

CIVIL PROCEDURE – COURSE POLICIES

Fall 2014

Prof. Bruhl (aabruhl@central.uh.edu)

Welcome to Civil Procedure. In most of your other law school courses, you will learn about substantive law, i.e. what rights and duties people have, how people can structure their legal relationships, etc. In this course, we will focus on *how* those substantive rights and duties are vindicated and enforced in the civil courts, with particular emphasis on the federal district courts.

COURSE MATERIALS

The required texts for this course are:

1. Freer & Perdue, *Civil Procedure: Cases, Materials, and Questions* (Lexis, 6th edition, 2012). Students may purchase either the hardbound edition (ISBN: 9780769847429) or the loose-leaf version (ISBN: 9780769847368).
2. *Federal Rules of Civil Procedure* booklet (LexisNexis, 2014-15 edition, ISBN: 9781630436032). Alternatively, students may purchase a used copy of the 2013-14 edition of the LexisNexis *Federal Rules of Civil Procedure* booklet (ISBN: 9780769876658). The relevant material has not changed, so either of these two editions is fine.
3. You should also download the 2014 Update to the casebook, which is available for free on the LexisNexis website at <http://www.lexisnexis.com/store/images/Supplements/3515-2014Supplement.pdf>.

Additional reading materials such as recent cases and actual court documents will be posted from time to time on TWEN (the Westlaw bulletin board service).

Optional materials: Some people benefit from using study aids or other supplemental materials. Whether to purchase such additional materials is up to you; you are not required to use them, and I will not use them in class. However, on the first day of class I will mention a few study aids that I think are better than others.

COURSE REQUIREMENTS AND OBJECTIVES

Exam – Your grade will be based primarily on a scheduled final exam. The test is open book/open notes in that you may use the casebook, the Federal Rules of Civil Procedure booklet, extra material I post on TWEN, your class notes, handouts from class, and your outline (including an outline you make as part of a group), all in hardcopy form. You may not use any other material (including commercial outlines or study aids, the internet, etc.) during the exam. If you have a question about what materials are allowed, ask well before the exam.

Class participation – Participation in class discussion is necessary both for your own understanding of the material and for the benefit of your classmates. At my discretion, I may increase your grade by one notch (e.g., B+ to A-) for outstanding participation (judged primarily by quality, not quantity). Typically, only a handful of students would earn this adjustment. In

rare cases, I may lower a grade by one notch for failing to participate adequately or for consistently being unprepared for class.

Drafting exercises, quizzes, etc. – There will be a few required drafting exercises (e.g, you will draft a complaint and an answer), quizzes, and the like. These items are considered part of class participation; as noted above, your grade can be lowered for inadequate participation, and that includes failing to make a good-faith effort on these exercises. In addition, skills developed in the drafting exercises will be tested on the final exam.

Practice exams and exam preparation – I will distribute a practice midterm to help you get an idea of what law school exams are like and to check on how well you are learning the material. The practice midterm will not be part of your grade, but I will show you sample answers that will help you evaluate your performance. If you want to meet with me individually, I will go over your answers with you.

Sample final exams will be available (through TWEN) to help you prepare for the final exam.

Attendance policy – Regular attendance (at least 80%) is required as a matter of ABA and Law Center policy, and you can be dropped from the course for failing to meet this minimum. We have 40 regularly scheduled class sessions, so this means you should not miss more than 8 of them. I treat the sign-in sheet that I circulate at the beginning of each class session as presumptive evidence that you were present (or not).

Laptops and other electronics – Students are permitted to use laptops, tablets, and the like for taking notes or for other class-related purposes, but such devices are not to be used for other purposes during class. Students are not permitted to record class sessions.

Learning objectives – The objectives of the course are for you to understand the key rules and doctrines of civil procedure, to be able to produce several basic litigation documents, to appreciate the ethical and professional issues that arise in connection with civil procedure, and to be able to integrate the information you learn in this class with other practical and analytical skills necessary to the practice of law.

Relation to bar exam – Beginning in February 2015, federal civil procedure will be tested on the Multistate Bar Examination, which is one component of the Texas Bar Examination. (See announcement here: www.ncbex.org/home/multistate-bar-examination-news/.) Therefore, this course should help you prepare for the bar exam. State civil procedure is also tested on the Texas Bar Examination; you can learn more about state civil procedure in additional courses in your 2L and 3L years.

OFFICE HOURS

You are welcome and indeed encouraged to come to my office (BLB, 1st floor) to discuss the course material, especially if you are having difficulty. I will post official office hours, but I am glad to talk to you whenever I am here, which is most of the time.

READING ASSIGNMENTS/COURSE TOPICS

Course topics are listed below. Reading assignments will be distributed at a later date.

The readings from the casebook will refer to many of the Federal Rules of Civil Procedure and some jurisdictional statutes. **When the casebook discusses a certain rule or statute, you should read that rule or statute in your Federal Rules of Civil Procedure booklet and be prepared to discuss it.**

Some of the reading assignments include material outside of the assigned textbooks, such as actual court documents, recent cases that illustrate developments in the law, or videos. Where necessary, these materials will be distributed on TWEN in advance of the relevant class session.

Topics:

Personal Jurisdiction

Subject Matter Jurisdiction

Notice and Opportunity To Be Heard

Venue

Pleadings (and Motions to Dismiss)

Discovery

Adjudication (Summary Judgment, Trial, Post-Trial Motions)

Choice of Law (the *Erie* Doctrine)

Preclusion Doctrines

Joinder Rules