



## COURSE SYLLABUS

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| Faculty:                        | <b>Professor James Coben</b>  |
| Course:                         | <b>Civil Procedure I (Section One)</b>  |
| Semester:                       | <b>Fall</b>   |
| Meeting Schedule:               | <b>Monday and Wednesday (9:00-9:50 a.m.)</b>  |
| Room:                           | <b>101</b>  |
| Office Hours and Communication: | <b>I will set formal office hours after week one of the semester (when I know the full schedule for the students in all of my first year courses). In the meantime, feel free to stop by whenever my door is open (I am generally on campus Monday-Wednesday 8-4:30; and Friday from 8:00-12:00). I am glad to schedule appointments whenever needed (just give me a call or email – 651-523-2137; jcoben@hamline.edu).</b> |

### ***Course Description:***

Focuses on the civil judicial process and dispute resolution. Civil Procedure I includes a study of the constitutional and legislative grants of authority to the state and federal judicial systems, including questions of personal jurisdiction, subject matter jurisdiction, notice required by due process of law, and venue.

### ***Required Course Materials:***

Casebook (hereafter “I & M”)

- Allen Ides and Christopher May, CIVIL PROCEDURE CASES AND PROBLEMS, 3RD EDITION (Aspen 2009; ISBN13: 978-0-7355-7964-4)

Statute/Rules Supplement (hereafter “rules supplement”)

- Allen Ides and Christopher May, CIVIL PROCEDURE CASES AND PROBLEMS, 2010 STATUTORY, CASE, AND MATERIALS SUPPLEMENT (ASPEN 2010; ISBN13: 978-0-7355-9058-8)

The organization of the course generally follows the I & M text. We will discuss in class approximately 1/4 of the textbook problems, though I encourage you to

consider all of them as you prepare each day's assignment (or later as part of your exam preparation). In addition, for each assignment, you should read the relevant Federal Rules of Civil Procedure and statutory material contained in the Rules supplement. Don't worry, at the end of each class, I will highlight supplemental reading (if any) to focus on for the next class!

***Recommended Texts:***

For a narrative approach offering succinct explanations and good examples, I recommend Joseph W. Glannon, *CIVIL PROCEDURE EXAMPLES AND EXPLANATIONS*, 6TH EDITION (Aspen 2008: ISBN13: 978-0-7355-7033-7). You might also enjoy Joseph W. Glannon, *GLANNON GUIDE TO CIVIL PROCEDURE: LEARNING CIVIL PROCEDURE THROUGH MULTIPLE-CHOICE QUESTIONS AND ANALYSIS*, 2ND EDITION (Aspen 2009; ISBN13: 978-0-7355-7954-5).

***Advice on Additional Study Aids:***

Before you buy study aids, you might want to check the holdings in the library, which has everything from nutshells and outlines to tapes, hornbooks, and treatises. If you are looking for a more detailed discussion of topics we cover, you might find a civil procedure treatise to be helpful (see, e.g., Wright and Kane's *LAW OF FEDERAL COURTS—Hornbook Series* 6th (West 2002) or Wright, Miller, and Cooper's *FEDERAL PRACTICE AND PROCEDURE* (West 1978-2010).

I also encourage you to try a number of the computer-aided exercises on civil procedure (jump-linked off of the course TWEN site). These exercises, prepared by the Center for Computer Assisted Legal Instruction ("CALI"), are a nice change of pace and a great way to reinforce basic course principles. To enhance your use of the exercises, you might want to consider purchasing Roger C. Park and Douglas D. McFarland, *COMPUTER-AIDED EXERCISES ON CIVIL PROCEDURE*, 5TH EDITION (Gale Cengage 2004: ISBN13: 978-0-3141-5418-7). This CALI supplement helps you prepare to master the exercises and contains an extremely concise summary of key civil procedure concepts.

Finally, interested in general first year study guides? I recommend the following (both available from Amazon):

- Tracey E. George and Suzanna Sherry, *WHAT EVERY LAW STUDENT REALLY NEEDS TO KNOW: AN INTRODUCTION TO THE STUDY OF LAW* (Aspen 2009; ISBN13: 978-0-7355-8236-1)
- Ruth Ann McKinney, *READING LIKE A LAWYER: TIME-SAVING STRATEGIES FOR READING LAW LIKE AN EXPERT* (Carolina Academic Press 2005; ISBN13: 978-1-5946-0032-6)

### ***Learning Outcomes for the Course:***

“Civil litigation is an institutional arrangement for using state power to bring a recalcitrant reality closer to our chosen ideals. We turn to the courts because we need to, not because of some quirk in our personalities. We train our students in the tougher arts so that they may help secure all that the law promises, not because we want them to become gladiators or because we take a special pleasure in combat.”

Owen Fiss, *Against Settlement*, 93 YALE LAW JOURNAL 1073, 1089  
(1984)

This course introduces you to the court procedures that apply to civil lawsuits. Civil litigation is one problem-solving option in the lawyer’s toolbox. There are many others, including negotiation, mediation, and arbitration. While we will touch on these alternatives to litigation as a method for resolving disputes, the primary course objectives are for you to:

- Learn legal method;
- Understand the development of the law of civil procedure;
- Gain familiarity and ability to work with the Federal Rules of Civil Procedure and jurisdictional and procedural statutes; and
- Refine your analytical ability to look at a problem (a rule of law, an issue, or an argument), identify the various alternative solutions, ascertain the strengths and weaknesses of each, and determine your opinion as to the best approach to resolving the problem.

Through vigorous questioning, limited lectures, and small group activity, I will help you improve your ability to:

- Ascertain the rule of law and to predict how that rule will be applied by the courts;
- Make quality legal arguments to judicial officers (as well as mediators, arbitrators, and opposing counsel);
- Effectively communicate complex legal concepts to your future clients;
- Gain comfort with the ambiguity inherent in the practice of law;
- Increase your confidence in public speaking; and
- Understand the importance of thorough preparation, professionalism, and creativity in legal advocacy

Because this course introduces you to a new language of process (which may at first seem impenetrable), we will spend considerable time on simple case analysis. What were the key facts in the case? What issue did the court address? What was the holding and the rationale of the decision? As you gain confidence in mastering

individual cases, you will begin to assimilate the broad principles of civil procedure that will allow you to analyze increasingly complex problems. Believe it or not, the puzzle of civil procedure can be fun. I will do my best to make it so!

***Course Expectations:***

I expect you to be prepared for class every day. Adequate preparation means having read, thought about, and analyzed the assigned materials to come to an understanding of the legal principles to be discussed for that day.

***HUSL Policies on attendance, lateness and preparation***

The program of instruction at the School of Law is based on an active and informed exchange between instructor and student and between student and student. Regular, prepared class attendance helps develop skills essential to the competent practice of law. A student who violates the attendance policy, including the instructor's specification of class expectation described below, may lose his or her right to take the exam in the course, to receive course credit or may receive other penalties described below and in Academic Rule 108. Persistent or frequent lateness or unpreparedness may also be the basis for reduction of the grade awarded in a course. See Academic Rule 108 for further details.

***Attendance:***

You will not benefit from class discussion unless you are present and well prepared for class. Furthermore, if you are not well prepared and are called upon to participate, the whole class will suffer. Accordingly, I ask you to prepare for class, come to class, and be willing to participate in the discussion. I will circulate an attendance sheet each day; your initial on the sheet is your representation that you have been present during the entire class period. I will consider more than four class absences to be excessive under the law school attendance policy. Absent exceptional circumstances, excessive absences will result in your removal from the class without "make-up work" alternatives.

***Computer Use:***

I encourage you to use laptop computers or other electronic devices in class to take notes and access course-related materials. However, use of electronic devices for purposes unrelated to class (such as checking email, participating in chat rooms, surfing the web, etc.) is prohibited – such use may result in not being allowed to use electronic devices in class for the balance of the semester and/or a grade reduction.

***TWEN Site:***

You must register for the TWEN site for this course by the end of the first week of class. Make sure the email address you use to register for TWEN remains valid during the semester or you will miss critical announcements and supplemental course material. Any powerpoint slides or other electronic media that I use in class

will be posted to the TWEN site for download (available AFTER the class in which the material is utilized).

### ***Grading Components:***

You will have a two-hour final examination in December. The examination will be based on the types of problems, cases, and issues we discuss in the classes. You may bring your Rules Supplement to the exam but no other materials. (NOTE: You are free to handwrite any notes you would like in your supplement; however, you are prohibited from adding additional pages or pasting in typed outlines.) Your grade in the course will be determined by your performance on the final exam. I reserve the right, however, to adjust a final examination grade ½ letter grade if your classroom participation is consistently outstanding, or consistently poor. Absences and lateness detracts from your classroom participation and will result in reducing your grade.

The best thing you can do to prepare for the final exam is to regularly write answers to textbook problems under “exam” conditions (in other words, with time limitations and using only your rules supplement). I am glad to give feedback to students who send me sample answers to textbook problems. In addition, we will have an “ungraded” practice exam in class on Wednesday, October 13, 2010.

## **Assignments**

The following is the tentative schedule of assignments for the class through the end of the semester. We may move faster or slower than these specific assignments (revisions to the syllabus, if any, will be posted to the course TWEN site). References are to page numbers in the casebook.

### **Chapter One Introduction – 2 classes**

#### **August 23**

- I & M, pp. 1-24 (The Civil Litigation Process)

#### **August 25**

- I & M, pp. 24-41 (Alternatives to Civil Litigation – *Emeronye* and *Johnson*)

### **Chapter Two Acquiring Jurisdiction Over the Parties to a Lawsuit – 12 classes**

#### **August 30**

- I & M, pp. 53-66 (Personal Jurisdiction: Territoriality – *Pennoyer*)

**September 1**

- I & M, pp. 66-77 (Traditional Bases of Jurisdiction; *In Rem* and *Quasi in Rem* jurisdiction – Harris)

**September 6**

NO CLASS-LABOR DAY HOLIDAY

**September 8**

- I & M, pp. 77-86 (Long-Arm Jurisdiction – International Shoe)

**September 13**

- I & M, pp. 86-98 (Statutory Limitations on Long-Arm Jurisdiction; Minimum Contacts: Purposeful Availment (contractual relationships) – Hanson)

**September 15**

- I & M, pp. 98-112 (Minimum Contacts: Purposeful Availment (contractual relationships) – Burger King and Chalek)

**September 20**

- I & M, pp. 112-124 (Minimum Contacts: Purposeful Availment (stream of commerce) – World-Wide Volkswagen)

**September 22**

- I & M, pp. 124-133 (Minimum Contacts: Purposeful Availment (stream of commerce) – Asahi I)

**September 27**

- I & M, pp. 133-150 (Minimum Contacts: Purposeful Availment (effects test) – Kulko, Calder (review, you read this during orientation!!) and Revell)

**September 29**

- I & M, pp. 150-166 (Minimum Contacts: Relatedness (general jurisdiction) – Perkins and Helicopteros)

**October 4**

- I & M, pp. 167-183 (Minimum Contacts: Relatedness (specific jurisdiction) – Nowak I; Reasonableness Requirement – Asahi II and Nowak II)

**October 6**

- I & M, pp. 183-205 (Minimum Contacts and the Traditional Bases for Jurisdiction (*in rem/quasi in rem* jurisdiction) – Shaffer; (physical presence) – Burnham)

**October 11**

- I & M, pp. 212-218 (Challenging Lack of Jurisdiction and personal jurisdiction review)

**Mid-Term Practice Exam****October 13**

In-class, ungraded practice exam (personal jurisdiction)

**Chapter Three**  
**Service of Process and Notice – 4 classes****October 18**

- I & M, pp. 221-234 (FRCP 4 and Mechanics of Service – *American Institute*); practice exam debrief (with additional optional review session to be scheduled)

**October 20**

- I & M, pp. 235-254 (Due Process Right to Notice – *Mullane* and *Mennonite*)

**October 25**

- I & M, pp. 255-269 (Pre-filing waiver and consent – *Underwood*; Policy-based Immunities and Exemptions – *Fun-Damental* and *May Department Stores*)

**October 27**

- I & M, pp. 269-283 (Notice and Hearing When Property is Attached – *Doehr*)

**Chapter Four**  
**Subject Matter Jurisdiction - 7 classes****November 1**

- I & M, pp. 287-308 (General Principles of Subject Matter Jurisdiction; Federal Question Jurisdiction; “Essential Federal Ingredient Test” – *Grable & Sons*)

**November 3**

- I & M, pp. 308-324 (“Well-pleaded” Complaint Rule – *Mottley*; Diversity Jurisdiction: Citizenship (individuals) – *Lundquist*)

**November 8**

- I & M, pp. 324-334; 342-345 (Diversity Jurisdiction: Citizenship (corporations) – *Tubbs* and *Hertz* (on TWEN); Cases Involving Aliens – *Eze*)

**November 10**

- I & M, pp. 345-359 (Diversity Jurisdiction: Amount in Controversy – *Coventry*; Aggregation of claims and Declaratory Judgments)

**November 15**

- I & M, pp. 360-375 (Supplemental Jurisdiction – *Gibbs* and *Owen*)

**November 17**

- I & M, pp. 375-387 (Supplemental Jurisdiction – 28 USC § 1367; Removal Jurisdiction – *McCurtain*)

**November 22**

- I & M, pp. 387-400 (Removal Jurisdiction – *Eastus*; Challenges to a Court’s Subject Matter Jurisdiction)

**November 24**

NO CLASS-THANKSGIVING

**Chapter Five**

**Venue, Transfer, and Forum Non Conveniens - 2 classes**

**November 29**

- I & M, pp. 403-426 (Venue Overview; 28 USC § 1391 – *Bramlet*; Transfer of Venue in Federal Court – *Smith*)

**December 1**

- I & M, pp. 433-442 (Forum Non Conveniens – *Piper Aircraft*)

An optional, final exam review session will be set at a mutually convenient time.