

## PROFESSOR CRUMP

Welcome to Procedure I! This is a difficult, challenging course, but it also is a wonderful, exciting course, one that will repay the hard work you and I will put into it.

This is a list of readings from the casebook and other sources. The list is not exhaustive. There will be certain other readings and projects, including certain individual projects, and it may at times become necessary to deviate from the syllabus. I will attempt to let you know sufficiently in advance if this occurs.

Certain readings are set out in CAPITAL letters. These cases or readings are to be emphasized. Others are in lower case; this indicates that our treatment of the case will be by lecture, and it accordingly indicates that you should not concentrate on that case as heavily as upon other readings. I hope that this device will help you manage the reading better!

**NOTE: THIS PROCEDURE I SYLLABUS IS APPROXIMATE. IT IS  
SUBJECT TO REVISION FOR NEW DEVELOPMENTS,  
AS WELL AS NEW ORGANIZATION OF THE COURSE.**

***I. INITIAL OVERVIEW***

-TEXT AND PROBLEMS pp. 1-12

***A. JURISDICTION***

-TEXT (14); 28 U.S.C. § 1332; U.S. CONST. ART. III § 2; STRAWBRIDGE V. CURTISS (14) AND FOLLOWING NOTES; TEXT (15); SAMPLE BRIEF (15)  
-Text (16); WYMAN V. NEWHOUSE (17) & NOTES.

***B. PLEADINGS***

-3 Complaints (Handout p. 5); RULE 8(a), (d)(1); TEXT (19); BELL V. HCR MANOR CARE FACILITY (20); Notes (21)  
-Appendix to § 1.04 (23-30) & Notes

***C. DISCOVERY***

-RULE 26(b)(1)-(2); TEXT (30); KERR V. UNITED STATES DISTRICT COURT (31); Note 1 (33)

***D. SUMMARY JUDGMENT***

-RULE 56(c); Text (34); WARREN V. MEDLEY (34)

***E. TRIAL***

-Litigation Problem No. 1 (Handout pp. 6-8); Course Objectives (Handout p. 11); On Teaching Civil Procedure (Crump Text, Handout 12-13)  
-FEIN V. PERMANENTE MEDICAL GROUP (37) AND NOTES  
-Fein v. Permanente Medical Group (40)

***F. TAKING THE CASE FROM THE JURY; APPEAL***

-Text (42-43); Text (43); Wilcox Devel. Co. v. First Interstate Bank (44); Notes 1, 2, 4 (47)  
-Text on Appellate Court (47) (omit case and notes)

***II. JURISDICTION OVER PERSONS AND PROPERTY; SERVICE; VENUE***

-Litigation Problem No. 2 pp. 9-10

***A. BASIC CONCEPTS: TERRITORIALITY AND CONSENT***

-Text (49); U.S. CONST. AMEND. 14, DUE PROCESS CLAUSE  
-Problem A (Chapter Summary Problem) (50) (read only; analyze later, at end of chapter)  
-Text (51); Pennoyer v. Neff (52); NOTES (54); Grace v. MacArthur (55)  
-HESS V. PAWLOSKI (55) AND NOTES

***B. THE MINIMUM CONTACTS ("FAIR PLAY" ETC.) STANDARD***

- INTERNATIONAL SHOE CO. V. WASHINGTON (58) AND NOTES
- Text (61); McGee v. Int'l Life (62); Perkins v. Benguet (63) AND NOTES
- C. *STATE LONG-ARM STATUTES***
  - TEXT AND STATUTE (66); GRAY V. AMERICAN RADIATOR (67) AND NOTES
  - TEXT AND STATUTES (71-72); Hall v. Helicopteros (72) AND NOTES 1-2
- D. *MODERN DEVELOPMENT: PURPOSEFUL AVAILMENT, REASONABLE ANTICIPATION, THE INTERNET, AND THE "NEW" IN REM JURISDICTION***
  - Text (64); Hanson v. Denckla (65); Text (74); BURGER KING CORP. V. RUDZEWICZ (76) AND NOTES 1, 3
  - Note on Stream of Commerce (86); J. McINTYRE MACHINERY LTD. V. NICASTRO (87); Notes 1-2 (90); Goodyear Dunlop Tires v. Brown (92)
  - TEXT (97-99); SHAFFER V. HEITNER (99) AND NOTES 1, 2, 5
- E. *"TAG" JURISDICTION: SERVING A NONRESIDENT WITHIN THE FORUM***
  - Burnham v. Superior Court (106)
- F. *JURISDICTION BY CONSENT, BY CONTRACT (FORUM SELECTION CLAUSES), OR BY BROADER FEDERAL RULES***
  - Notes 1, 2, 4 (111); Carnival Cruise Lines, Inc. v. Shute (112); Note 4 (113)
  - Note on Rule 4(k) (114)
- G. *CHALLENGING PERSONAL JURISDICTION***
  - Reconsider Wyman v. Newhouse (115); Text (115); RULE 12(b), 12(h)(1); HARKNESS V. HYDE (116)
- H. *COMPLIANCE WITH RULES FOR SERVICE OF PROCESS***
  - RULE 4; RULE 5(a), (b), (d); LEIGH V. LYNTON (121); Morton v. F. H. Paschen, Inc. (123) AND NOTES
  - Butler v. Butler (126); FEDERAL FORMS 3, 5-6 (Supp.)
- I. *VENUE AND VENUE TRANSFER; FORUM NON CONVENIENS***
  - 28 U.S.C. §§ 1391-1393; 1400(b); 1404(a); 1406; PROBLEM C (131); Note on Transfer (133); ROBERTSON V. CARTINHOUR (133); NOTE ON TWO KINDS OF PLACES (136)
  - Text (138) on Forum Non Conveniens (omit Piper case); Note 3 (138)
- J. *RETURN TO CHAPTER SUMMARY PROBLEM (50) AND ANALYZE***
  - Also, Worksheet for Analyzing Chapter Summary Problem (Handout 15)
- K. *IMPROVING THE SYSTEM***
  - TEXT AND PROBLEMS (147-49)
- L. *THE ANATOMY OF A FORUM CONTEST***
  - APPENDIX TO CHAPTER 2 (2A-1 through 2A-23). WE SHALL CONSIDER EACH DOCUMENT AND EACH SET OF NOTES IN THE APPENDIX.

### **III. *SUBJECT-MATTER JURISDICTION***

- Text (149); Problem A (149) (read now; analyze at end)
- Section 3.02 (state courts) (150-53) (but omit the Lekse and Denner cases); Text (153-54)
- A. *"ARISING UNDER" JURISDICTION (OR FEDERAL Q JURISDICTION)***
  - 28 U.S.C. § 1331; U.S. CONST. ART. III, § 2; Text (156); PROBLEM B (156); LOUISVILLE & NASHVILLE R. CO. V. MOTTLEY (157) and Notes 1, 2, 4; APPENDIX (166)
- B. *DIVERSITY JURISDICTION***
  - 28 U.S.C. § 1332; U.S. CONST. ART. III, § 2; Strawbridge v. Curtiss (166); MAS V. PERRY (166); TEXT (168); NOTES (169); Hertz Corporation v. Friend (171); PROBLEM C (173); Appendix (173)
- C. *SUPPLEMENTAL JURISDICTION***
  - Text (176); 28 U.S.C. § 1367(a), (c); Text (177); UNITED MINE WORKERS V. GIBBS

- (178) AND NOTES 1-2; Appendix (180)
- D. REMOVAL**  
 -28 U.S.C. § 1441(a)-(b); 1445; 1446; 1447; PROBLEM D, PARTS A-C (191); Text (192); CATERPILLAR INC. V. LEWIS (192) AND NOTES 1, 2, 6
- E. RETURN TO CHAPTER SUMMARY PROBLEM (149) AND ANALYZE**  
 -Also, Review Problem (Snake Inc. v. Tumm) (Handout 20)
- F. IMPROVING THE SYSTEM**  
 -TEXT, NOTES, AND QUESTIONS (199-207) (but omit notes 2-3 under “C” on 207-08)  
 -28 U.S.C. § 1369 (the Multiparty, Multiforum Jurisdiction Act); § 1453 (removal of class actions)

▶▶▶ **Important Note: Watch the FIRST VIDEO BY THIS TIME!!!**

#### **IV. THE ERIE DOCTRINE**

- A. STATE SUBSTANTIVE LAW IN FEDERAL COURTS**  
 -Text (209); 28 U.S.C. § 1652; ERIE R.R. V. TOMPKINS (211)
- B. FEDERAL PROCEDURAL LAW**  
 -28 U.S.C. § 2071, 2072; Text (219); Note on Cases That Created the Five Approaches (Photocopied Handout pp. 20b-20c); Text (226); HANNA V. PLUMER (227) AND NOTES 1-3
- C. CHOICE OF LAW**  
 -Text (237); PENNINGTON V. DYE (238); Klaxon Co. v. Stentor Co. (238); NOTES 1-2 (239-40)

#### **V. PLEADINGS**

- A. COMMON LAW AND CODE PLEADING; FUNCTIONS OF PLEADINGS**  
 -Read pp. 245-61 in summary fashion. However, CONCENTRATE ON NOTES 1-2 (249); NOTES 1-2 (252), AND MESSICK V. TURNAGE (259), AND BE READY TO DISCUSS THEM IN CLASS.  
 -Text (261)  
 -Problem A (261) (read now; analyze at end)
- B. STANDARDS FOR THE FEDERAL COMPLAINT**  
 -RULES 7; 8(a), d(1); 10; AND 84; FEDERAL FORMS 7, 10, 11, 12; Note on “Notice Pleading” (263); Dioguardi v. Durning (264); CRITICISM OF DIOGUARDI (265); NOTES (266); PROBLEM B (266); Conley v. Gibson (267)  
 -Text (269); BELL ATLANTIC V. TWOMBLY (270); Notes (274); ASHCROFT V. IQBAL (276) & NOTES; PROBLEM C (279)  
 -Partridge v. Two Unknown Police Officers (279); RULE 12(b), (e), (f); RULE 8(a); Text (280); FOX V. LUMMUS CO. (281) AND NOTES  
 -Rule 9(b), (c), (g); FEDERAL FORM 13; SWEENEY CO. V. ENGINEERS-CONSTRUCTORS CO., INC. (285) and Notes; Notes 1-2 on Special Damages (287)  
 -Lambert v. Southern Counties Gas Co. (290); Faulkner v. Ft. Bend Indep Schl. Dist. (291) and Notes; APPENDIX (292)
- C. DEFENDANT'S PLEADINGS (ADMISSIONS; DENIALS; AFFIRMATIVE DEFENSES)**  
 -RULE 8(b), (c), (d); 12(a), (g), (h); FEDERAL FORMS 19, 20, 21; Text (292); TEXT (293); WHITE V. SMITH (294) AND NOTES; Text (296); Gomez v. Toledo (297); Problem D (299); NOTES 2-3 (300); APPENDIX (301)
- D. CERTIFICATIONS AND SANCTIONS**  
 -RULE 11; TEXT (302); Eastway Constr. Corp. v. City of New York (303); Notes (304); Text (306-09); Text (309); HADGES V. YONKERS RACING CORP. (309) AND NOTES;

PROBLEM E (312)

-Note on Other Sanctions (313); Chambers v. Nasco (313); Note (315)

**E. AMENDMENT**

-FED. R. CIV. P. 15; BEECK V. AQUASLIDE 'N' DIVE CORP. (315) AND NOTES

-Note on Relation Back (319); Krupski v. Costa Crociere (319)

**F. STATE COURT PLEADINGS**

-Text and Case on Texas Pleadings (321-23)

**G. IMPROVING THE RULES OF PLEADING**

-TEXT AND PROBLEMS (325)

**H. RETURN TO CHAPTER SUMMARY PROBLEM (261) AND ANALYZE**

**I. APPENDIX OF SAMPLE PLEADINGS (TEXAS)**

-pp. 5A-4 through 5A-10. CONCENTRATE ON THE NOTES AND QUESTIONS AND BE READY TO DISCUSS THEM IN CLASS.

**VI. MULTIPLE PARTIES AND CLAIMS**

-Text and Diagrams (327-33)

**A. COUNTERCLAIM AND CROSS-CLAIM**

-RULE 13; CAVANAUGH V. WESTERN MD. RY. CO. (333); Notes 1, 6

**B. THIRD-PARTY CLAIMS (OR "IMPLEADER")**

-RULE 14; Text (339); BARAB V. MENFORD (340); Note 1

**C. PERMISSIVE JOINDER; CONSOLIDATION, SEPARATE TRIAL AND SEVERENCE**

-RULE 20; Grogan v. Babson Bros. (343); NOTE 1 (345); RULES 18, 42, 21, 25; Henz v. Superior Trucking (345) and Note 1

**D. INTERVENTION, INTERPLEADER, CLASS ACTIONS, AND MULTIDISTRICT LITIGATION**

-RULE 24; RULE 17(a); Text (356)

-RULE 22; 28 U.S.C. § 1335; FORM 18; Text (361); STATE FARM FIRE & CAS. CO. V. TASHIRE (362) and Notes 1 and 3

-TEXT (368); RULE 23; PROBLEM A (370); Eisen v. Carlisle & Jacquelin (371)

-28 U.S.C. § 1407; NOTES (377-79); In re Asbestos (379)

**VII. DISCOVERY AND DISCLOSURE**

-Text (389); Problem A (390) (read now; analyze at end)

-Text (391-94); PROBLEM B (394); PROBLEM C (395); Morris, Strategy of Discovery (395); NOTES (403)

**A. SCOPE OF DISCOVERY: "RELEVANT" AND "NOT PRIVILEGED"**

-RULE 26(b)(1)-(2); Kerr v. District Court (404); BANK OF THE ORIENT V. SUPERIOR COURT (404) AND NOTES 1-2

-Text (406); Kerr v. District Court (407); PROBLEM D (410)

**B. WORK PRODUCT; DISCOVERY OF EXPERTS**

-Text (413); RULE 26(b)(3); BANK OF THE ORIENT V. SUPERIOR COURT (416); NOTES 3-4 (418-19)

-RULE 26(b)(4); AGER V. JANE C. STORMONT HOSP. & TRAINING, INC. (419)

**C. PROTECTIVE ORDERS AND CONFIDENTIALITY AGREEMENTS**

-RULE 26(c); CENTURION INDUSTRIES V. WARREN STEURER & ASSOC. (424); Problem F (426)

**D. MECHANICS OF THE DISCOVERY DEVICES**

-DEPOSITIONS: RULES 28(a), 29, 30(a)-(d)(1), 31(a); Salter v. Upjohn Co. (446); NOTES (447); Groce, Checklist (449) AND NOTES; Text (451-53); Sample Deposition (454); NOTES (466); Text (467)

-INTERROGATORIES: RULE 33; BURNS V. THIOKOL CHEM. CORP. (467);

Sargent-Welch Scientific Co. v. Ventron Corp. (470) and Notes 2-6; APPENDIX (471); SEITZ ARTICLE (472)

-REQUESTS FOR ADMISSION: RULE 36; TREVINO V. CENTRAL FREIGHT LINES, INC. (474) AND NOTES; Appendix (478)

-PRODUCTION: RULE 34; RULE 45(d); Rules 26(b)(2)(B), 26(f)(3)(C); Text (478-80) ; MAJOR TOURS, INC. V. COLOREL (480); Note on Sanctions (484); Notes (484); Problem G (486); Text (487-89)

-MOTIONS FOR PHYSICAL AND MENTAL EXAMINATION: RULE 35

**E. THE DUTY TO SUPPLEMENT; USE OF DISCOVERY**

-RULE 26(e) (duty to supplement)

-RULE 32(a)(1-4, 6) (use of deposition at trial limited to opponents, unavailable witnesses, impeachment, or completeness; many states avoid imposing such a limit); Frechette v. Welch (496)

**F. SELF-INITIATED DISCLOSURES, PRESUMPTIVE LIMITS, ETC.**

-TEXT (429); RULES 26(a), 30(a)(2), 30(d)(2), 33(a); HARRIMAN V. HANCOCK COUNTY (430) AND NOTES; APPENDIX (441-46) (BE READY TO DISCUSS THE NOTES IN THE APPENDIX).

**G. DISCOVERY CERTIFICATIONS, CONFERENCES, ABUSE, AND SANCTIONS**

-Text (499); RULE 26(f)(1-3); Fed. Form 52 (Supp.--"Report of Parties' Planning Meeting"); RULES 26(g) AND 37; Roesberg v. Johns-Manville (499) and Notes 1-2

-LEW V. KONA HOSPITAL (501) AND NOTES 1, 2, 5; Ogin v. Ahmed (506); Appendix (507)

**H. RETURN TO CHAPTER SUMMARY PROBLEM (390) AND ANALYZE**

**I. IMPROVING THE DISCOVERY RULES**

-Text on Texas State Discovery Rules (507); TEXT AND PROBLEMS (509)

**VIII. PRETRIAL CONFERENCES AND CASE MANAGEMENT**

**A. PRETRIAL CONFERENCES AND ORDERS**

-RULE 16; Chevrette v. Marks (513) and Notes 1, 3; UNITED STATES V. FIRST BANK OF CIRCLE (515) and Notes 2, 5, 6; Appendix Containing Sample Pretrial Order (519)

**B. JUDGES AS "MANAGERS"**

-Text and Notes (524-28)

-Kothe v. Smith (528) and Notes 2-3

-RULES 53, 72-73; 28 U.S.C. 636(A), (B), (C)(1); Notes 1-2 (532)

**C. DOCKET CONTROL AND CASE FLOW MANAGEMENT**

-RULES 6, 40, 78-79; OATES V. OATES (533) AND NOTES; TEXT AND NOTES (534-41)

-Karubian v. Security Pacific Bank (541) & Note 1

**IX. THE PERSONAL DIMENSION OF LITIGATION ("THE LITIGATOR'S LIFE")**

-APPENDIX ON THE PERSONAL DIMENSION (A-1 through A-23, end of book)

(Important Note: This Appendix is about what to avoid. Students often consider these materials "depressing" or "discouraging." They're not; they just make the point that you have to avoid what you have to avoid, if you want to find satisfaction in practicing law!)

**X. SUMMARY JUDGMENT, DISMISSAL, AND DEFAULT**

**A. JUDGMENT ON THE PLEADINGS**

-Rule 12(c); Text (545)

**B. SUMMARY JUDGMENT**

-RULE 56; Warren v. Medley (546) AND NOTES; FIGURE 9A

-Problem A (548) (read now; analyze at end)

- Text (550); CELOTEX CORP. V. CATRETT (550) AND NOTES 1, 3
- Campbell v. Ft. Worth Bank & Trust (560) and Notes 1-2
- C. *DISMISSAL***
  - RULE 41(a)-(b).
- D. *DEFAULT***
  - RULE 55; BUTNER V. NEUSTADTER (574) and Notes
- E. *RETURN TO CHAPTER SUMMARY PROBLEM (548) AND ANALYZE. ALSO READ AND CONSIDER APPENDIX TO SECTION 9.02 (561-71) (SUMMARY JUDGMENT DOCUMENTS); EMPHASIZE NOTES (570)***

▶▶▶ **Important Note: Watch the SECOND VIDEO BY THIS TIME!!!**

## **XI. *TRIAL***

- Text (579-81)
- Problem A (581) (read now; analyze at end)
- A. *RIGHT TO TRIAL BY JURY***
  - U.S. CONST. AMEND. VII; RULE 38; TEXT (583); DAIRY QUEEN, INC. V. WOOD (587)
- B. *DEMAND AND WAIVER OF THE RIGHT***
  - RULE 39, 81(c); Text (599); LEWIS V. TIME INC. (600); Notes 2-3 (602)
- C. *JURY SELECTION***
  - NOTES 1-2 (606); 25 U.S.C. § 1861
  - RULE 47; Text (607); FLOWERS V. FLOWERS (609); Cortez ex rel. Estate v. HCCI-San Antonio Inc. (611) and Notes; McDonough Power Equip. Inc. v. Greenwood (613); NOTES (614); NOTE 3 (619); NOTES ON HOW TO PRESENT (620)
  - Whichmann v. United Disposal (621) and NOTE 1; Text on State Protection (622)
  - APPENDIX (622-37). CONCENTRATE ON NOTES AT 633-35.
- D. *OPENING STATEMENTS***
  - Text (637)
- E. *EVIDENCE AND "PROOF"***
  - RULES 43, 45; FED. RULES OF EVIDENCE 801(c), 803(6) and 803(8); Text (638-42); RAINEY V. BEECH AIRCRAFT CORP. (642) AND NOTE 1
  - Guetersloh v. CIT Corp. (644) AND NOTES
- F. *JURY ARGUMENT***
  - Text (655); Brokopp v. Ford Motor Co. (656) and Notes 1-2
- G. *JURY INSTRUCTIONS; VERDICTS***
  - RULE 49; TEXT (661); Text (662); MCLAUGHLIN V. FELLOWS GEAR SHAPER CO. (662) (Note: Please understand – (1) the jury questions; (2) the conflicting answers; (3) what the district court did; (4) what the court of appeals did; and (5) why the dissent says it's wrong.) AND NOTES 1-3; PROBLEM C (668)
  - APPENDIX (677-89)
- H. *TRIAL TO THE COURT WITHOUT A JURY***
  - RULE 52; 28 U.S.C. §§ 144, 455; Text (689)
- I. *RETURN TO CHAPTER SUMMARY PROBLEM (581) AND ANALYZE***

## **XII. *DIRECTED VERDICT AND POST-TRIAL MOTIONS***

- Text (693); MOTIONS (p. 44, back in Ch. 1)
- Text on Judgment on the Verdict (694)
- A. *JUDGMENT AS A MATTER OF LAW***
  - Problem B (695); Text (695); REEVES V. SANDERSON PLUMBING CO. (650); RULE 50(a)

-RULE 50(b); McLaughlin v. Fellows Gear Shaper Co. (662); NOTES 1, 3 (667); Notes on Procedural Aspects (702); Note on Requirements (703)

**B. NEW TRIAL**

-RULE 59; Text (709); CONWAY V. CHEMICAL LEAMAN TANK LINES, INC. (709) AND NOTES 1, 3

-United States v. An Article of Drug (714); Figure 11A

**C. RULE 60 MOTIONS AND RELIEF FROM JUDGMENTS**

-RULE 60; Text (725); Rozier v. Ford Motor Co. (726); Text on Default (729)

**XIII. APPEALS**

**A. SCOPE OF APPELLATE REVIEW**

-McDonough v. Greenwood (731) and Notes; Notes on Preservation (734); Text on Discretion (735); Anderson v. Bessemer City (736) and Note 3. This material is to be covered by lecture, but read sufficiently so that you understand the harmless error, cured error, preservation, and discretion doctrines.

**B. APPELLATE PROCEDURE**

-Note 1 (743); Read Fed. R. App. P. 3, 4(a), 7, 10(a)-(b), 11, 12(a), 28, 30(a), 31(a), and 32(a)-(b) sufficiently to have general awareness of their contents; BOWLES V. RUSSELL (740) and Notes

-RULE 62(a)-(d); Texaco Inc. v. Pennzoil Co. (744) and Notes 1-2

-Text (746)

**C. APPEALABLE ORDERS--TO BE COVERED PRIMARILY BY LECTURE**

-28 U.S.C. § 1291; NOTES 1-3 ON FINAL J. RULE (749)

-[Read this material sufficiently to understand lecture:] Notes 5-6 (750-51); 28 U.S.C. § 1292(a)-(b); Rule 54(b); Sears, Roebuck & Co. v. Mackey (751); Levesque v. State of Maine (754); Garner v. Wolfinbarger (755); 28 U.S.C. § 1651; Kerr v. District Court (756)

**D. THE SUPREME COURT--TO BE COVERED BY YOUR READING**

-Text pp. 758-60

**XIV. REMEDIES, JUDGMENTS, AND THEIR ENFORCEMENT**

**A. SEIZURE: ATTACHMENT, GARNISHMENT, SEQUESTRATION, REPLEVIN, ETC.**

-RULE 64; Kheel Article (789); Fuentes v. Shevin (791) and Notes; MITCHELL V. W.T. GRANT CO. (791) AND NOTE 1; Text (799-800)

**B. TEMPORARY RESTRAINING ORDERS**

-RULE 65; WEBER ARTICLE (800); PROBLEM B (803)

**C. DAMAGES (COMPENSATORY AND PUNITIVE)**

-Memphis Comm. Schl. Dist. v. Stachura (804) and Notes 2-3; HAWTHORNE INDUS. INC. V. BALFOUR MACLAINE INT'L INC. (807) AND NOTES; PROBLEM C (809) (This Problem is much harder than it looks. Read the jury instruction (really read it) and count all of its required elements.)

-Smith v. Wade (809)

**D. INJUNCTIONS AND OTHER EQUITABLE REMEDIES**

-Text (817); MIDCON CORP. V. FREEPORT-MCMORAN INC. (817) AND NOTES 1-2; PROBLEM D (823)

-Text, Notes and Questions (823-28)

**E. DECLARATORY JUDGMENTS**

-28 U.S.C. § 2201-02; Rule 57; Text (828)

**F. ATTORNEY'S FEES AND INTEREST**

-City of Riverside v. Rivera (828)

-Text (831)

**G. ENFORCEMENT OF JUDGMENTS BY EXECUTION AND SALE**

-GRIGGS V. MILLER (833) AND NOTES; Guardian Loan Co. v. Early (835) and Notes;  
RULE 69; Text on Federal Rules (838)

**H. *OTHER ENFORCEMENT DEVICES (TO BE COVERED PRIMARILY BY LECTURE, PLUS DISCUSSION OF PROBLEMS)***

-JUDGMENT LIENS: Text (838); Note 2 (839); PROBLEM E (840)

-POST-JUDGMENT GARNISHMENT: Riggs Nat. Bank v. Simplicio (840) and Notes

-TURNOVER ORDERS: Text (841); In re Brecheisen (842); PROBLEM F (843)

-RECEIVERSHIP: RULE 66; Olsan v. Comora (844) and Notes; PROBLEM G (846)

-DISCOVERY IN AID OF ENFORCEMENT: Text (846)

-CONTEMPT AND ARREST: Charles Mfg. Co. v. United Furniture Workers (847) and Notes

-INTERSTATE ENFORCEMENT: Text (849)

**XV. *ALTERNATE METHODS OF DISPUTE RESOLUTION***

**A. *TYPES OF ADR'S; THE CASE FOR AND AGAINST***

-Read pp. 851-60; EMPHASIZE FISS ARTICLE (859) AND NOTES (859); PROBLEM B (860)

-Problem C (861); "Don't Try" by Gross & Syverud (861) AND NOTES 1-2 (862)

**B. *NEGOTIATION***

-Dorsaneo & Crump Article (863) and Notes; Problem D (870)

**C. *SETTLEMENT AGREEMENTS***

-Text (880); PROBLEM E (880); Spector v. K-Mart Corp. (880) AND NOTES; Runyan v. NCR Corp. (883); APPENDIX (885); TEXT [C] (885)

-Text (886)

**D. *ARBITRATION AND RELATED PROCEDURES***

-PROBLEM F (892); SPRINZEN V. NOMBERG (892) AND NOTES; TEXT (896)

**E. *MEDIATION AND OTHER ADVISORY PROCEDURES (TO BE COVERED PRIMARILY BY LECTURE, PLUS DISCUSSION OF PROBLEMS)***

-Text, Notes, Etc., pp. 899-911 (including mediation, mini-trials, court-annexed arbitration, and summary jury trials) (omit Part C at 951)

**F. *RETURN TO CHAPTER SUMMARY PROBLEM (896) AND ANALYZE***

**XVI. *RES JUDICATA, COLLATERAL ESTOPPEL, AND RELATED PRECLUSION DOCTRINES***

**A. *RES JUDICATA (CLAIM PRECLUSION)***

-Text (761)

**B. *COLLATERAL ESTOPPEL***

-Text on Collateral Estoppel (769)

**▶▶▶ Important Note: Watch the THIRD VIDEO BY THIS TIME!!!**



## MY POLICIES FOR CONDUCTING CLASS

### PROFESSOR CRUMP

1. Welcome to the Course in Civil Procedure! This is a wonderful subject to study: fascinating, challenging, and practical. It also is among the most difficult courses in law school, but at the same time, it is among those in which your hard work is most likely to be rewarded when you practice law.

It is necessary to implement policies or rules for such a class. Therefore, please understand the businesslike tone of the following items.

2. You Need Not Communicate With the Professor Concerning the Reasons for Your Absences. If you are absent, I always assume you have a good reason. As long as you comply with the law school's attendance requirements, I don't need to know the reason. Exception: See item 12 below!

3. You Need Not Communicate With the Professor Concerning Your Unpreparedness. If you are unprepared on a given day when I happen to call on you, my approach is to go ahead and call on you. The (relatively mild) sanction for occasional unpreparedness is that you must stand up and admit it. For this and other reasons, I request that you not inform me about unpreparedness. I assume (and I think your classmates assume) that even good students may be unprepared occasionally. (I may, however, call on you again in the near future, and I do begin to take unpreparedness more seriously if it occurs repeatedly.)

4. It Is Your Responsibility to Read Forward in the Casebook according to the Syllabus so as to Be Prepared for Class. Unless I otherwise indicate, we shall go straight through the syllabus. There will be a few occasions when we shall deviate, and I'll try to let you know about that well in advance.

5. Hold Up Your Hand Before Talking; Realize That the Professor Can't Always Recognize Everyone and Must Determine When We Must Move Along. This will be a large class, and there is no responsible way to teach it without covering a lot of ground. I have to consider the need to cover the material and the need to bring a variety of students into the discussions. Therefore, please hold up your hand before speaking out. Please understand if we have to cut off discussion and move on.

6. Stand Up and SPEAK LOUDLY When You Are Called On. Every student must speak loudly enough for everyone else to hear. Conversely, one of the skills you should learn is how to stand up in a group of people and speak extemporaneously and persuasively on difficult subject matter. One of the habits that will most annoy your classmates is speaking so that they have to strain to hear you.

7. And You Will Be Required, in This Class, to Speak in Class, without Excuses. No one should be in law school who has too much stage fright to answer questions in class. Thus, avoidance techniques will not work. I expect you to take a position and answer questions about it. If you aren't sure, try! And keep trying. Repeated avoidance may affect your grade.

8. Out-of-Class Assignments. Every student, at some point during the course, will be given a practical, out-of-class assignment that will involve document preparation, preparing an oral trial-related presentation, or the like. These outside assignments will culminate in a simulated jury trial.

9. Reading The Story of a Civil Suit: Dominguez v. Scott's Food Stores (Light Blue Paperback). At certain points in the course, we shall use the light blue paperback book, The Story of a Civil Suit, in addition to the casebook. We shall read and discuss the full Dominguez book.

10. Reviews. Three times during the semester, I shall furnish reviews of material covered up to the time of each review.

11. Practice Examination; Final Examination; Grading. Sometime about the middle of the semester, we'll have a practice examination. It will be announced in advance and will not count toward your grade in any way. It probably will be administered outside class time. Your grade for the course will be determined by an anonymous final examination and will be based on a curve, which in turn will conform approximately to the law school average for first-year classes. At appropriate times during the semester, I'll try to help you to know what to expect and how to take law school exams. The examination probably will be 3 hours rather than 4. In addition, repeated unpreparedness (as well as avoidance) may affect your grade.

12. Attendance. It is required that you comply with the law school's attendance requirements, which mandate 80% attendance. I do not take attendance daily, and the enforcement of the rule is by the honor code on the examination. You certify compliance by taking the examination. However, I also do notice consistent, prolonged absences and on occasion, when students' failure to attend has been obvious, I have felt it necessary to drop them from the course.

13. Double Absences on Days of, or within Two Days of, a Legal Writing Assignment Turn-in Date, Subject to Liberal Excuse. There is one attendance issue that raises a sensitive problem. The Legal Writing course involves various deadlines for turning assignments in. I began to notice a couple of years ago that on these dates and within two days before, large numbers of students missed class to concentrate on their writing assignments alone. There are several disadvantages from this behavior. First, it means that a large percentage of the class needs catch-up work in later class meetings. Repetition of the most basic issues becomes necessary. This is unfair to students who have attended regularly. Second, this course is equally important, and it is a four-hour, one-semester course. Third, the absences result from poor time management, and time management is essential to good lawyering.

Therefore, I have decided to count all absences on the day a Legal Writing assignment is due, and those on the two days preceding each deadline, as double absences. One absence on these days counts as two. This rule is subject to a liberal excuse policy: a double absence can be excused if you tell me of a reason not involving legal writing and obtain my agreement. This policy will be liberally administered. That is, I will liberally agree to excuses unrelated to the Legal Writing course if you present them to me. I hope that this policy will provide the needed incentive without being too heavy handed. After all, it should be possible to get the job done if you plan your time, and this is an essential lawyering skill.

14. Seating Chart. Please sit in your assigned seat. Even if you come in late or leave early for emergency reasons, occupy your assigned seat.

15. Disability. Any student with a disability requiring accommodation should explain both to the professor (except as to the exam, for which accommodation is to be arranged through the law school administration).

16. Make-Up Classes Due to Professor's Need to Be Out of the City. Every semester, I find that it's not just students who miss occasional classes; your professor (me) sometimes has the same problem. The administration expects us to make up any classes of this kind. It is likely that I may miss three (3) classes in early November. Making them up usually means four classes in some weeks, so you should anticipate that. It's extra work at the time, but fortunately, it means fewer classes crowded in later, nearer the exam. Friday is designated as a make up day, but it may be that other days of the week are better for make ups, and I will ask the class about this.