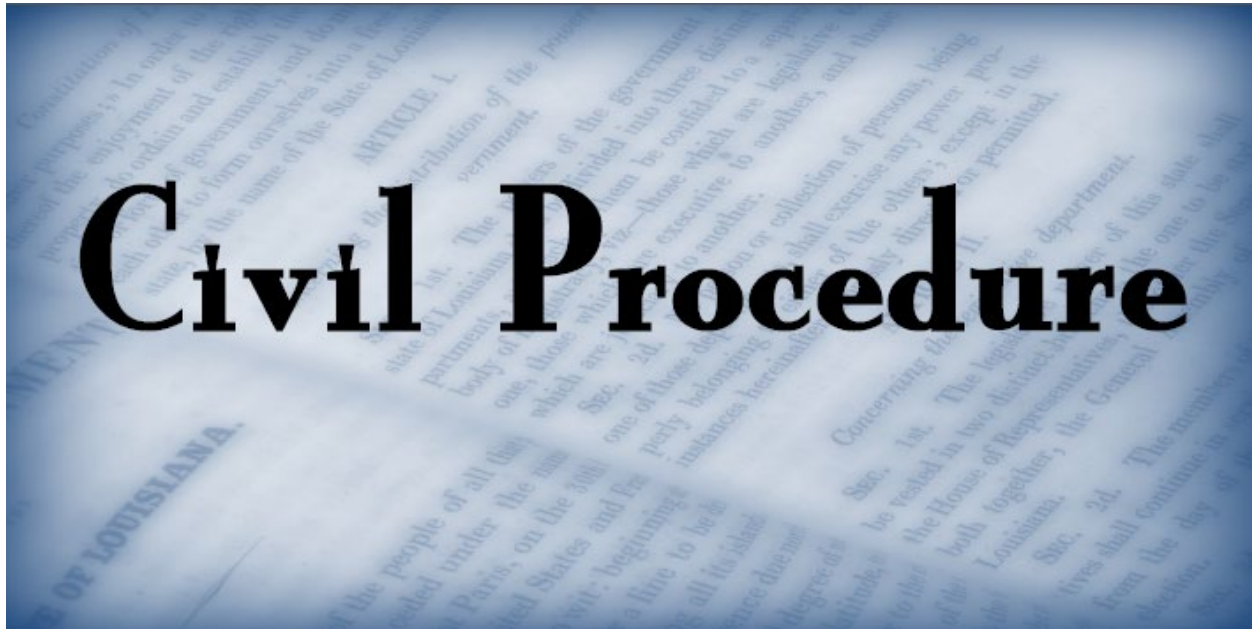


Procedure – Fall 2025 Semester
Course Details and Syllabus
Professor Lonny Hoffman
Section No. 12097; Course No. 5406
Updated: September 3, 2024



Course Description and Learning Outcomes. In this class we study the procedural laws that apply to lawsuits filed in state and federal courts. When a suit is filed, formal rules govern everything about it: from the procedures that apply to a suit's commencement all the way through to those that bear relevance at the end of a case. Over the semester, we'll study these rules closely to learn what they are, how they work, and how persuasive legal arguments can be constructed around them. Finally, we'll also be considering an array of professionalism issues that lawyers face.

By the end of this course, you will be able to: (1) identify, articulate, and apply procedural rules that govern civil litigation throughout the lifecycle of a civil case, especially in the federal court system, drawing on, among other sources, the Federal Rules of Civil Procedure, relevant provisions of federal statutes and the U.S. Constitution, and relevant case law and doctrines; (2) reason strategically about how to navigate the civil litigation system in order to represent clients effectively; and (3) think normatively about the fairness, efficacy, efficiency, and justice of particular procedural rules, as well as the civil litigation system more generally.



Course Materials. You do not have to buy a casebook for this class. I've prepared course materials for you (listed as "CM" in the syllabus below). These materials, saved in.pdf format, are available electronically at [this link](#) on my UHLC faculty webpage—so if you wanted to get a head start on the reading for the first week, you can do so. As of August 1, 2025, the CM are now updated and correctly match the syllabus. In our first class together, I'll provide a hard copy to anyone who wants one.

You also will need access to the procedural rules and statutes that govern federal civil cases, but again there's no need to buy anything as the rules and statutes are all available online. One good site is <http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure>. The rules are also available here: <http://www.law.cornell.edu/rules/frcp/>. Current statutes can be found in numerous places, such as www.law.cornell.edu/uscode/text. Another good site for statutes is <http://uscode.house.gov/search/prevcode.shtml>. It provides links both to the current version of the U.S. Code, as well as to prior enacted versions (which is helpful when you are interested in seeing a prior version of the statute).



Well-being and Academic Support. Beyond helping facilitate your learning of the course content, I believe a core part of my job is to promote student well-being in the classroom. Throughout the semester, I will offer short mindfulness and other well-being exercises in which you can choose to participate. More broadly, I'll be encouraging you to practice ways to prioritize healthy engagement with this course and with law school. I'm not sure I can emphasize enough how important it is to commit to practicing well-being. For many, law school and the legal profession can feel overwhelming. Several sources of support are available if you need it. I'll mention three in particular but can also provide others if you want:

1. At the Law Center. Of course, you are always welcome to come see me. Another resource at UHLC is Monica Mensah, Assistant Dean for Student Affairs. Her office is located in the Office of Student Services, across from the student commons. Her email is mebuckne@central.uh.edu; her phone is (713) 743-6247.

2. The University of Houston's Counseling and Psychological Services (CAPS) can help students who are having difficulties managing anxieties, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (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. Their webpage can be accessed here:
http://www.uh.edu/caps/outreach/lets_talk.html.

3. The State Bar runs the Texas Lawyers' Assistance Program (web address is <https://www.tlaphelps.org/>). TLAP "provides confidential help for lawyers, law students and judges who have problems with substance abuse and/or mental health issues." Students can call (24 hours a day / 7 days a week) to get help with mental health and substance abuse issues. The number is (800) 343-8527.

As a UHLC student, you also have multiple academic support options available to you, including:

1. **Teaching assistants.** In this class, we are very fortunate to have five teaching assistants this semester. You will be assigned an individual teaching assistant, but all are available to you if you need help.
2. **1L Mentoring program.** You have also been assigned to a 1L mentoring group with a faculty member and at least one upper-level student mentor. If you aren't sure who those folks are, feel free to ask me and I'll help you figure it out.
3. **UHLC's Legal Writing Center.** This academic support option is open to everyone. They offer help on writing and studying. For more, go to: <http://www.law.uh.edu/lrw/legal-writing.asp>.
4. **Student organizations.** Finally, you should consider joining a student org. This can be both enriching for law school and a good source of academic support. Here's a list: <http://www.law.uh.edu/organizations/homepage.asp>. If you have trouble linking to a group, Kristan Withers, the Law Center's liaison for the student organizations, may be able to help. Her email is kdwithers@central.uh.edu.



Class Schedule and Format—and a (limited) online Zoom option. This class meets in person on Mondays from 6:00-7:15 pm and Wednesdays from 6:00-7:45 pm. I will also have a Zoom option for you to attend class virtually if there are exceptional circumstances that make it hard for you to attend in person. However, if you think you will want to attend virtually, email me in advance to ask permission. Whether you will be able to attend virtually depends on how much advance notice you gave, relative to your need. Also, unless you have a special accommodation from the Office of Student Services, you are not permitted by UHLC rules to attend more than six classes virtually (~20% of all scheduled class meetings).

Finally, bear in mind that if you are attending class virtually, my expectation is that you will attend with your video on. If you know in advance that there's some reasonable reason why you

do not want (or cannot) join with video, I ask that you notify me in advance. Of course, I realize there may be technical glitches from time to time. But if that happens, I expect that you'll do your best to correct the problem before our next class. If I notice that you are not following these expectations, I may reduce your participation grade. If you need help with any technical issues, let me know or reach out to our IT team by emailing them at lawcomputerhelp@central.uh.edu or calling (713) 743-2260.



Class Design. Before each class, there will be assigned readings for you to do. For many classes, you will also watch a prerecorded short video (or videos) that I've made to help introduce the subject. And I will frequently also distribute discussion questions to think about after having read the material and watched the videos. Finally, on a few occasions, you will have assignments involving mock exam questions (some of which you will turn in; others you won't).

By having students do all this work in advance of class, we'll be able to use our group time together much more effectively. Classroom time will be primarily devoted to two activities: (1) working through and discussing practice problems that directly link to the final exam; and (2) addressing any questions in a more flexible and inviting format. My approach is informed by a style of teaching that's often referred to as the "flipped classroom" model. The core idea is that students end up being much more actively engaged with the material, transforming our class time into something that feels more inviting and interesting to you, rather than relying on more traditional classroom lecture or Socratic question-and-answer formats.



Attendance and Participation. You must attend at least 80% of the classes. Since we have 26 regularly scheduled classes, you must attend (in person or virtually) at least 21 class sessions. I may lower a final grade or take other appropriate disciplinary action (up to entering a failing grade) if it is determined that a student is absent from more than 20% of the classes. School rules allow me to improve a student's grade by as much as one-third of a letter grade based on class performance (*e.g.*, from B to B+). Keep in mind that in-class performance is based on the overall quality, not quantity, of your participation. Typically, only a handful of students earn this participation increase. On rare occasions, I've reduced a student's grade for failure to attend or participate.

UHLC policy is to treat all absences as unexcused but there are certain categories for which the Law Center and university allow an absence to be excused—*i.e.*, not to count against your required attendance. I believe examples of absences that will be excused under Law Center and

university rules include personal emergency situations and religious holidays. But it isn't important what I believe; if you need an absence to be excused, you should contact Student Affairs and work with that office to determine what is allowed. They make the determination of what is excused.



Grading. I have posted a grading memo on my Procedure page. As the memo outlines, your grade in this class is based on up to four variables: (1) during-the-semester graded assignments (30% of final grade); (2) the final exam (70% of final grade); and (3) class engagement/participation that could marginally influence your final grade in the course.



USE OF GENERATIVE ARTIFICIAL INTELLIGENCE PROGRAMS

I'm sure you are aware that there have been significant recent advances in generative artificial intelligence programs, such as ChatGPT and Claude, that create new and original output based on the data it has been trained on or to which it has been given access. You are also surely aware that this is a developing technology and that there are already plenty of sobering stories of people who got burned when they relied on AI. *See, e.g., Sara Merken, New York Lawyers Sanctioned for Using Fake ChatGPT Cases in Legal Brief*, June 26, 2023, available [here](#). My view is that GenAI may be helpful for you but it also might be a bad idea, especially while you are still a student learning to become an effective and capable lawyer. But that's just my opinion and I certainly don't presume to know what's best for you.

My class policy is that you can use any GenAI program for any reason. Of course, any assignment you submit will be graded exactly as if you had written it yourself and any errors in your submission will be treated as your errors.



Chosen Names, Preferred Pronouns, and Inclusivity. In my classroom, I'll address you by your preferred name and pronoun—and that includes any non-binary pronouns. Rosters do not list gender or pronouns so if you have specific preferences, please just let me know.

The following is language recommended by the UHLC D&I Committee so I share it verbatim:

This is an inclusive learning space. At UHLC, we are committed to ensuring inclusive online and classroom learning spaces, where you'll be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, to contribute, and to succeed.

In this course, all students are welcome regardless of socio-economic status, age, race, ethnicity, disability, religion, national origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status and other diverse identities that we each bring to class. Our class is richer for this diversity.

Inclusive learning spaces facilitate the innovation and creative thought that enhance student success. This success arises from the participation, support, and understanding of you and your colleagues. I encourage you to speak up and to share your views, but also understand that you are doing so in a learning environment in which we're all expected to engage respectfully and with regard to the dignity of all others.

If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please reach out to me. I want to be a resource for you. If you feel more comfortable speaking with someone besides me, Student Services is an excellent resource: 713-743-2182. Finally, I encourage you to bring any issues negatively impacting UHLC's openness to diversity and inclusion to the Law Center's Diversity and Inclusion committee. The D&I committee's charge includes "[building] on the Law Center's strengths as a diverse and inclusive environment." You can contact the committee directly at UHLCD&I@uh.edu.

Your suggestions are encouraged and appreciated. Please let me know ways to improve the effectiveness of this course for you personally, or for other students or student groups.

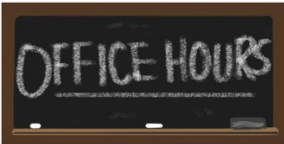


Accessibility and Accommodations *[the first paragraph below is university-approved language]*. The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact the Justin Dart Jr. Student Accessibility Center (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

If you require any support services, you may contact Ms. Samantha Ary, Academic Records Coordinator. Ms. Ary is located in the Office of Student Services suite, and she can be reached at sary@central.uh.edu or (713) 743-7466. Requests for accommodation that involve graded assignments must be directed to Ms. Ary and should be made as soon as possible to allow adequate time to document and to process the request. If you observe religious or cultural holidays that will coincide with synchronous class sessions or conferences, please let me know as soon as possible, so that we may make arrangements.

Anti-Discrimination and Sexual Misconduct Policies [the following is university-approved language]. UHLC and the University of Houston are committed to maintaining and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, a confidential reporting process is available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 Sexual Misconduct Policy SAM 01.D.08.

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty and other University employees are required to report to the University any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by university employees and students.



Office Hours/Contact Information. I offer two types of office hours this semester. I will always have regular office hours by Zoom that anyone can join. My regular office hours are on Mondays and Wednesdays from 7:30-8:30 am and most Fridays at noon. (I intentionally scheduled the early morning office hours because it may be easier for many of you who work full-time to meet before work.) For all my scheduled office hours, I ask that you email or text me in advance if you plan on attending.

Beyond these scheduled times, I am also available by special appointment to meet by Zoom or to talk by phone. Just email me in advance to schedule a separate appointment. My contact information is: Email: lhoffman@uh.edu; office phone: (713) 743-5206. My executive assistant is **Myriah Howard**. Her phone is (713) 743-1895; her email is mdhowar4@central.uh.edu.



Recording of Class. Students may not record or livestream all or any part of class or make/distribute screen captures. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart Jr. Student Accessibility Center. If you have an accommodation to record class, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with

requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.



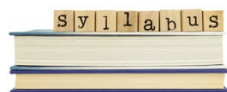
Pre-Semester Suggestions. Finally, before I get to the syllabus and daily class schedule, here are some suggestions of useful resources worth looking at before the semester starts:

- Helix JD Edge. I understand that UHLC has emailed information about this program to you already. If you need help accessing it, let me know or, better still, just reach out directly to Lisa Cohen, the Director of Academic Success here at UHLC. Her email is lecohen@central.uh.edu. Her phone is (713) 743-9383.

- Before we switched to Helix, we had a subscription with Zero-L, Harvard's online course for incoming students. You might find this useful also. It's free but note that I'm not sure how you access it now that UHLC is no longer supporting it. I suggest contacting them directly. The website is <https://online.law.harvard.edu/>.

- I've included links to several different law school study resources on my webpage: <https://www.law.uh.edu/faculty/lhoffman/procedure.asp>

- Finally, I recommend *The Happy Lawyer*, a short book by Nancy Levit and Douglas Linder. It's an invaluable resource to consult before, during, and after law school. As of this summer, it was \$4.14 at Better World Books. See here: <https://www.betterworldbooks.com/product/detail/Happy-Lawyer---Making-a-Good-Life-in-the-Law-9780195392326>



Course Syllabus and Outline of Daily Class Schedule. Below is the course syllabus and outline of the daily class schedule. In the left column, I detail what we will cover on a day-by-day basis in each class period. This column also lists the learning objectives for each class—basically, what I'm aiming for you to learn in each class.

The right column lists every homework assignment that you will need to complete before each class. It also flags all graded and ungraded assignments that you will do over the course of the semester.

Class Material and Learning Objectives	Daily Assignments Except for the rules, statutes, and constitutional provisions, all required readings listed below are in the course materials. For the rules, statutes, and constitutional provisions, see the note, above, on page 2 (above) of this document (Course Details and Syllabus).
Class #1 – Mon., Aug. 25 Subject matter of class and primary goals: This class is devoted to thinking about how lawyers use procedure strategically on their client's behalf. Here are more details, along with my pedagogic goals for the class spelled out so you can know what I'm hoping you will learn: · <u>To start thinking about procedure's strategic uses.</u> The goal is for you to gain an orienting sense of why procedure is practically important and to start to recognize some of the big jurisprudential questions that underlie the technical details (e.g., balancing access to justice with the need for efficient dispute resolution). · <u>What the goal isn't.</u> To have this conversation about procedure as strategy, we'll be talking about several different procedural laws and doctrines, but it's important to bear in mind that the goal for this class isn't to understand the details of how any of the laws and doctrines work. It's our first class! To help you focus on the bigger picture issues, here are two main questions for you to think about: 1. Why did the plaintiffs sue the two New York defendants? In other words, why not just sue the car manufacturer (Audi) and the national distributor (VW of America)? 2. Why did the defendants try so hard to get the case removed from state court to federal court?	In advance of class, read: Paul Carrington, <i>Teaching Civil Procedure</i> (CM 1-13), text of entire article available here *(see note at bottom of this page); and Charles Adams, <i>World-Wide Volkswagen v. Woodson – The Rest of the Story</i> (CM 14-23) (permission granted by author to use) Suggested additional (optional) video to watch: <i>Full Faith and Credit</i>, video by Columbia Law Review students, available here. (This is a cute video that offers a sense of the shared journey you are about to take). * When I provide links in this syllabus for how to publicly access a source, I don't mean that you are required to go to the link. You are only responsible for reading the excerpted pages that are included in the course materials. If you want to read more than the required excerpt, the link I provide to the entire reading allows you to do so.

Class #2 – Wed., Aug. 27 Subject matter of class and primary goals: Continue our introductory discussion of the strategic uses of procedure; and Discuss class logistics/details –walking through the syllabus	No reading assignment for this class. (We'll still be discussing the <i>WWV</i> case covered by the Charles Adams article.)
Class #3 – Wed., Sept. 3 Subject matter of class and primary goals: This class is devoted to discussing modern procedure's historical antecedents and sources of procedural law. Here are more details about those two topics, with my pedagogic goals for the class spelled out so you can know what I'm hoping you will learn: · <u>Modern procedure and its historical antecedents</u>. The goal is for you to have a basic understanding of how our current procedural regime was influenced by older regimes and to identify ways that it was intentionally designed to be different. · <u>Sources of procedural law and rulemaking</u>. The goal is for you to understand the different types of procedural rules and laws that we'll be studying. Understanding the various sources of procedural law will help you make better sense of the rationales courts invoke for construing the laws that they apply. · <u>1938: the FRCP and <i>Erie</i></u>. The third goal of this class is for you to recognize how two epochal events in 1938—the promulgation of the Federal Rules of Civil Procedure and the Court's decision in <i>Erie</i>—had a profound impact on the permissible sources of federal procedural (and substantive law). The goal is certainly not for you to fully understand how to analyze and answer a problem raising an <i>Erie</i> issue. But you should be able to map out the ways that procedural and substantive law were influenced by the events of 1938.	In advance of class, read: Read Subrin, <i>How Equity Conquered Common Law: The Federal Rules of Civil Procedure in Historical Perspective</i> (CM 24-37), article publicly available here; Prepare discussion Questions related to English and early American legal history (CM at 38). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded; and read: Main, Traditional, <i>Equity and Contemporary Procedure</i>, (CM 39-43), article publicly available here; Mulligan and Staszewski, <i>The Supreme Court's Regulation of Civil Procedure</i> (CM 44-45), article publicly available here; and <i>Erie v. Tompkins</i> RR (CM 46-51)

Class #4 – Mon., Sept. 8 Subject matter of class and primary goals: In this class we begin our discussion of pleading standards. Here are more details, along with my pedagogic goals for the class spelled out so you can know what I’m hoping you will learn: · <u>Pleading requirement and what it means to make a pleading sufficiency challenge</u>. By the end of class, you should have a basic understanding of what pleading requirements are, how they matter, and what it means to make a pleading sufficiency challenge. · <u>Modern pleading standards until 2007</u>. By the end of class, you should also be able to articulate the broad outlines of the notice pleading doctrine that remained in place until 2007.	In advance of class: Watch the first and second notice pleading videos posted on my webpage; Read Fed. R. Civ. P. 8 and 9 [reminder: to find this reading see the note above, on pages 1-2 of the Course Description]; and <i>Swierkiewicz</i> Opinion and Plaintiff’s Complaint (CM 52-68). [Note: you can skim through the complaint; it’s included mostly for illustrative purposes.]; and Review Discussion Questions relating to <i>Swierkiewicz</i> (CM 69-70). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.
Class #5 – Wed., Sept. 10 Subject matter of class and primary goals: In this class we continue our discussion of pleading standards. Here are more details, along with my pedagogic goals spelled out so you can know what I’m hoping you will learn: · <u>Modern pleading standards after 2007</u>. By the end of class, you should understand the current plausibility pleading test and its primary parts.	In advance of class: Watch the third notice pleading video, available on my Procedure webpage; and read <i>Ashcroft v. Iqbal</i> (CM 71-80) Steinman, <i>Notice Pleading in Exile</i> (CM 81-104); and <i>Swanson v. Citibank</i> (CM 85-112) Suggested additional (optional) reading: Sinnar, <i>The Lost Story of Iqbal</i>, article publicly available here

Class #6 – Mon., Sept. 15

Subject matter of class and primary goals: In this class we continue our discussion of pleading standards. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Deeper understanding of modern pleading standards after 2007. By the end of class, you should understand the current plausibility pleading test and its primary parts.

- Begin to develop an understanding of how to analyze and answer a pleading sufficiency problem. By the end of class, you should be starting to develop a basic understanding of how, if given a question raising a pleading sufficiency issue, you can apply your knowledge of the law to analyze and answer it.

In advance of class:

Review the two notices pleading problems (CM 113-14). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Suggested additional (optional) reading:

Arthur Miller, *From Conley to Twombly to Iqbal: A Double Play on the Federal Rules of Civil Procedure*, 60 Duke L. J. 1 (2010), article publicly available at <http://scholarship.law.duke.edu/dlj/vol60/iss1/1/>

Lonny Hoffman, *Rulemaking in the Age of Twombly and Iqbal*, article publicly available [here](#)

Class #7 – Wed., Sept. 17 Subject matter of class and primary goals: In this class we complete our discussion of pleading standards and then turn to summary judgment and discuss its relationship to pleading sufficiency. Here are more details, along with my pedagogic goals spelled out so you can know what I’m hoping you will learn: · <u>Complete discussion of pleading sufficiency.</u> By the end of class, you should understand the current plausibility pleading test and its primary parts. If given a question raising a pleading sufficiency issue, you should be able to analyze and answer it. · <u>Contrasting summary judgment with pleading sufficiency.</u> By the end of class, you should have a basic understanding of when a court should grant summary judgment. The goal is not for you to be able to fully comprehend how to analyze and answer a summary judgment problem. Instead, you should be aiming for being able to articulate the similarities and differences between pleading and summary judgment standards.	In advance of class, read: Fed. R. Civ. P. 56 <i>Celotex v. Catrett</i> (CM 115-23) <i>Tolan v. Cotton</i> (CM 124-130) In the second half of class, students will discuss the Oral Examination Questions: Pleading Sufficiency and Summary Judgment (CM 131) in small groups. Oral Examination Questions: Pleading Sufficiency and Summary Judgment (CM 131). This assignment is graded. It will count as 5% of your final grade in the course. To receive full credit, students must submit their recorded answers by emailing the file to their assigned Student Tutor and to me before Friday, September 19 at 9:00 am. Note: for this class, we will end at 8 pm (rather than our usual 7:45 pm).
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Mon., Sept. 22 – no class

No assignment

Class #8 – Wed., Sept. 24

Subject matter of class and primary goals: In this class we'll discuss pre-answer motions, answers, and affirmative defenses. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Some of the major options available to a defendant after being sued. By the end of class, you should understand and be able to articulate the timing and waiver requirements for pre-answer motions, answers, and affirmative defenses. If given a question raising an issue relating to pre-answer motions, answers, and affirmative defenses, you should be able to analyze and answer it.

- Beginning to comprehend and apply various related rules. More broadly, you should begin to comprehend how to read and apply multiple interconnected rules.

In advance of class:

Watch pre-recorded video on Defendant's answer and timing/waiver, available on my Procedure webpage;

Read Rules 8(b) and 8(c), 12;

Read (just skim) Defendant's Answer from *Madrigal v. Kerry, Inc.* (CM 132-34) and

Prepare Exercise on Timing and Waiver for Answer and Pre-Answer Defenses (CM 135). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Class #9 – Mon., Sept. 29 Subject matter of class and primary goals: In this class we'll discuss the process of amending a pleading under Rule 15(a). Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn: · <u>Rule 15(a)(1)</u>. By the end of class, you should understand and be able to articulate when a party can amend without the Court's permission and be able to analyze and answer a Rule 15(a)(1) problem. · <u>Rule 15(a)(2)</u>. By the end of class, you should understand and be able to articulate when and how a party amends when the Court's permission is required and be able to analyze and answer a Rule 15(a)(2) problem.	In advance of class: Watch pre-recorded video on Rule 15(a), available on my Procedure webpage; Read Rule 15; <i>On Track Innovations v. T-Mobile</i> (CM 136-42); and <i>Spencer v. Wal-Mart</i> (CM 143-45); and <i>Cage v. Harper</i> (CM 146-47)
Wed., Oct. 1 – no class Instead, I'll offer a make-up class on Fri., Oct 3 from 5:00-6:30 pm (via Zoom). This will be Class #10 No additional reading assignment for this class. Additional details to be provided	
Class #11 – Mon., Oct 6 Subject matter of class and primary goals: In this class we'll discuss relation back under Rule 15(c). Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn: · <u>Rule 15(c)(1)(A)-(C)</u>. By the end of class, you should understand and be able to articulate when the various sub-parts of the relation back rule applies.	In advance of class, prepare: Watch pre-recorded video on Rule 15(c); Read <i>Buerman v. Witkowski</i> (CM 148-52); and <i>Waynesborough Country Club v. Diedrich Niles Bolton Architects</i> (CM 153-56)

Class #12 – Wed., Oct 8

Subject matter of class and primary goals: In this class we'll finish our discussion of Rule 15(c) and will discuss Rule 11. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Rule 15. By the end of class, students should be able to analyze and answer a Rule 15 amendment problem.

- Rule 11. By the end of class, you should understand and be able to articulate Rule 11's certification requirements for all parties and their lawyers, as well the sanctions that can be imposed if those requirements aren't met. If given a question raising a Rule 11 issue, you should be able to analyze and answer it.

In advance of class

Prepare to answer Oral Examination Questions: Amendments (CM 157).

Oral Examination Questions: Amendments (CM 151). This assignment is graded. It will count as 5% of your final grade in the course. To receive full credit, by the end of this class students must submit their recorded answers by emailing the file to their assigned Student Tutor and to me by Friday, October 10 at 9:00 am.

Read Rule 11 and text of advisory committee notes accompanying 1983 and 1993 amendments (advisory committee notes are available in several places, including [here](#)); and

Excerpt from Lonny Hoffman, *The Case Against the Lawsuit Abuse Reduction Act of 2011*, (CM 158-75), article publicly available [here](#); and

Prepare Rule 11 Questions to Discuss. You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Class #13 – Mon., Oct 13

Subject matter of class and primary goals: In this class we'll discuss joinder of claims and parties. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Rule 13. By the end of class, you should understand what a counterclaim is and be able to articulate the circumstances in which a counterclaim may/must be brought. If given a question raising a Rule 13 issue, you should be able to analyze and answer it.
- Rule 14(a). By the end of class, you understand and be able to articulate the circumstances in which a third-party claim under Rule 14(a) applies, including when one may/must be brought. If given a question raising a Rule 14(a) issue, you should be able to analyze and answer it.
- Rule 18(a). By the end of class, you should understand and be able to articulate the permissive nature of this claim joinder rule—and understand how its relationship to preclusion doctrine impacts the rule's preclusive nature. If given a question raising a Rule 18(a) issue, you should be able to analyze and answer it.
- Rule 19. By the end of class, you should have a basic understanding of when Rule 19 applies (but I do not expect that you will be able to conduct a Rule 19 analysis).
- Rule 20. By the end of class, you should understand and be able to articulate when multiple parties can be joined in the same case. If given a question raising a Rule 20 issue, you should be able to analyze and answer it.
- Rule 23. By the end of class, you should have a basic understanding of how the class action rule works (but I do not expect that you will be able to conduct a Rule 23 analysis).

In advance of class:

Watch pre-recorded video on joinder of claims and parties, available on my Procedure webpage;

Read Rules 13, 14(a), 18(a), 19, 20 and 23;

Compass Exploration v. B-E Drilling Co. (CM 177-79); and

Kedra v. City of Philadelphia (CM 180-85); and

Prepare Discussion Questions: Joinder of Parties and Claims (CM 186). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Suggested additional (optional) reading:

Mary Kay Kane, *Original Sin and the Transaction in Federal Civil Procedure*, article publicly available [here](#)

Douglas McFarland, *Seeing the Forest for the Trees*, article publicly available [here](#)

Class #14 – Wed., Oct. 15

Subject matter of class and primary goals: In this class we'll begin our study of the law of personal jurisdiction. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- The traditional test for constitutional amenability to suit. By the end of class, you should understand and be able to articulate the traditional doctrinal conception of constitutional amenability to suit, including being able to comprehend the traditional doctrine's evolution into the modern jurisdictional test.
- Statutory v. constitutional amenability to suit. By the end of class, you should also understand and be able to differentiate between statutory and constitutional amenability to suit.

In advance of class:

Watch pre-recorded videos, Personal Jurisdiction Video Nos. 1 and 2, available on my Procedure webpage;

Read *International Shoe v. Washington* (CM 187-96)

Review *International Shoe* Personal Jurisdiction Discussion Questions (CM 197). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded; and

Read OH, CA, and TX long arm statutes (CM 198-202)

Suggested additional (optional) reading/video:

Wendy Collins Perdue, *What's "Sovereignty" Got To Do With It? Due Process, Personal Jurisdiction, and the Supreme Court*, article publicly available [here](#)

Lonny Hoffman, *The Case Against Vicarious Jurisdiction*, article publicly available [here](#)

Short video to watch (fun video):
<https://youtu.be/e6L90oN4ppY>

Class #15 – Mon., Oct. 20

Subject matter of class and primary goals: In this class we continue our study of the law of personal jurisdiction. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- General v. specific jurisdiction. By the end of class, you should understand and be able to articulate, broadly, the difference between attempting to exercise general v. specific jurisdiction.

- Doctrinal constitutional test for general jurisdiction. By the end class, you should understand and be able to articulate when an individual or non-natural entity like a corporate defendant is constitutionally amenable to jurisdiction for claims unrelated to its contacts in the forum. If given a question raising a general jurisdiction issue, you should be able to analyze and answer it.

In advance of class:

Watch pre-recorded video, Personal Jurisdiction Video No. 3, available on my Procedure webpage; and

Read *DaimlerChrysler v. Bauman* (CM 203-12)

Review Discussion Questions: Statutory Amenability and Constitutional Amenability to General Jurisdiction (CM CM 213). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Class #16 – Wed., Oct. 22

Subject matter of class and primary goals: In this class we continue our study of the law of personal jurisdiction. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Doctrinal steps for answering a specific jurisdiction problem. By the end of class, you should have a better understanding of the various steps that are used in conducting a constitutional analysis of an attempt to exercise specific jurisdiction.
- Relatedness of a defendant's contacts to the plaintiff's claim. By the end of class, you should also understand and be able to articulate, using *Ford's* analysis, how we determine whether a claim is sufficiently related to a defendant's forum contacts to be treated as a specific jurisdiction case.

In advance of class, read:

Burger King v. Rudzewicz (CM 214-226);

Walden v. Fiore (CM 227-40);

Bristol Myers Squibb v. Superior Court of California (CM 241-57); and

Ford v. Montana Eighth... (CM258-79);

Review Discussion Questions: Additional Specific Jurisdiction Questions to Consider (CM 280). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Note this is a longer reading assignment than usual. I suggest that you prioritize careful reading of *Burger King* and *Ford*. For now, you can do a more cursory skim of *Walden* and *BMS*—though you may need to re-read them more carefully before completing the assignment that's due before our next class.

Oral Examination Questions: Specific Jurisdiction (CM 281). This assignment is graded. It is worth 10% of the final grade in the course. To receive full credit, by the end of this class students must submit their recorded answers by emailing the file to your student tutor and to me by Friday, October 24 at 9:00 am.

Suggested additional (optional) reading

Borchers, Freer, and Arthur: *Ford Motor Company v. Montana Eighth Judicial District Court*: Lots of Questions, Some Answers, full text available [here](#)

Class #17 – Mon., Oct. 27

Subject matter of class and primary goals: In this class we discuss forum selection and (much more briefly) arbitration. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Forum selection. By the end of class, you should understand and be able to articulate the doctrinal test for whether a forum selection clause is enforceable, including being able to articulate why the test for enforcing the validity of a forum selection clause is not governed by the constitutional amenability test from *Shoe* and its progeny. If given a question raising a forum selection issue, you should be able to analyze and answer it.

- Arbitration. By the end of class, you should also have a basic understanding of arbitration so that you can at least comprehend the core issues involved when a case involves an arbitration clause.

In advance of class, read:

Read *Carnival Cruise Lines v. Shute* (CM282-90). Note: you may not be able to read the small print on CM 288-90; that's not a printing issue; it's the point of including it for you to see how the text looked)

Read Pamela Bookman, The Arbitration-Litigation Paradox, (CM 291-97), article publicly available [here](#)

Class #18 – Wed., Oct. 29

Subject matter of class and primary goals: In this class we discuss constitutional and non-constitutional requirements for providing notice. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Non-constitutional notice requirements. By the end of class, you should understand and be able to articulate the non-constitutional requirements for valid notice, including a working understanding of FRCP 4. If given a question raising a non-constitutional notice issue, you should be able to analyze and answer it.

- Constitutional notice requirements. By the end of class, you should understand and be able to articulate the constitutional test for the validity of notice. If given a question raising a constitutional notice issue, you should be able to analyze and answer it.

In advance of class:

Watch pre-recorded video on constitutional and non-constitutional notice requirements, available on my Procedure webpage;

Read *Jones v. Flowers* (CM 298-306)

Read Fed. R. Civ. P. 4 (just skim)

In the second half of class, students will discuss Oral Examination Questions: Constitutional Notice (CM 307).

Oral Examination Questions: Constitutional Notice (CM 307). This assignment is graded. It will count as 5% of your final grade in the course. To receive full credit, by the end of this class students must submit their recorded answers by emailing the file to their assigned Student Tutor and to me by Friday, October 31 at 9:00 am.

Class #19 – Mon., Nov 3	In advance of class:
Subject matter of class and primary goals: In this class we discuss venue and transfer of venue. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn: · <u>Venue</u>. By the end, you should understand and be able to articulate what purpose venue serves separate from personal jurisdiction. You should also understand and be able to articulate the federal venue requirements under §1391. If given a question raising a venue issue, you should be able to analyze and answer it.	Watch pre-recorded video on venue and transfer, available on my Procedure webpage; Read 28 U.S.C. §1391; and Prepare Venue Problems (CM 308-09). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Class #20 – Wed., Nov 5	In advance of class:
Subject matter of class and primary goals: In this class we discuss transfer of venue and the federal forum non conveniens doctrine. Here are more details, along with my pedagogic goals spelled out so you can know what I’m hoping you will learn: · <u>Transfer of venue</u>. By the end, you should understand and be able to articulate the federal transfer of venue test under §1404 (you should also be able to understand the differences between §1404 and §1406. Finally, you should also be able to understand and be able to articulate what makes the transfer issue in <i>Atlantic Marine</i> distinctive and how the case’s test grafts onto forum selection clause enforceability. If given a question raising a transfer of venue issue, you should be able to analyze and answer it. · <u>When could FNC apply?</u> By the end of class, you should begin to understand and be able to articulate when the FNC doctrine applies and articulate the doctrinal test for when a case should be dismissed under FNC. You should also be able to compare and distinguish FNC from venue transfer.	Read 28 U.S.C. §§1404, 1406; Read <i>Dariz v. Republic Airline</i> (CM 310-16); and Read <i>Atlantic Marine Constr. v. U.S. District Court</i> (CM 317-33); Watch pre-recorded video on FNC, available on my Procedure webpage; and Read <i>Piper Aircraft v. Reyno</i> (CM 334-47) In the second half of class, students will discuss Oral Examination Question: Forum Non Conveniens (CM 348). Oral Examination Questions: Forum Non Conveniens (CM 348). This assignment is graded. It will count as 5% of your final grade in the course. To receive full credit, by the end of this class students must submit their recorded answers by emailing the file to their assigned Student Tutor and to me by Friday, November 7 at 9:00 am.

Class #21 – Mon., Nov. 10

Subject matter of class and primary goals: In this class we begin our discussion of federal subject matter jurisdiction with diversity and alienage jurisdiction. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Differentiating personal from subject matter jurisdiction. By the end of class, you should understand and be able to articulate the differences between personal and subject matter jurisdiction.
- Constitutional components of diversity and alienage jurisdiction. By the end of class, you should understand the constitutional components of diversity and alienage jurisdiction. If given a question raising a constitutional issue involving diversity or alienage jurisdiction, you should be able to analyze and answer it.
- Statutory components of diversity and alienage jurisdiction. By the end of class, you should understand and be able to articulate the statutory components of §1332 (excluding subsection d). If given a question raising a statutory issue involving diversity or alienage jurisdiction, you should be able to analyze and answer it.

In advance of class:

Review Subject Matter Jurisdiction: Diversity and Alienage Jurisdiction – Discussion Questions and Problems (CM 349-58). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded.

Read *Mas v. Perry* (CM 359-61)'

Read *Hertz v. Friend* (CM 362-74); and

Read U.S. Const. Article III, §2; 28 U.S.C. §1332(a)-(c) [no need to read any of §1332(d)]

Class #22 – Wed., Nov. 12

Subject matter of class and primary goals: In this class we continue our discussion of federal subject matter jurisdiction by looking at the other major head of federal subject matter jurisdiction: federal question jurisdiction. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn:

- Constitutional components of federal question jurisdiction. By the end of class, you should be developing an understanding of the constitutional components of federal question jurisdiction.

- Statutory components of diversity and alienage jurisdiction. By the end of class, you should be developing an understanding of the statutory components of §1332.

- Substantial federal question doctrine. By the end of class, you should understand and be able to articulate the SFQ doctrine and, if given a question raising an issue related to the doctrine, you should be able to analyze and answer it.

In advance of class:

Review Subject Matter Jurisdiction: Federal Question Jurisdiction – Questions for Class Discussion (CM 375-82). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded;

U.S. Const. Article III, §2; 28 U.S.C. §1331;

Louisville & Nashville R.R. Co. v. Mottley (CM 383-85); and

Grable v. Darue Eng. (CM 386-93).

Class #23 – Mon., Nov. 17 Subject matter of class and primary goals: We begin our discussion of supplemental jurisdiction. Here are more details, along with my pedagogic goals spelled out so you can know what I’m hoping you will learn: · <u>Supplemental jurisdiction’s constitutional and statutory components</u>. By the end of class, you should be developing an understanding of supplemental jurisdiction’s constitutional and statutory components	In advance of class: Review Supplemental Jurisdiction Notes (CM 394-416). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded; Read 28 U.S.C. §1367; Read <i>UMW v. Gibbs</i> (CM 417-21) Read <i>Exxon Mobil Corp. v. Allapattah Services, Inc</i> (CM 422-38). Suggested additional (optional) reading: Lonny Hoffman, <i>Intersections of State and Federal Power: State Judges, Federal Law and the “Reliance Principle,”</i> 81 Tul. L. Rev. 283 (2006), article publicly available here
Class #24 – Wed., Nov. 19 Subject matter of class and primary goals: In this class, we complete our discussion of supplemental jurisdiction. Here are more details, along with my pedagogic goals spelled out so you can know what I’m hoping you will learn: · <u>Deeper dive into §1367’s statutory components</u>. By the end of class, you should understand and be able to articulate both the constitutional and statutory components of supplemental jurisdiction. If given a question raising a supplemental jurisdiction issue, you should be able to analyze and answer it.	No additional reading

Class #25 – Mon., Nov. 24 Subject matter of class and primary goals: In this class, we cover Fal. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn: · <u>§§1441, 1446 and 1447</u>. By the end of class, you should understand and be able to articulate the statutory components of removal. If given a question raising a removal issue, you should be able to analyze and answer it. · <u>Federal question jurisdiction comprehensive review</u>. By the end of class, you should understand and be able to articulate all aspects related to federal question jurisdiction including (1) its constitutional components; (2) its statutory components in §§1331, 1367, and 1441; (2) the constitutional and statutory components of supplemental jurisdiction; and (4) the statutory components of removal jurisdiction. If given a question raising any of these issues, you should be able to analyze and answer it.	In advance of class: Review Removal notes and problems (CM 439-43). You will not turn in any answer; we will just discuss the questions together in class. This assignment is not graded; Read 28 U.S.C. §§ 1441, 1446, and 1447; Read <i>Martin v. Franklin Capital</i> (CM 444-49). Note: this class will be held by Zoom
Class #26 – Mon., Dec 1 Subject matter of class and primary goals: In this class, we cover discovery. Here are more details, along with my pedagogic goals spelled out so you can know what I'm hoping you will learn: · <u>Available options for conducting, and responding to, discovery requests</u>. By the end of class, you should have a basic understanding of the various options for conducting, and responding to, discovery requests. · <u>Work-Product</u>. By the end of class, you should have a basic understanding of federal work-product, including a basic understanding of Rule 26(b)(3) and the <i>Hickman</i> common law doctrine.	In advance of class read: Read (just skim) Rules 16(b), 26, 27, 30, 31, 33, 34, 35, 36, and 37; Read <i>Hickman v. Taylor</i> (CM 450-60).

Optional review session on
TBD
(by Zoom)

Final Exam – December 4 from 6-9 pm

Details about exam, including the exam instruction sheet, will be distributed before the final.