

Civil Procedure (112-003), Spring 2018

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Classes: We will meet on Tuesdays and Thursdays from 10:00 a.m. to 11:55 a.m. in the room listed on the law school website. The class is scheduled to meet until 11:50 a.m., but we will go to 11:55 a.m. to make up for the fact that a snow day is likely, and avoiding an early-morning or late-evening make-up session is always good. Office hours are after class, in our classroom, from 12 noon to 1:00 p.m. Feel free to bring lunch. Please do not feel any obligation or pressure to hang around for office hours. Being there will not affect class participation bumps and drops (more on them later), and you will not hurt the instructor's feelings or your standing in the class by showing up all the time, some of the time, or none of the time.

Purpose and sketch of the course: In this course, you will not learn everything you need to know about (1) rules of civil procedure, (2) case law interpreting the rules, and (3) using the rules in your own writing and other work, but you will learn (or at least have a reasonable opportunity to learn) enough to get started and then continue to learn more through higher-level study and practical application. That is the purpose of the course — to get you rolling toward expertise in (1) rules of civil procedure (by spending a lot of time on a few of them and a little time on a lot of them), (2) cases interpreting the rules (by, again, spending a lot of time on a few of them and a little time on a lot of them), and (3) writing with the rules (by spending a little time writing with a few of them). In the classroom, you will engage mostly in three activities designed to help you to get rolling: (1) taking many quizzes (days marked with an *) filled with questions based on the current assigned reading and recent classroom discussions, (2) participating in discussions of the assigned reading (often by giving other speakers your undivided attention, occasionally by speaking), and (3) completing a few in-class writing assignments (days marked with a †). Those in-class activities should inspire you to engage in some outside activities, including reading, outlining, thinking about, and discussing the assigned reading, creating and taking your own practice quizzes and writing exercises, and so on. We will, by the way, have some fun as well.

Texts (required):

Thomas D. Rowe, Jr., Suzanna Sherry, and Jay Tidmarsh, *Civil Procedure* (4th ed. 2016) (“RST”)

Federal Rules of Civil Procedure, 114th Cong, 2d Sess. (Dec. 1, 2016) (Committee on the Judiciary, House of Representatives) (“FRCP”)

Get (buy, rent, or whatever) RST. You will need it for every class session. Same for FRCP, but it is available for free at www.rossdavies.org.

Texts (recommended):

Bryan A. Garner, *Black's Law Dictionary* (10th ed. 2014) (“Black's”) (available as a big book and a much more portable app)

Assignments and class schedule:

Numbers to the right of a date indicate the RST reading assignment for that date. When RST cites one of the Federal Rules of Civil Procedure (“Rules”) or tells you to read all or part of one of the Rules, that is part of the assigned reading and you should read it in FRCP. Assignments are subject to change based on the pace of the course and the whim of the instructor.

Jan. 16:	1-24	Feb. 6:	review	*Feb. 27:	256-273	†Mar. 22:	407-433	*Apr. 12:	553-571
*Jan. 18:	25-39	*Feb. 8:	113-145	*Mar. 1:	274-290	*Mar. 27:	434-453	Apr. 17:	571-592
*Jan. 23:	39-64	*Feb. 13:	146-165	*Mar. 6:	291-308	*Mar. 29:	453-475	†Apr. 19:	593-604
*Jan. 25:	64-84	*Feb. 15:	165-177	*Mar. 8:	320-336	Apr. 3:	475-498	*Apr. 24:	628-641
*Jan. 30:	84-96	*Feb. 20:	188-205	spring break		†Apr. 5:	498-526	Apr. 26:	make-up
*Feb. 1:	96-112	*Feb. 22:	236-256	Mar. 20:	336-355	*Apr. 10:	527-553		no final exam

You might ask: Why are we skipping chapters 6, 8, and 12 of RST (and parts of other chapters)? The instructor might answer: Because, while those chapters cover important topics, there is a limit to how much students can reasonably be expected to soak up in just one semester, and adding one or more of those chapters would take this particular course over that limit. Besides, if this course goes as planned, you will be good enough at civil procedure by late April that you will be able to figure out joinder and class actions — and many other procedural matters — by yourself.

For each class session:

- Read, take notes, and think about the assigned material before class, and be prepared to listen and speak. Stay an assignment or two ahead of schedule, just in case.
- Look up words you do not know before class. Use a good dictionary or two. Important, interesting, or odd words are good quiz candidates.
- You may use silent electronics in class. But bear in mind three things: (1) there is some evidence that pointing (or at least turning) your face toward a speaker improves your ability to hear, understand, and remember what the speaker says (also, the instructor believes this to be true, believes that even if it isn't true it is still polite, believes that politeness is part of good lawyering, and knows beyond the faintest shadow of a doubt that behaving as though you are trying to listen and be polite is a big factor in the calculation of participation bumps and drops in grading for this course), (2) there is some evidence that taking notes using a pen, pencil, or other stylus is better than using a keyboard, at least if you want to understand and retain what you are taking notes about (which, if it is true, might come in handy for quizzes and in-class exercises and the like), and, finally, ironically, and amusingly, (3) there is some evidence of an inverse relationship between a person's belief that they can multitask and their ability to multitask.
- Note and follow in-class instruction. If you miss a class (or miss something said in a class you do attend) you must get notes from a classmate. Make arrangements in advance as a precaution against unanticipated absences (and missed somethings). There is a strong tradition in law of sharing notes with colleagues in need. Be a part of it.

Grades: Your grade will be based on closed-book quizzes, in-class writing assignments, and participation. Each quiz counts for 5 points on a 100-point grade scale. A quiz consisting of a few (6 or 8 or 10 or so) questions about the assigned reading (and sometimes also the discussion in the previous class session) will be given at the start of most classes. They will be challenging but quite manageable for anyone who has done the reading carefully, listened in class attentively, and thought about the material seriously, but not for someone who has not. Each writing assignment counts for 10 points on a 100-point grade scale. During the second half of the semester, you will write three short papers in class. You will have a chance to do some preparation, because you will receive some (but not all) of the details of each assignment a few days before the in-class exercise. Now, if you do the math based on the “Assignments and class schedule” above you will see that the quizzes (19 of them) and writing assignments (3 of them) add up to 125 points on a 100-point scale, and you might wonder about the instructor's math skills. Don't worry: The extra 25 points don't count, in a good way. Your final grade for the course will not include your lowest scores on 25 points of quizzes and writing assignments. So, for example, if your lowest scores are on 5 quizzes, those won't count (5 quizzes x 5 points = 25 points), or if your lowest scores are on 3 quizzes and a writing assignment, those won't count ((3 quizzes x 5 points) + (1 writing assignment x 10 points) = 25 points), and so on. There will be no make-ups on quizzes and writing assignments: If you miss or arrive too late for a class in which a quiz or writing assignment is administered, you will miss that quiz or writing assignment and get a score of zero on it. Being absent or late will be costly for another reason: Final grades for the course may be based on participation as well as quizzes and writing assignments, and someone who is not in the classroom will find it hard to participate. Participation bumps and drops. After a student's grade based on quizzes and writing assignments has been calculated, the instructor may (based on, but not limited to, a student's listening, speaking, and general classroom citizenship) apply a single-increment adjustment either upward or downward (e.g., from B to B+ or from A- to B+).

Intellectual property: The instructor owns all course content, regardless of form. You may share copies of that content with classmates during the course, but other than that you must keep all of it in any format to yourself forever. Recording of class sessions: Is forbidden.

I have read and do understand the rules of this course, and I know that following those rules is an important part of class participation. I will abide by all of them. Name (print): _____ Signature (scribble): _____ Date: ___/___/___