

**CIVIL PROCEDURE**  
*5406-10682 Syllabus – Fall 2026*  
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**Meetings:** 1:00-2:30 Tuesday, Wednesday, Thursday (meeting dates below to be revised)

**Readings and Materials:** The primary text for this course is William H.J. Hubbard, CIVIL PROCEDURE: AN INTEGRATED APPROACH (2021). You may use either the print or the electronic version; whichever you prefer. I will also email supplemental readings to you as needed.

You do not need to read anything beyond the assigned materials to do well in the class, nor do I encourage it. Some students, however, find treatises and study aids useful. Some such aids are very bad and should be avoided. If you feel that you need supplemental explanations, I recommend Charles Alan Wright & Arthur R. Miller, FEDERAL PRACTICE AND PROCEDURE, available on Westlaw, or Joseph Glannon, CIVIL PROCEDURE: EXAMPLES & EXPLANATIONS. Note, however, that the law is complex and changes all the time, so these texts may not be correct or up-to-date on every topic we cover.

**Class Preparation:** I have made an effort to keep the assigned readings to a manageable length for each class. Every assignment, however, requires close reading and therefore will take significant time to complete properly. You will find that the writing style is often unfamiliar, the terminology is new, and the content dense. The success of the course depends on your good-faith effort to prepare for each class by studying the readings. There is a tendency among students to take interest in the cases but neglect reading the Rules and statutes that have been assigned. I advise strongly against this approach.

**Examination and Grading:** There will be an in-person, open-book, word-limited exam at the end of the semester. Your grade will be primarily based on this examination. Completion of practice problems will matter, too, as described below.

Attendance is required. Due to administrative requirements, excessive absences may render you ineligible to receive credit for the course.

Class participation is essential for both you and your classmates to learn the material. It is therefore also required. I will call on students every day to discuss the assigned material. If, for any reason, you are not prepared for class, I ask that you let me know by email in advance. Life happens, and one or two unprepared days are acceptable. However, persistent failure to prepare may affect your grade.

The [UHLC Honor Code](#) applies to all aspects of my class.

**Practice Problems:** Over the course of the semester, I will distribute three exam-style practice problems. Completing these will help you to both check your own

understanding of the material in real time and practice the skill of exam writing. You will turn your answers in to your assigned TA, who will provide feedback. It is mandatory that you complete at least two of the three practice problems (of your choice). Answers will not be graded on substance, but a good faith effort is required to receive credit for completion. Failure to complete at least two of the three problems will result in your final course grade being lowered a full letter.

***Use of AI:*** Except as noted below, you may use AI assistants, like ChatGPT, however you like in my course. Indeed, I encourage you to use them as a learning tool, for example by generating practice questions. However, you should note that these systems still make many mistakes. Doubly so, since they do not know what you will read for my course, nor what I expect you to take from it. So use with caution. **You may not use chat-style AI assistants during the exam; doing so will result in failure of the course.** This prohibition includes AI-enabled editing programs, like Grammarly, but that is due to limitations in the Bluebook exam software more than substantive concerns. The prohibition does not include the use of search engines which produce AI-generated results.

***Classroom Confidentiality:*** 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. In fact, I will often ask students to argue positions with which they may disagree. Proficiently deploying such arguments for clients' benefit is literally lawyers' job! For these reasons, class discussion is strictly "off the record." Outside the classroom, you may not attribute statements made in class to any of your classmates. Recording class is prohibited.

***Office Hours:*** My office hours will be Tuesdays from noon to 1:00 p.m. in 430D. As this is lunch time, I hope you will feel free to bring food or snacks to my office hours. I am also happy to correspond by email, as well as to set up alternative meeting times, should they be necessary.

***Syllabus:*** Unless otherwise noted, all readings listed below in the Syllabus are required for this course. The final exam will test only the content of the class lectures and discussion and the *required* readings for this course. The listed page numbers may include notes, questions, and other text preceding or following the listed case; this text is part of the assigned reading.

This class will meet 37 times during the Fall Term (plus one additional half-hour review session) and the topics on the syllabus are numbered accordingly.

***Teaching Assistants:*** We have three wonderful teaching assistants in our class this term. They will hold office hours, host review sessions, and provide feedback on practice problems. They are:

Blake Bickham ([brbickha@CougarNet.UH.EDU](mailto:brbickha@CougarNet.UH.EDU))  
Hudson Callender ([hwcallen@CougarNet.UH.EDU](mailto:hwcallen@CougarNet.UH.EDU))  
Brianna Mullen ([bjmullen@CougarNet.UH.EDU](mailto:bjmullen@CougarNet.UH.EDU))  
Rhea Nyak ([rdnayak@CougarNet.UH.EDU](mailto:rdnayak@CougarNet.UH.EDU))  
Kylee Nichols ([knichol6@CougarNet.UH.EDU](mailto:knichol6@CougarNet.UH.EDU))  
Alexis Roberts ([aorobert@CougarNet.UH.EDU](mailto:aorobert@CougarNet.UH.EDU))

#	Topic	Date	Reading	Pages
<b>PRELIMINARY MATTERS</b>				
<b>1</b>	Introduction	Aug. 25	Capron v. van Noorden	6–8
			U.S. Const., Art. III § 2	861
<b>2</b>	Preliminary Relief; Notice	Aug. 26	Winter v. NRDC	30–44
			Rule 65	104–05
			U.S. CONST., Am. V, XIV §1	79
			Mullane v. Central Hanover Bank	121–28
<b>3</b>	Notice (cont.)	Aug. 27	Green v. Lindsey	130–35
			Jones v. Flowers	136–45
			Rule 4	154–55
<b>4</b>	Opportunity to Be Heard	Sep. 3	Fuentes v. Shevin	82–95
			Connecticut v. Doehr	96–101
<b>DEFINING THE DISPUTE</b>				
<b>5</b>	Prologue	Sep. 8	Noll, A Reader's Guide to Pre-Modern Procedure	162–70
			Rules 2–3, 7, 8(a), (d)–(e)	175–77
			Dioguardi v. Durning	182–84
			Conley v. Gibson	186–90
<b>6</b>	Twiqbal	Sep. 9	Bell Atlantic Corp. v. Twombly	192–205
			Ashcroft v. Iqbal	207–19

#	Topic	Date	Reading	Pages
7	Life After Twiqbal	Sep. 10	Johnson v. City of Shelby	221–22
			In re Text Messaging Antitrust Litig.	224–27
			Swanson v. Citibank, N.A.	228–37
8	Beyond Plausibility	Sep. 15	Rule 8(d)	253
			McCormick v. Kopmann	254–57
			Rule 11	260–61
			Brown v. Ameriprise Financial Services, Inc.	262–71
			Intro. Note on Heightened Pleading	271–72
			Third Planet Complaint (excerpts)	Emailed
			<i>Practice Problem One Distributed</i>	
9	Responding to the Complaint; Amendment	Sep. 16	Rule 8(b)-(c)	281–82
			Rule 12	284–86
			Bowers v. Mortgage Elec. Reg. Sys.	288–91
			Perez v. Gordon & Wong Law Group	292–95
			Rule 15	297–98
			Global Tech. & Trading v. Tech Mahindra	299–302
			Beeck v. Aquaslide 'N' Dive Corp.	302–06
<b>DISCOVERY</b>				

#	Topic	Date	Reading	Pages
10	Rules	Sep. 17	Rules 26, 30, and 33–37 (rules only)	319–46
			Mancia v. Mayflower Textile Services	348–60
11	Privilege and Work Product	Sep. 22	SodexoMAGIC, LLC v. Drexel University	385–89
			Upjohn Co. v. United States	390–96
			Hickman v. Taylor	398–409
			<i>Practice Problem One Due</i>	
12	Privilege and Work Product (cont.)	Sep. 23	Rule 26(b)	411–12
			FRE 502	431–32
			In re Abilify Products Liability Litigation	419–29
			Note on Privilege Logs, Redaction, and the Crime-Fraud Exception	433–36
<b>ADJUDICATION WITHOUT TRIAL</b>				
13	Summary Judgment	Sep. 24	Rule 56	564
			Mueller v. Swift	565–78
14	Summary Judgment (cont.); Other Pre-Trial Dispositions	Sep. 29	Intro. Note on the Celotex Trilogy	578–81
			Celotex Corp. v. Catrett	584–90
			Scott v. Harris	613–21

#	Topic	Date	Reading	Pages
			Rule 41	312–13
			Rules 54(c), 55, 60	310–11
<b>TRIAL</b>				
<b>15</b>	Jury Trial	Sep. 30	U.S. Const., Am. VII	474
			Rules 38–39	475–77
			Curtis v. Loether	480–83
			Chauffeurs, Teamsters and Helpers	484–91
			Colgrove v. Battin	511–18
			Rule 48	521–22
<b>16</b>	Jury Selection	Oct. 1	Rule 47 and 28 U.S.C. § 1870	536–37
			Edmonson v. Leesville Concrete Co.	538–47
			J.E.B v. Alabama	547–56
<b>17a</b>	Judicial Control over the Verdict	Oct. 6	Rules 50, 59, and 61	627–28, 630, 634
			Neely v. Martin K. Eby Constr. Co.	637–42
<b>FINALITY AND APPEAL</b>				
<b>17b</b>	Finality	Oct. 6	28 U.S.C. §§ 1291 and 1292(a)–(b)	669, 676–77
			Liberty Mutual Ins. Co. v. Wetzel	678–83
<b>18</b>	Collateral Orders	Oct. 7	Cohen v. Beneficial Indus. Loan Corp.	685–87
			Mohawk Industries, Inc. v. Carpenter	688–98

#	Topic	Date	Reading	Pages
			Microsoft I and II	701–04
<b>SETTLEMENT</b>				
<b>19</b>	Settlement and ADR	Oct. 8	Settlement	1310–20
			ADR	
<b>PRECLUSION AND JOINDER</b>				
<b>20</b>	Preclusion	Oct. 13	Rose v. Election Commissioners	738–42
			Rush v. City of Maple Heights	744–51
			Cromwel v. County of Sac	754–57
<b>21</b>	Preclusion (cont.); Joinder	Oct. 14	Bernhard v. Bank of America	759–63
			Parklane Hosiery Co. v. Shore	768–73
			Rules 13–14, 18–21, and 24	714–21
<b>22a</b>	Representation	Oct. 15	Taylor v. Sturgell	776–87
			Hansberry v. Lee	789–94
<b>CLASS ACTIONS</b>				
<b>22b</b>	Class Actions	Oct. 15	Rule 23	802–10
<b>23</b>	Class Actions (cont.)	Oct. 20	In re Whirlpool	812–24
			Wal-Mart Stores, Inc. v. Dukes	831–50
			<i>Practice Problem Two Distributed</i>	
<b>SUBJECT MATTER JURISDICTION</b>				

#	Topic	Date	Reading	Pages
24	Introduction and Diversity Jurisdiction	Oct. 21	U.S. Const., Art. III	860–63
			28 U.S.C. §§ 1331, 1332	863–64
			Strawbridge v. Curtiss	872
			ConnectU v. Zuckerberg	877–83
			Ceglia v. Zuckerberg	885–89
25	Diversity Jurisdiction (cont.)	Oct. 27	Hertz Corp. v. Friend	892–900
			Lincoln Benefit Life v. AEI	902–09
			A.F.A. Tours, Inc. v. Whitchurch	912–18
			Freeland v. Liberty Mutual Fire Insurance	919–22
26	Federal Question Jurisdiction	Oct. 28	Osborn v. Bank of the United States (plus intro. Note)	925–32
			Louisville & Nashville RR v. Mottley	934–36
			Gunn v. Minton	947–55
			<i>Practice Problem Two Due</i>	
27	Removal Jurisdiction	Oct. 29	28 U.S.C. §§ 1441, 1446, and 1447	984–85, 987–88, 990
			St. Paul Mercury Indemnity v. Red Cab Co.	992–97
28	Removal Jurisdiction (cont.)	Nov. 3	Caterpillar Inc. v. Lewis	998–1004

#	Topic	Date	Reading	Pages
			Grupo Dataflux v. Atlas Global Group	1005–13
29	Supplemental Jurisdiction	Nov. 4	28 U.S.C. § 1367	956–57
			Exxon Mobil Corp. v. Allapattah Services	962–80
<b>PERSONAL JURISDICTION</b>				
30	Prologue	Nov. 5	Pennoyer v. Neff	1019–26
			Hess v. Pawloski	1029–31
			International Shoe Co. v. Washington	1034–39
31	Specific Jurisdiction	Nov. 10	World-Wide Volkswagen Corp. v. Woodson	1043–54
			J. McIntyre Machinery, Ltd. v. Nicastro	1059–73
32	Specific and General Jurisdiction	Nov. 11	be2 LLC v. Ivanov	1123–27
			General Jurisdiction	1091–92
			Goodyear Dunlop Tires Ops. v. Brown	1107–12
			Mallory v. Norfolk Southern	Emailed
<b>VENUE AND TRANSFER</b>				
33	Venue and Transfer	Nov. 12	28 U.S.C. §§ 1390 and 1391	1168–69
			Gulf Oil Corp. v. Gilbert	1171–77
			28 U.S.C. §§ 1404 and 1406	1178–79

#	Topic	Date	Reading	Pages
			Piper Aircraft Co. v. Reyno	1180–90
			<i>Practice Problem Three Distributed</i>	
<b>THE ERIE PROBLEM</b>				
34	A Brooding Omnipresence	Nov. 17	Swift v. Tyson	1209–13
			Erie Railroad Co. v. Tompkins	1214–24
35	An Irrepressible Myth	Nov. 18	Ruhlin v. New York Life Ins. Co.	1235–36
			Sibbach v. Wilson & Co.	1248–53
			Rules Enabling Act, 28 U.S.C. § 2072	1253–54
			Cohen v. Beneficial Indus. Loan Corp.	1256–62
36	An Untidy Denouement	Nov. 19	Hanna v. Plumer	1264–73
			Postscript on Erie and Horizontal Choice of Law	1301–03
			<i>Practice Problem Three Due</i>	
37	Wrap-Up	Dec. 1	TBD	

In addition to the above information and class policies, here is some information that the University would like you to have:

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit [uh.edu/caps](http://uh.edu/caps), call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat [988lifeline.org](https://988lifeline.org).

#### B. Title IX/Sexual Misconduct

Per the UHS Sexual Misconduct Policy, your instructor is a "responsible employee" for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

#### C. Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing [jdcenter@Central.UH.EDU](mailto:jdcenter@Central.UH.EDU).

#### D. Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. 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-related activities, 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.