may help you organize the material and will indicate which rules and statutory sections we will be discussing. You may consult last year's outlines if you wish to estimate how much material we will cover in a particular class. Later in the semester, I will add some review materials, including a practice exam.

Readings: All page numbers refer to the textbook GEOFFREY C. HAZARD, JR. ET AL., *PLEADING AND PROCEDURE—STATE AND FEDERAL* (8th ed. 1999). We will generally cover 25 to 35 pages per class, so to be on the safe side, you should stay about 40 pages ahead. When the reading discusses particular rules from the Federal Rules of Civil Procedure or statutes, you should read the text of the relevant rules, which are available

in a book available from the bookstore as well as in numerous other sources. I may revise the reading list as the class progresses, by either adding or deleting material. Based on past experience, we will probably not have time to cover all the material listed here.

Introduction 1-18

I. Choosing the Proper Court

A. Territorial Jurisdiction

1. Historical bases: 175-188
2. Minimum Contacts: 196-263
3. Long-Arm Statutes: 266-267, 280-283
4. Presence & Notice: 286-339
5. Consent to Jurisdiction: 339-362

B. Subject Matter Jurisdiction

1. Federal Question Jurisdiction: 381-400
2. Diversity Jurisdiction: 400-411
3. Supplemental Jurisdiction: 411-434
4. Removal: 434-446

C. Venue 447-481

II. Pleading

A. Who Must Plead? 582-595

B. What Must Be Plead?

1. Introduction: 611-619, 624-631
2. Heightened pleading: 633-638
3. Replying to complaint: 662-666
4. Objecting to complaint: 640-655
5. Amending and supplementing pleadings: 666-684

III. Joinder

A. Joinder of claims: 711-724

B. Joinder of parties

1. Permissive joinder: 732-734
2. Compulsory joinder: 734-743
3. Adding parties
 - a. Impleader and cross-claims: 749-752
 - b. Intervention: 753-769
 - c. Interpleader: 772-783
 - d. Real party in interest: 783-789

C. Class actions

1. Introduction: 796-806
2. Rule 23: 808-817, 829-840
3. Notice and Remedies: 840-853, 362-377, 854-855
4. Mass torts: *Ortiz* (available on TWEN)
5. Settlements: 869-896

IV. Discovery

- A. Mechanics: 901-916
- B. Privilege: 919-940, 949-956

V. Trial

- A. Judgment Without Trial
 - 1. Default judgment: 1001-1010
 - 2. Summary judgment: 1020-1051
- B. Right to a Jury: 1058-1064, 1068-1098
- C. The Province of the Jury: 1207 ¶ 3, 1230-1231

VI. The *Erie* Doctrine

- A. The Basic Doctrine: 482-514
- B. *Erie* and the Federal Rules: 514-557
- C. Additional issues
 - 1. Reverse *Erie*: 557-564
 - 2. Ascertaining State Law: 564-576
 - 3. Federal Common Law: 576-581

VII. Preclusion

- A. The Basics
 - 1. Claim preclusion: 1285-1295, 1305-1307
 - 2. Issue preclusion: 1307-1317
- B. Third parties: 1317-1337
- C. Recognition of judgments: 1337-1365

VIII. Appeal 1366-1408

- A. Mechanics: 1366-1376
- B. Reviewability
 - 1. Of decisions: 1379-1401
 - 2. Of contentions: 1401-1408

IX. Remedies

- A. Provisional: 90-108
- B. Temporary and preliminary: 108-119
- C. Foreclosure of remedy: 119-134
- D. Costs and fees: 135-146, 159-174