First Week
For the first class, read the first 12 pages of the casebook and the table of contents of both the casebook and the Federal Rules of Civil Procedure. We will discuss Band’s Refuse.

For the second class, finish the first chapter of the casebook and review both tables of contents again. Skim both books thoroughly. Read the Prefaces. Familiarize yourself with the topics that will be covered during the year and with the structure of the casebook and of the Federal Rules booklet (skim both the Federal Rules and the Title 28 of the United States Code.) Read Rule 1 and 28 U.S.C. § 2072.

The pace will be slower initially, but we will move through the material more quickly as we go along.

The Course
The course meets on Mondays, Tuesdays, and Wednesdays from 9:00 am to 10:20 am in Room 109-BLB.

My phone number is (215) 266-6464, but the best way to reach me is by e-mail at gidi@uh.edu.

My office is TUII, 224 and my office hours are:
Monday 10:20 am to 11:00 am
Tuesday 10:20 am to 11:00 am
Wednesday 10:20 am to 11:00 am
(I am also available to meet by appointment)
If you have an emergency, feel free to come to see me at any time. However, please do not come before class.

I will make an effort to meet with every student in small, informal groups before the end of the semester. Do not hesitate to invite me to have lunch at a nearby restaurant in small groups.

Guests are welcome to attend the class, but they must read the assignment in advance and may be called upon.

This year, I invited Linda Boyle to be my tutor and she will work closely with me in order to assist you in learning Civil Procedure. She will set up her office hours in the first week of class.

Required Texts

Recommended Books
There is simply no easy way to learn the law. You will have to read, understand, think, rethink, analyze, and criticize.
You can choose almost any kind of supplemental reading, as long as you give priority to carefully studying the casebook and the Rules. Do not read supplemental materials at the expense of the cases, the editor’s notes, the Federal Rules, or a law dictionary.

Recommended treatises:

- Friedenthal, Kane & Miller, Civil Procedure
- James, Hazard & Leubsdorf, Civil Procedure
- Glannon, Civil Procedure. Examples and Explanations (not to be confused with “Learning Civil Procedure Through Multiple-Choice Questions and Analysis.”)

If you prefer study aids, you have a choice between Emanuel, Gilbert, Roadmap, or Quick Review, but I don’t particularly recommend their use.

I strongly recommend you study from at least one of the recommended treatises. You should choose according to your interest in the subject and your available time. If you cannot consistently read a long treatise during the semester, a good alternative is to study the entire Glannon book.

You should read a case as many times as is necessary to understand it, but it will not be efficient to review for the exam by reading the same cases again. Rather, use your time to read the recommended materials or your own summary.

Successful students have ranged between those who read a whole extra book to those who have limited their readings to the casebook and the Rules. However, no student was ever successful without careful reading of both the casebook and the Rules.

Law is expressed, pleaded, interpreted, and applied through language. If you get in the habit of using a law dictionary when studying, the Black’s Law Dictionary will be useful long after your law school days. If you don’t want an abridged education, don’t buy the abridged version.

**Literature:**

If you are interested in reading novels that will give you additional insight on civil litigation, I recommend *A Civil Action* and *The Buffalo Creek Disaster*. A classic is Kafka’s *The Trial*.

**Support Books**

You may buy these books *in addition to*, but not instead of, one of the recommended books.

- Kevin M. Clermont, Civil Procedure Stories: An In-Depth Look at the Leading Civil Procedure Cases
- Thomas Main, Global Issues in Civil Procedure.

If you have a long commute, you might consider listening to tapes or CDs. I know three of them very well and they are equally good: Arthur Miller, Richard Freer, and Douglas Blaze. If you do not commute, however, I do not recommend them. Listening to tapes is not as “effortless” as you might think: you can’t learn to think the law by osmosis. You must concentrate and follow a difficult reasoning at someone else’s
pace. It is more difficult and less efficient than spending the same amount of time reading. Beware of the traffic, however, and drive safely.

Books that I do not recommend
What you read is as important as how you read. A sloppy reading of a good book is useless, but a careful study of a bad book is detrimental: you will learn to be simplistic, superficial, and wrong. Your time is precious and you should carefully choose what you read.

Avoid buying books that are not included in this syllabus until consulting with me. Be wary of tips from second and third year law students. They mean well and their perspective is extremely useful. However, learning is a very individualized process and what works for one person might not benefit another.

In particular, I recommend you to stay away from the following books:

E-Z Rules. This book is a waste of your time, which should be spent reading a useful book.

CrunchTime. Don’t put yourself in a desperate position at the end of the semester by failing to consistently study throughout the semester. Moreover, CrunchTime is included in the main Emanuel book. IF you decide to go ahead and buy this book, you might as well buy the full Emanuel version instead (at the end of the semester.)

Abridged Black’s Law Dictionary. I consider the abridged Black’s Law Dictionary a waste of your money. It is incomplete and will only serve you for a limited amount of time. Don’t be fooled into thinking that you will benefit by bringing it with you to class. In my experience, even that small book becomes a burden to carry every day and you will not have the time or opportunity to consult it in class anyway. You will need to consult the dictionary when studying at home, not in class.

A brief note on Casenote Legal Briefs. As long as you only consult it after you have fully briefed the case yourself in writing, its use is not dangerous. You may use it for tips on how to improve your briefs in the first few weeks of class, but not as a tool to understand the cases or a substitute to your own briefing. After the first weeks, however, you should feel comfortable briefing on your own. Your time is better spent reading a more substantive book.

WARNING: Casenote Legal Briefs are addictive and extended use may cause damage to your intellectual health.

Class Attendance
Class attendance is mandatory. Attendance will be taken at each class and each absence after the sixth will result in a .1 grade point reduction of your final grade. I reserve the right to deny a student who fails to comply with the attendance policy an opportunity to take the final exam.

Please come to class intimately familiar with the assignment. The class will be conducted on a discussion basis with enthusiastic and enlightening participation expected from everyone. Exemplary class participation furthers class discussion by either raising insightful questions or providing insightful answers. I expect nothing less from each of you and you should not expect any less from me.
Always adopt a critical perspective on your readings. The fact that a text is in print is not indicative of its quality, nor is a ruling emanating from the Supreme Court of the United States or a professor’s opinion. Ask yourself whether the rationale is persuasive before accepting any conclusions.

I will call on each student several times during the semester. If you are not well prepared, your presence in class will only disrupt the learning process for all of us. I will allow each of you one opportunity to attend class unprepared without consequence. If you choose to do so, put a note on the lectern a few minutes before class starts and I will not call on you. However, deadlines from other classes are not acceptable excuses for being unprepared. Aside from the one “free pass”, any student who is unprepared when called upon will be marked absent for that class and may suffer a negative impact in the grade.

Internet access during class is not an acceptable practice.

**Coverage**

This course will give you a comprehensive understanding of civil litigation and the policy behind the rules, providing the analytical and practical skills necessary to the practice of law.

Even if you will never set foot in a courtroom (and most lawyers won’t) you still need to understand Civil Procedure if you want to lead a successful practice. Civil Procedure is also essential for law students because it lays the foundation upon which you will be able to understand the important cases you read for your other classes. Civil Procedure puts substantive law in perspective. That is why such a difficult course is taught in the first semester. Never underestimate the importance of Procedure.

The course is dedicated to the study of Federal Civil Procedure, not Texas Civil Procedure. The emphasis on the Federal Rules, rather than the several state rules, serves important purposes but is somewhat misleading because most civil litigation occurs in state courts, not federal courts. However, the Federal Rules are a model and the concepts studied will be useful to a lawyer practicing before any state court.

It is impossible to learn Procedure in a vacuum. Because procedural rules are not mere technicalities, you cannot understand the subject without considering the policy behind each rule or doctrine. We will also make frequent reference to the laws of federal courts, evidence, remedies, appeals, professional responsibility, constitutional and substantive law. In addition, we will offer comparative and historical perspectives, as appropriate.

I will generally follow the same order suggested in the table of contents, at a pace of approximately 25 to 30 pages a day. Please keep at least 25 pages ahead of me. It is necessary to keep current with the reading, and wise not to read too far ahead.

Focus on the big picture. Keep each subject in perspective by constantly referring to the table of contents of both the casebook and the Federal Rules during the semester.

Before reading a case, **skim** the relevant rules and statutes to familiarize yourself with the subject, and keep it handy when studying. **Read** the relevant part when they are mentioned or cited in the text or are part of the court reasoning. At the end, carefully **study** the rule, putting all its subdivisions in perspective. Most cases are about the Federal Rules of Civil Procedure. It is my experience that those who do not carefully study them have a very limited understanding of the subject.
By the end of the first half of the semester, you are supposed to have carefully \textit{studied} all Federal Rules of Civil Procedure (even those few not directly discussed in class) and several of the sections of Title 28 of the United States Code. Keep tab of the Rules you study, so that by the end of the semester it will be easy to identify the ones you have not read yet.

You are also encouraged to read the Advisory Committee’s Notes. They provide insightful information on the interpretation of the Rules.

**Schedule**

Dates are mere targets

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<th>Week 1</th>
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| Aug 21 | Chapter I, Introduction  
P. 1-12  
Table of Contents of casebook and Federal Rules |
| Aug 22 | Table of Contents of casebook and Federal Rules  
Skim the Casebook, the Federal Rules, and Title 28  
Familiarize w/ topics and structure of casebook and pamphlet  
Rules 1 and 2  
28 U.S.C. § 2072  
Skim 28 U.S.C. §§ 1251 to 1257 |
| Aug 23 | Chapter IIC, Cost of Litigation, P. 98-108  
Rule 54  
28 U.S.C. § 1920  
(Skip Chapter II, A, B, and D) |

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<th>Week 2</th>
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| Aug 28 | Chapter III, Pleadings  
P. 121-142  
Rules 7, 8, 9, 10, 84, and Form 9 |
| Aug 29 | P. 143-162  
Rules 11 and 12  
28 U.S.C. § 1927 |
| Aug 30 | P. 163-189  
Rules 8 and 9 |

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<th>Week 3</th>
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<td>Sep 4</td>
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| Sep 5  | Chapter III, Pleadings (defendant’s response, default)  
P. 189-207  
Rules 8, 12, 54(c), and 55 |
| Sep 6  | Chapter III, Pleadings (counterclaim and dismissal)  
P. 207-214  
Rules 4, 5, 6, 13, and 41 |

\textit{Labor Day} |   |
\textit{No class} |   |
Week 4
Sep 11    Chapter III, Pleadings (amendments and relation back)
P. 214-227
Rule 15
Sep 12    Chapter IV, Parties
P. 227-230
Rules 17, 18
(Skim Section A2)
P. 234-242
Rules 20 and 21
Sep 13    Chapter IV, Parties (compulsory joinder, impleader)
P. 242-265
Rules 14, 19

Week 5
Sep 18    Chapter IV (counterclaim, cross-claims, interpleader, intervention)
P. 265-288
Rules 13, 22, and 24
28 U.S.C. § 1335
Skim Section I (Class Actions)
Sep 19    Chapter V, Discovery (introduction, devices)
P. 332-356
Rules 26 to 36
Amendments to Rule 26
Advisory Committee’s Notes to the 1993 and 2000
Sep 20    Chapter V, Discovery (case management, e-discovery)
P. 357-380
Rules 72 and 73

Week 6
Sep 25    Chapter V, Discovery (privileges)
P. 380-412
Sep 26    Chapter V, Discovery (informal investigation, sanctions)
P. 412-423
Rule 37
Skim the Model Rules of Professional Responsibility
Table of Contents: Wolfram’s Hornbook on Legal Ethics
Sep 27    Chapter VI, Summary Judgment
P. 424-449
Rule 56

Week 7
Oct 2     Chapter VI, Summary Judgment
P. 449-464
Oct 3     Chapter VII, Judicial Supervision of Pretrial (pretrial conference)

**Week 8**


Oct 10  Chapter VIII, Judicial Control of Verdict (matter of law)  P. 623-643  Reread part II of *Galloway* after reading the dissent  Rule 50 

Oct 11  Chapter VIII, Judicial Control of Verdict (motion new trial)  P. 643-658  Rule 59, 60  

**Week 9**

Oct 16  Chapter VIII, Judicial Control of Verdict (remittitur, additur)  P. 658-689  

Oct 17  Chapter IX, Personal jurisdiction  P. 690-702  

Oct 18  Chapter IX, Personal jurisdiction (the shift)  P. 703-717  Skim Texas and Michigan Statutes on Personal Jurisdiction  

**Week 10**

Oct 23  Chapter IX, Personal jurisdiction  (Long-arm statutes and personal jurisdiction in Federal Courts)  717-729  Attention also to *Mullane, Hanson, and Gray*  Rule 4(k)  Read Texas and Michigan Statutes on Personal Jurisdiction  

Oct 24  Chapter IX, Personal jurisdiction (refining minimum contacts)  P. 729-752  Attention also to *Calder, Keeton, Kulko, Gordy, Yahoo!, etc.*  

Oct 25  No class
Chapter IX, Personal jurisdiction (refining)
P. 752-776

**Week 11**

Oct 30  Chapter IX, Personal jurisdiction (refining)  
P. 776-790  
Texas and Michigan Statutes on Personal Jurisdiction

Oct 31  Chapter IX, Personal jurisdiction (quasi in rem, tag jurisdiction)  
P. 791-821  
After reading *Burnham*, reread p. 698(a).  
Table of Contents: Scoles et, Hornbook Conflict of Laws

Nov 1  Chapter IX, Personal jurisdiction (general, litigating, notice)  
P. 821-840

**Week 12**

Nov 6  Chapter IX, Personal jurisdiction (venue, forum non conveniens)  
P. 840-859

Nov 7  Chapter X, Subject matter jurisdiction (diversity)  
P. 860-871  
U.S. Constitution, Article III  
28 U.S.C. §§ 1332, 1359

Nov 8  Chapter X, Subject matter jurisdiction (federal question)  
P. 871-890  
28 U.S.C. §§ 1331  
Table of Contents: Wright Kane Hornbook Federal Courts

**Week 13**

Nov 13  Chapter X, Subject matter jurisdiction (supplemental jurisdiction)  
P. 890-911

Nov 14  Chapter X, Subject matter jurisdiction (removal)  
P. 911-918

Nov 15  Chapter XI, Erie  
P. 919-930  
28 U.S.C. §§ 1652, 2072

**Week 14**

Nov 20  Chapter XI, Erie  
P. 930-949  
Attention also to *Cohen, Ragan, and Woods.*

Nov 21  Chapter XI, Erie  
P. 949-975

Nov 22  *Thanksgiving*

**Week 15**

Nov 27  Chapter XI (determining state law, converse-Erie)  
P. 991-1005
Nov 28  Chapter XIII, Preclusion (claim preclusion)  
P. 1092-1111

Nov 28  Chapter XIII, Preclusion (issue preclusion)  
P. 1142-1164

Reference to the Rules is a mere example: students should read other rules as necessary to understand the issue and broaden the perspective of the subject.  
Rules 57, 62, 63, 64, 65, 66, 69, 70, 71, 77 to 86 were not cited above, but should be read before the end of the semester.

Due to professional appointments, I will miss classes of September 6 and October 25. We will schedule make up classes.

Final Examination

Our final exam will be December 11, 2006, from 9:00 am to 1:00 pm.  
The course will be graded on the basis of a four-hour closed book final examination. You can consult your Federal Rules pamphlet, as long as it does not contain major writing on it. Cross-references and small notes (i.e. a short sentence) related to the specific rule are acceptable. The fact that you can bring your Rules is meaningless, however, if you do not already understand them: You cannot read the Rules and write your exam at the same time.

I will distribute copies of previous exams, memos and model answers. Do not read them before I make them available.

I may from time to time offer assignments or surprise quizzes that will count towards your grade.

I may give class participation points. This might include a few points to raise your score due to participation or superior preparation, as well as a reduction due to lack of participation or insufficient preparation.

I will strictly follow the Law School grade curve. Some people will be in the bottom 20% of the class. Make sure it is not you.

Accommodations

If you need course accommodations because of a disability, if you have emergency medical information to share with me, or if you need special arrangements in case the building must be evacuated, please contact me as soon as possible and see the appropriate person for accommodation.