

**Prof. Chris Newman
Civil Procedure 112
Spring Term 2025
Syllabus and Class Policies**

Goals:

My goals for this course are to help you cultivate:

- 1) A basic understanding of the core concepts underlying the law of civil procedure.
- 2) The ability to recognize and analyze the key procedural issues presented by a given set of facts.
- 3) Familiarity with the key sources of legal authority governing civil procedure in the federal courts, and the most salient areas of dispute with regard to their interpretation and application.

Materials:

- Our main text will be Erichson & Glover, CIVIL PROCEDURE, 2d ed. (2024 Aspen). Class reading assignments will consist primarily of pages from this book, as well as the text of the Federal Rules of Civil Procedure and various related statutes.
- I will provide a link on Canvas to an official copy of the FRCP; both it and the statutes can [readily be found online](#).
- If you are interested in a supplementary resource to aid in your study of the rules, I recommend Baicker-McKee & Janssen, A STUDENT'S GUIDE TO THE FEDERAL RULES OF CIVIL PROCEDURE, 2024-25 ed. (West Pub.). In addition to providing the text of the Rules, this volume contains useful notes concerning practical aspects of their application, as well as introductory treatise-like sections on some of the key procedural areas outside them.

Assignments

The tentative reading assignments for the first nine classes are listed below. Note, however, that I will post specific assignment sheets on Canvas in advance of each class. You should always consult them prior to doing class prep, as they may vary the reading and will often provide info or questions to think about in conjunction with the reading.

Also: We are studying a set of Rules. It should go without saying that each time you encounter a Rule in the casebook, the first thing you should do is stop and read the text of the actual Rule. You should always read a text for yourself and try to interpret and apply it before engaging with the attempt of some other party—like a court—to do so.

Class	Topic	first page	last page	total pages
1	Intro/overview of Civ Pro	1	32	31

2	Pleadings: Complaint	33	56	23
3	Pleadings: Complaint, Defendant's Response	57	82	25
4	Pleadings: Amendment, Ethical Constraints	82	119	37
5	Discovery: Devices, Scope, Privileges	121	145	24
6	Discovery: Work Product, Experts, Planning, Electronic, Enforcement	145	169	24
7	Summary Judgment	171	195	22
8	Pretrial Adjudication, Case Management,	196	221	25
9	Jury Trial, Trial Process, JMOL, New Trial	223	257	34

Class Preparation:

I suggest that you expect to allot at least three hours (YMMV) to work your way through the readings before each class session. These are difficult materials; to understand them will require work, and it is work that no one else can do for you. Class time will generally not be used to rehearse basic information that can readily be obtained from the reading; instead you will be assumed to have that information and class will be used to try to help you apply, correct, confirm and deepen your understanding of the materials, to integrate them conceptually, and to think about them critically and strategically (i.e., like a lawyer).

I also strongly suggest that you do your outlining throughout the course of the term as part of your weekly class preparation, rather than leaving it to the end. The best way to master any area of the law is to take the primary source materials (statutes and opinions), tear them apart intellectually, digest them, and convert them into your own analytical outline. Ultimately you will want your outline to be organized not primarily by cases but by doctrinal areas and issues, so that it provides you with a ready checklist of issues to think about when analyzing a fact pattern, and pulls together and organizes all the examples and judicial statements from various opinions that bear on each issue. This outline—and the mental organization you acquire by creating it—will be your best friend during the exam.

Class Participation:

You really shouldn't think of cold-calling as hazing or interrogation. You should think of it more as an opportunity for a sort of one-on-one tutoring, albeit conducted in public. Yes, in part the point is to keep you awake and motivated to do the reading, but really the main goal is to help you start thinking like a lawyer, to hone your ability to communicate about difficult legal issues, to challenge you in an arena where your performance is blissfully irrelevant to the disposition of anyone's life, liberty, or property.

The vast majority of your grade is based on written exam performance, but I do have discretion to give bumps up or down for outliers at either end of the spectrum in terms of preparedness when called on. Preparedness doesn't mean mastery; it just means that you show clear signs of having read and thought about materials, so that you are in a position to have a constructive

conversation about them. You are always welcome to raise your hand and volunteer answers or ask questions in class. If I do not call on you, don't take it personally—there are many reasons why I might not do so, and you are encouraged to post any unanswered questions or comments on Canvas (see below). You are also invited to post thoughtful responses to other people's postings. As discussed further below, learning how to discuss legal issues in writing is an important skill. Thoughtful engagement online will be taken into account when evaluating participation.

Laptop use, notes, and PowerPoint:

I am not yet paternalistic enough to ban the use of laptops in class. But I urge you to read and carefully consider the advice contained in [this article](#). When you do so, remember that what you're trying to learn (and what you're going to be tested on) is conceptual understanding, not regurgitation of information. Your goal in class should not be to play passive stenographer; it should be to actively engage in putting together the pieces to get a big picture that makes sense. Laptops can be distracting, and you're spending a lot of money to be here. Don't shortchange yourself. And while the use of laptops for notetaking and consulting relevant materials in digital form is permitted, **use of digital devices for purposes of communication with other persons inside or outside the classroom is not.** (If a non-present significant other urgently needs to reach you, you of course are free to absent yourself to deal with it.). This is a norm that [you are likely to find strictly enforced by judges](#), so you may as well get used to it now. If you have a comment on what is being said by anyone in class, you are warmly encouraged to share it. You should, however, exhibit the courtesy and courage to raise your hand and do so openly. Side conversations can take place elsewhere. The best way to get cold-called in a manner that does resemble hazing is to be engaged with and visibly reacting to things on your screen rather than the general shared conversation.

I make some use of PowerPoint slides. Occasionally I will give them to you beforehand to be used as part of class prep; usually not. If I use them in class I will post them online later, so you shouldn't sit there and try to copy their contents down in class. My slides are not intended to be self-explanatory or comprehensive. They are merely a tool I use to structure lectures and provide exhibits of things I wish to highlight. Some of them contain information in outline form, but do not rely on them as containing everything you need to know about the topics covered in class that day. They do not. Use them as a resource, and take any useful information from them and integrate it into your own outline. On the exam, my slides do not constitute citable authority in their own right. Also, you are not authorized to make the slides available to others.

Canvas

I have used TWEN for many years; this will be my first term using Canvas, so there may be a bit of learning curve on my part. I would like for us to use Canvas as a second classroom where we can expand the discussion beyond what we have time to do in the first one.

Class Assignments and other materials will be posted in the section called “**Assignments.**” Check it regularly: you will be regarded as having constructive notice of anything posted there.

Class time is a very limited resource, and in an attempt to keep it coherent and focused on the key points, I will inevitably have to cut off certain trains of thought and ignore certain raised hands. Not everything contained in a reading assignment will necessarily be discussed in class. Even the things we focus on will rarely if ever be completely resolved by our discussion. So here's our place to continue the conversation and engage the stray thoughts. Did you have a burning question or comment that we didn't get to in class? An idea you'd like to get feedback on? Run across an interesting or amusing article, blog post, or video clip relevant to what we're studying? I encourage you to post it in the **Discussions** section of our Canvas page. Remember, our coverage of a topic is not over just because we've moved beyond it in class.

In fact, if you have a question about the material that doesn't get answered in class, I'd strongly encourage you to post it here rather than emailing or just coming to ask me during office hours. There are several advantages to this:

- The process of having to formulate your question in writing will almost certainly cause you to think about it more clearly, and the benefit from any answer you receive will be directly proportional to the amount of effort you have already put into thinking about it yourself.
- Posting it online enables other people to try their hand at responding to your question, which is a valuable exercise. I promise that you will gain a lot more from hashing out an answer for yourselves than by passively imbibing one posted by me. (Plus, you never know: I might be wrong. As you ought to know by now, there are such things as authorities in the law, but they aren't people.)
- Any answer I provide will be of much higher quality if I have the ability to think about it and respond in writing rather than giving you whatever I happen to have on the top of my head when you ask.
- It lets everyone in the class get the benefit of the exchange, so that people do not feel compelled to attend office hours for fear of missing some crucial bit of information.

Keep in mind when interacting online that tone matters. I definitely encourage you to engage critically with each other (and me), both in class and outside it. One of the skills you should be cultivating is how to engage in a critical conversation about legal issues respectfully and constructively. This is not an academic exercise but a crucial practical skill that attorneys use every day, whether in a meeting (or email exchange) with partners or clients, or in letters or emails to opposing counsel. E.g.: When a senior partner (or judge) tells you forcefully and impatiently that *of course* the law is X, and you think they are overlooking something important, how do you correct them without pissing them off?

Office Hours

As for live office hours, I will usually make a practice (barring conflicts) of remaining available after each class to discuss whatever students wish. I will also be available in my office for drop in visits on Tuesdays from 12-2 PM. During those sessions I will also keep a Zoom chatroom open so that you have the choice of joining either in person or online. If you would like to schedule an individual meeting for any reason (in person or online), feel free to email me. As a general matter, feel free to email me about any concerns or personal matters.

The Exam

The exam for this course is usually 4 hours, in-class, all-essay. It is also possible that I will incorporate some short answer or multiple choice. You should prepare based on the assumption that the only materials available to you during the exam will be a printed copy of the Rules and a printed outline of your own creation. You should not expect to have access to electronic files.

RELEVANT LAW SCHOOL/UNIVERSITY POLICIES:

Class Recordings Prohibited:

Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me. Upon request, I may record a class session for the benefit of a student who has a valid reason for unavoidable absence.

Academic Integrity:

It is expected that students adhere to the Antonin Scalia Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment. The Honor Code is available here:

https://www.law.gmu.edu/academics/academic_standards.

Classroom Accommodations:

Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit <http://ds.gmu.edu/> for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability Services directly via email at ods@gmu.edu or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.

Non-Discrimination

As set forth in University Policies [1201](#), [1202](#), and [1203](#), George Mason University is committed to providing equal opportunity and an educational and work environment free from any discrimination on the basis of race, color, religion, national origin/shared ancestry, sex, disability, military status (including veteran status), sexual orientation, gender identity, gender expression, age, marital status, pregnancy status or genetic information. Students can report concerns regarding discrimination or harassment based on protected status to the DEI Office.