

# CIVIL PROCEDURE I

Professor William J. Aceves  
Office 302  
515-1589  
wja@cwsl.edu

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Tue/Thu: 9:25-10:40  
Auditorium

## **Introduction**

Most courses in the first year curriculum emphasize the substantive rights of individuals. Contracts, Property, Torts – these courses address the rights and obligations of individuals in civil society. Even Constitutional Law – with its focus on the Bill of Rights – is a course about substantive rights.

In contrast, civil procedure addresses the structure and process of litigation – the mechanisms through which substantive rights are addressed by the judiciary. How are lawsuits filed? Where should a lawsuit be filed? What are the essential features of a complaint? What defenses are available to challenge the complaint? How does the discovery process function? What are the elements of a trial? What remedies may a court impose? What are the implications of a final ruling?

Civil procedure provides a framework for litigation – it presents the “rules of the game.” Although it operates within the construct of the adversarial system, its central goal is to provide for the orderly resolution of disputes between litigants. While alternative dispute resolution has become increasingly important in the United States, litigation remains an essential feature of the modern legal system. As noted by one commentator, “[c]ivil procedure is about truth and justice – about how we define those words, how we seek the goals they express, and how we sometimes lose them.”

This course will focus on civil procedure in the federal courts. It will also highlight civil procedure in California state courts.

## **Course Requirements**

Students must take the final examination, which consists of a three-hour, closed book exam. Performance on the final examination will largely determine a student’s grade for the course.

Class participation is an integral component of this course. Class participation includes the following: (1) attendance; (2) punctuality; (3) preparation; and (4) professionalism. Students are expected to attend class regularly, to be punctual, and to be fully prepared to discuss the readings. Students will be called upon throughout the semester for recitation of the readings. A maximum of three points may be added to or subtracted from a student’s final grade based upon their participation throughout the semester.

## **Office Hours**

Office hours are scheduled for Wednesday from 8:30 a.m. to 2:30 p.m. I am also available by appointment.

## **Course Materials**

### ***Required:***

These materials are required for the course. They are available at the bookstore.

1. STEPHEN C. YEAZELL, CIVIL PROCEDURE (6th ed. 2004)
2. CIVIL PROCEDURE IN CALIFORNIA: STATE AND FEDERAL 2006 EDITION (Mary Kay Kane & David I. Levine eds., 2006)
3. JOSEPH GLANNON, CIVIL PROCEDURE: EXAMPLES AND EXPLANATIONS (5th ed. 2006)
4. GERALD STERN, THE BUFFALO CREEK DISASTER (1976)

### ***Recommended:***

Students interested in supplemental materials should consider the following sources.

1. GENE SHREVE AND PETER RAVEN-HANSEN, UNDERSTANDING CIVIL PROCEDURE (3d ed. 2002)
2. JOSEPH GLANNON, THE GLANNON GUIDE TO CIVIL PROCEDURE (2003)

## COURSE OVERVIEW

### **I. AN INTRODUCTION TO CIVIL PROCEDURE**

#### *An Overview of Civil Procedure*

- THE BUFFALO CREEK DISASTER
- skim FRCP 1-15

#### *Choosing a System of Procedure: Civil Litigation and the Adversary System*

- Textbook, pp. 1-4; 12-20 (Bridges v. Diesel Service, Inc.; Bell v. Novick Transfer Co.)
- Textbook, pp. 259-265
- review 28 U.S.C. § 1291, 1292

#### *The Key Players: Judge and Jury*

- Textbook, pp. 537-542 (In re Boston's Children First)
- Textbook, pp. 611-617 (Peterson v. Wilson)

### **II. NOTICE**

#### *The Requirement of Notice*

- Textbook, pp. 145-159 (Mullane v. Central Hanover Bank & Trust Co.)
- review FRCP 4, 5, 7, 8
- skim CCP §§ 413.10 - 417.40; 425.10
- skim Glannon, pp. 301-319

### **III. PERSONAL JURISDICTION**

#### *Introduction*

- Textbook, pp. 57-60

#### *The Traditional Approach to Jurisdiction: Power*

- Textbook, pp. 61-75 (Pennoyer v. Neff)

#### *The Modern Approach to Jurisdiction: Minimum Contacts*

- Textbook, pp.76-83 (International Shoe Co. v. Washington)
- Textbook, pp. 83-87 (McGee v. International Life Insurance Co.; Hanson v. Denckla)
- skim Glannon, pp. 3-21

#### *Addressing In Rem Jurisdiction*

- Textbook, pp. 87-97 (Shaffer v. Heitner)

### *Long-Arm Statutes*

- Textbook, pp. 159-164 (Gibbons v. Brown)
- review FRCP 4(k)
- review CCP § 410.10
- skim Glannon, pp. 23-42

### *Refining Minimum Contacts: General and Specific Jurisdiction*

- Textbook, pp. 98-107 (World-Wide Volkswagen Corp. v. Woodson)
- Textbook, pp. 114-120 (Burger King Corp. v. Rudzewicz)
- Textbook, pp. 107-114 (Asahi Metal Industry Co. v. Superior Court)
- Textbook, pp. 120-125 (Pavlovich v. Superior Court)
- Textbook, pp. 125-132 (Coastal Video Communications Corp. v. The Staywell Corp.)

### *Alternative to Minimum Contacts: Personal Service Within the Jurisdiction*

- Textbook, pp. 132-140 (Burnham v. Superior Court)

### *Alternative to Minimum Contacts: Consent to be Sued*

- Textbook, pp. 140-145 (Carnival Cruise Lines, Inc. v. Shute)

### *Declining Jurisdiction*

- Textbook, pp. 169-176 (Piper Aircraft Co. v. Reyno)
- review CCP § 410.30
- Supplemental Materials: Century Indemnity Co. v. Bank of America, FSB

## **IV. SUBJECT MATTER JURISDICTION**

### *Introduction*

- Textbook, pp. 179-181
- skim CCP §§ 85, 86, 88

### *Federal Question Jurisdiction*

- Textbook, pp. 181-192 (Louisville & Nashville Railroad. v. Mottley)
- review 28 U.S.C. § 1331
- skim Glannon, pp. 59-84

### *Diversity Jurisdiction*

- Textbook, pp. 192-205 (Redner v. Sanders; Saadeh v. Farouki)
- review 28 U.S.C. § 1332, 1359
- skim Glannon, pp. 85-102

### *Supplemental Jurisdiction*

- Textbook, pp. 205-212 (Jin v. Ministry of State Security)
- review 28 U.S.C. § 1367
- skim Glannon, pp. 265-285

## **V. VENUE**

### *Venue*

- Textbook, pp. 164-169 (Dee-K Enterprises, Inc., v. Heveafil Sdn. Bhd.)
- review 28 U.S.C. §§ 1391, 1392
- skim Glannon, pp. 103-114; 131-147
- skim CCP §§ 392, 395, 395.5, 397

### *Transfer*

- Textbook, pp. 177-178
- review 28 U.S.C. §§ 1404, 1406, 1631

## **VI. REMOVAL**

### *Removal*

- Textbook, pp. 212-219 (Caterpillar, Inc. v. Lewis)
- review 28 U.S.C. §§ 1441, 1446, 1447, 1448
- review FRCP 81(c)
- skim Glannon, pp. 115-130

## **VII. CHOOSING BETWEEN STATE AND FEDERAL LAW: THE ERIE DOCTRINE**

### *Choosing Between State and Federal Law*

- Textbook, pp. 221-231 (Swift v. Tyson; Erie Railroad v. Tompkins)
- review 28 U.S.C. § 1652
- skim Glannon, pp. 165-186

### *The Limits of State Power in Federal Court*

- Textbook, pp. 231-237 (Guarantee Trust Co. v. York; Byrd v. Blue Ridge Rural Electric Cooperative, Inc.)
- Textbook, pp. 237-244 (Hanna v. Plumer)
- Textbook, pp. 244-253 (Semtek Intl. Inc. v. Lockheed Martin Corp.)
- review 28 U.S.C. § 2072
- skim Glannon, pp. 187-211

## **VIII. REMEDIES**

### *Substitutionary Remedies*

-Textbook, pp. 265-278 (State Farm Mutual Automobile Insurance Co. v. Campbell)

### *Specific Remedies*

-Textbook, pp. 278-285 (Sigma Chemical Co. v. Harris)

### *Declaratory Relief*

-Textbook, pp. 285-287

-review 28 U.S.C. § 2201, 2202; FRCP 57

### *Provisional Remedies*

-Textbook, pp. 312-327 (William Inglis & Sons Baking Co. v. ITT Continental Baking Co.; Fuentes v. Shevin)

-review FRCP 65; CCP § 527