Class Hours: Mondays, Tuesdays, and Wednesdays 10:30am-12:00pm, room 240 TU2.

Office Hours: Mondays 4-5:30pm. I am always happy to talk with students, so if that time is not convenient for you please feel free to email me to set up an appointment. My office is 142 BLB. My email address is dtrave@central.uh.edu. My assistant is Lillian White (lawhite@central.uh.edu).

Required Texts: There are two required texts for this class: (1) HAZARD, FLETCHER, BUNDY & BRADT, PLEADING AND PROCEDURE (11th ed. 2015) and (2) THE FEDERAL RULES OF CIVIL PROCEDURE. You must bring both to class every day. There are many published versions of the Federal Rules out there. I do not care which one you use so long as it is current, as the rules are frequently amended. The bookstore should have SPENCER’S FEDERAL CIVIL RULES SUPPLEMENT, which is relatively cheap. The Women of Color Collective puts out an even cheaper version, which you can find on Amazon. I will also post required reading materials on the Blackboard website from time to time.

Supplemental Resources: You do not need to do any reading beyond what I assign from the casebook and rulebook or post to Blackboard. I think your time and energy is best spent focusing on the assigned readings. Nevertheless, some students inevitably wish to consult outside materials. There are many commercial study aids of varying quality out there. The following are at least good ones. Please note that the law changes constantly. There have been important developments since these sources were published. I will update the casebook, but I will not update secondary sources. Thus it is dangerous to rely on supplements (those listed below or others) as stating what the law “is.”

- CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE, available on Westlaw in the FPP database (this is the leading treatise, not a study aid; you actually can rely on it for what the law “is”)
- SAMUEL ISSACHAROFF, CIVIL PROCEDURE (4th ed. 2017)

Learning Outcomes: Learn about litigation and procedure in the federal courts and learn to think like a lawyer.

Assessment: Your grade will be based primarily on a take-home final exam. The test will be open book. All answers must be exclusively your own work. You may not consult with others about the exam once the exam period has started. Please review the Honor Code. Final grades may be modified up or down by one level (e.g., B+ to A- or A- to B+) based on class participation.

Class Participation: Participation in class discussion is essential for both you and your classmates to fully understand the material. I call on students at each class meeting to contribute to our discussion of the material. I expect you to be prepared for every class.
If, for any reason, you are not prepared for a class I ask that you let me know in advance (either by email or by leaving a note on the lectern in class) and I will not call on you that day. If you are unprepared more than twice during the semester, it will affect your grade.

**Practice Problems:** There will be several practice problems throughout the semester. You will be required to complete and turn in answers. These will not be graded, but will count towards class participation. Students that make a good faith effort to complete the practice problems will satisfy this requirement for class participation purposes. Please keep in mind that your final grade can be modified up or down for class participation.

**Attendance:** You are expected to attend all class sessions. If you fail to attend at least 80% of class meetings you will be in violation of ABA and Law Center policy and may be dropped from the course. Late arrivals may be treated as absences.

**Computer Policy:** Use of laptops or other electronic devices is permitted for class-related purposes only. Violations of this policy will be treated as unpreparedness.

**Recordings and Attribution:** I find that class discussion is most productive when students feel free to try out positions with which they (or others) may not agree and to test the assumptions underlying their own (or others’) views. For this reason, class discussion is strictly “off the record.” Outside of the classroom, you may not attribute any statements made in class to any of your classmates. And any audio or visual recording of class is prohibited. They only exception to this policy is that I will arrange for the law school to record any make-up classes that might become necessary.

**Accommodation:** If you have a disability and require an accommodation, please contact the Center for Students with Disabilities.

**Counseling:** Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. [http://www.uh.edu/caps/outreach/lets_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)

**Reading Assignments:** Reading assignments will be announced in class or emailed to all class members. I will provide you with a course outline and reading assignments in installments as the semester goes on. Unless otherwise noted, page numbers refer to the Hazard, Fletcher, Bundy & Bradt casebook. FCRP refers to the Federal Rules of Civil Procedure. “Supp.” refers to the 2019 Supplement to the Hazard et al. casebook. (BB) refers to supplemental readings posted on Blackboard.

**First Assignment:** Casebook pp. 1-17 (skim), FRCP table of contents and Rules 1-3 and 4(a)-(c) & (e), and *Jones v. Flowers* (BB).
Course Outline – Part 1

I. Introduction to the Civil Justice System
   Structure of a Lawsuit and the Court System, pp. 1-17 (skim)
   FRCP Table of Contents
   FRCP 1-3 & 4(a)-(c) & (e)
   Jones v. Flowers (BB)

II. Choosing the Proper Court
   A. Territorial (Personal) Jurisdiction
      1. Historical Constitutional Framework
         Intro and Note on Territorial Jurisdiction, pp. 47-49
         Pennoyer v. Neff and notes, pp. 49-59
         Hess v. Pawloski (BB)
         Note 4 on Milliken v. Meyer, p. 169 (ignore Q re: Justice Scalia)
      2. Reconceptualization: Minimum Contacts
         International Shoe Co. v. Washington and notes, pp. 64-72
         Note on General and Specific Jurisdiction, pp. 72-75
         Perkins, McGee, and Hanson
      3. Specific and General Jurisdiction
         Shaffer v. Heitner and notes 1-2, pp. 143-54
         World-Wide Volkswagen Corp. v. Woodson, and notes 1-3 pp. 75-84
         Notes 4-5, pp. 84-85
         Note on Long-Arm Statutes, p. 128
         FRCP 4(k)
         Burger King Corp. v. Rudzewicz and notes, pp. 85-92
         Burnham v. Superior Court of California, pp. 155-68
      4. State of the Art
         J. McIntyre Machinery, Ltd. v. Nicastro, pp. 99-112
         Notes on Purposeful Availment and Direction, pp. 116-19
         Bristol-Myers Squibb v. Superior Court and notes, Supp. pp. 2-13 (BB)
      5. Consenting and Objecting to Personal Jurisdiction
         Note on Consent by Appearance, pp. 192-93
         Carnival Cruise Line v. Shute, and notes pp.193-206
         Notes 2-4 on Special Appearance, pp. 213-15
         Note on Limited Appearance, p. 216
      6. Notice
         FRCP 4
         Mullane v. Central Hanover Bank & Trust, and notes pp. 170-82
         Note on Service of Process, pp. 182-88
   B. Subject Matter Jurisdiction
      1. Federal Question Jurisdiction
         U.S. Constitution, Article III
         28 U.S.C. § 1331
         Preliminary Note on Subject Matter Jurisdiction, pp. 222-25
Louisville & Nashville R.R. Co. v. Mottley and notes, pp. 225-31

2. Diversity Jurisdiction
   U.S. Constitution, Article III § 2
   28 U.S.C. § 1332(a)-(c)
   Hertz Corp. v. Friend, and notes pp. 245-60
   Note 1 following Worldwide Volkswagen, pp. 83-84

3. Supplemental Jurisdiction
   United Mine Workers of America v. Gibbs and notes, pp. 260-64
   Owen Equipment & Erection Co. v. Kroger and notes, pp. 264-76
   28 U.S.C. § 1367
   Exxon Mobil Corp. v. Allapattah Servs. and notes, pp. 276-85
   Supp. Note 4d, p. 18 (on Artis v. District of Columbia) (BB)

4. Removal
   28 U.S.C. § 1441(a)-(c)
   28 U.S.C. § 1446
   Caterpillar, Inc. v. Williams and notes 1-3 & 7, pp. 286-93 & 295-96
   Note on Direct Challenge to Subject Matter Jurisdiction, pp. 297-98

C. Non-Constitutional Constraints: Venue and Forum Non Conveniens
   1. Choosing the Proper Venue
      FRCP 4(k)
      28 U.S.C. § 1391(a)-(d)
      Intro and Note on Venue in State Court, pp. 298-300
      Notes on Venue in Federal Courts 1-4 & 7, pp. 300-303 (skip note 5-6)
   2. Venue Transfer
      28 U.S.C. § 1404
      28 U.S.C. § 1406
      28 U.S.C. § 1407
      Notes on Change of Venue 1-4, 8, 10, pp. 314-17, 319-21
      Supp. Note 6, pp. 18-19 (on TC Heartland v. Kraft Foods) (BB)
   3. Forum Non Conveniens
      Note on Relation of Territorial Jurisdiction to Choice of Law, pp. 216-22
      Piper Aircraft Co. v. Reyno and notes 1-6, pp. 321-31

III. What Law Applies?
   A. The Governing Law in the Federal Courts
      1. Federal or State? Substance or Procedure?
         Introductory Notes, pp. 335-41
         Erie Railroad Co. v. Tompkins and notes, pp. 342-51
         28 U.S.C. § 1652
      2. Applying the Erie Doctrine
         Note on Erie and the Substance/Procedure Distinction, pp. 351-52
         Guarantee Trust Co. v. York and notes, pp. 353-59 (pay particular attention to Sibbach, Klaxon, and Ragan)
         Byrd v. Blue Ridge Rural Electric Cooperative and notes, pp. 360-64
         Hanna v. Plumer and notes, pp. 365-76
B. Pulling It Together: Transfer, Choice of Law, and *Erie*
   *Ferens v. John Deere Co.* and notes 5-7, pp. 303-13, 317-19

IV. Pleading
   A. Sufficiency of the Complaint
      FRCP 7, 8, 10, and skim 12
      Introduction to Pleadings, pp. 433-35
      *Access Now v. Southwest* (complaint, decision, and notes), pp. 435-54
      Note on the Philosophy of Modern Pleading, pp. 462-65
      Optional – Historical Note on Procedure, pp. 17-31
      *Swierkiewicz v. Sorema, N.A.* and notes, pp. 465-71
      *Bell Atlantic Corp. v. Twombly* and notes, pp. 471-82
      *Ashcroft v. Iqbal* and notes 1-7, pp. 482-95
   B. Ethical Constraints on Pleading
      FRCP 11
      *McCormick v. Kopman* and notes, pp. 509-17
      Note on Ensuring the Substantiality of Claims and Defenses, pp. 517-19
      *Zuk v. Eastern Pennsylvania Psychiatric Institute* and notes, pp. 519-32
      Optional – ACLU Amicus Brief on Behalf of John Oliver (BB)
   C. Responding to and Amending Pleadings
      FRCP 12
      Note on Motions Responding to the Complaint, pp. 533-35
      *Zielinski v. Philadelphia Piers, Inc.* and notes, pp. 536-44
      FRCP 15
      Note on Amending Pleadings, pp. 544-46

V. Discovery
   A. Tools
   B. Discovery Exercise (BB)
   C. Privilege

VI. Ending a Lawsuit Without Trial: Summary Judgment

VII. Trial, Juries, and Jury Control

VIII. Preclusion
   A. Claim Preclusion
   B. Issue Preclusion
   C. Preclusion and New Parties

IX. Joinder
   A. Claim Joinder, Counterclaims, and Cross-claims
   B. Party Joinder
   C. Impleader

X. Class Actions

XI. Contracting Out?