

HAMLIN UNIVERSITY SCHOOL OF LAW

Syllabus for Civil Procedure II Spring, 2011

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Class Meetings and Office Hours

The class meets on Mondays, Wednesdays, and Fridays from 11:00 to 11:50 in classroom 103. My other class meets Mondays, Wednesdays, and Fridays from 8:00 to 8:50. You will find me in my office (227W) before and after these classes. You are less likely to find me on campus on Tuesdays or Thursdays, but I will often be in the office on those days also. I do not post regular office hours, but am available to students any time I am here (shortly before a class may not be a prime time).

Required Text and Supplemental Materials

We continue from the fall semester. The casebook is Jack H. Friedenthal, Arthur R. Miller, John E. Sexton & Helen Hershkoff, *Civil Procedure: Cases and Materials* (10th ed. 2009) [FMSH] plus the 2010 supplement, which includes the Federal Rules of Civil Procedure and selected sections of the United States Code. The required enriching text is Roger C. Park & Douglas D. McFarland, *Computer-Aided Exercises on Civil Procedure* (5th ed. 2004) [PM], with accompanying exercises from the Center for Computer-Assisted Legal Instruction [CALI], which are available on the CALI website [www.cali.org]. Lessons on the CALI site are not discussed in class, but I strongly recommend working through them in pairs or small groups. Students have always found them helpful. You will note I have written several of them. The best time to work through a CALI lesson is at the end of the material it covers.

A website for this class is on The West Education Network [TWEN]. The syllabus, additional course materials, sample examinations, and a list of CALI exercises are posted on the TWEN site. Students should register on TWEN as soon as possible and check the site periodically for announcements and other materials.

Additional supplemental readings are not required, although additional readings will assist understanding of the law of civil procedure. Students seeking additional readings can choose from many hornbooks, supplemental materials, and study aids. Multi-volume treatises are available in the library. Of these, I recommend Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure*, and Douglas D. McFarland & William J. Keppel, *Minnesota Civil Practice* (4th ed. 2008). Good single-volume hornbooks are Jack H. Friedenthal, Mary Kay Kane & Arthur R. Miller, *Civil Procedure* (4th ed. 2005), and Charles Alan Wright & Mary Kay Kane, *Law of Federal Courts* (6th ed. 2002).

Course Description and Objectives

Civil procedure II is the second half of a year-long course studying the civil judicial process. As described in the school of law catalog, civil procedure II “[s]tudies additional aspects of the civil lawsuit, including pleadings, motions, discovery, trial, post-trial motions, appeals, and finality of judgments.” One way of thinking of this is civil procedure I is the jurisdiction semester and civil procedure II is the rules semester; we proceed through a civil litigation chronologically.

The objectives of this course remain the same as the fall semester:

- 1) learning legal method, including the skill of briefing cases;
- 2) understanding common law and statutory development of the law of civil procedure;
- 3) familiarity and ability to work with the Federal Rules of Civil Procedure;
- 4) developing the ability to make and evaluate legal arguments;
- 5) learning to separate the relevant from the irrelevant;
- 6) a nodding acquaintance with other procedural systems; and
- 7) reading and application of jurisdictional and procedural statutes.

Classroom discussion will primarily be the Socratic method based on the case method of legal instruction. We will also analyze and discuss hypotheticals and problems, occasionally in groups. Students will be asked to demonstrate the ability to read rules and statutes precisely.

Attendance Policy

Attendance will be recorded by circulation of the attendance sheet provided by the registrar’s office. Attendance is expected at every class. Excessive absences (defined as six absences) will result in removal of the student from the class roster; no make-up work will be offered.

Examination and grading

The grade will be based entirely on the final examination, which in all likelihood will be a three-hour examination combining both traditional fact-pattern analysis questions and multiple-choice questions.

Assignments and Class Outline

Assignments are in FMSH and PM. For each class, prepare ahead approximately 15-20 pages, depending on the length of the cases included and nature of the materials, e.g., three cases with notes in 15 pages is enough but one-and-one-half cases in 15 pages is not. The number of classes indicated for each chapter is an estimate only; we have 42 classes in total. When the materials deal with one or more of the Federal Rules of Civil Procedure [FRCP] or a jurisdictional statute, you must in addition study the applicable rule(s) or statute(s).

Chapter 7. *The Development of Modern Procedure* (1 class)

FMSH 505-508; PM 87-90; FMSH 532-536, 541-545, 552-553

Chapter 8. *Modern Pleading* (6 classes)

Note the 2010 supplement has sample pleadings and other litigation documents

FMSH 554-584; PM 96-99; FMSH 584-602
[on your own] PM 102-116; CALI CIV 01
FMSH 611-635; PM 99-102; FMSH 640-651
[on your own] PM Exercise Five; CALI CIV 09

Chapter 9. *Joinder of Claims and Parties; Expanding the Scope of the Civil Action* (5 classes)
PM 143-149; FMSH 652-685, 704-712, 722-727, 733-740
[on your own] PM Exercise Six at appropriate points in the chapter

Chapter 10. *Class Actions*
OMIT

Chapter 11. *Pretrial Devices for Obtaining Information: Depositions and Discovery* (4 classes)
FMSH 826-859, 872-878, 888-889, 896-926
[on your own] PM Exercise Seven; play the CALI CIV 20 discovery game

Chapter 12. *Case Management*
OMIT

Chapter 13. *Adjudication Without Trial or by Special Proceeding* (3 classes)
FMSH 958-996
[on your own] PM Exercise Eight; CALI CIV 13

Chapter 14. *Trial* (11 classes)
FMSH 997-1000, 1026-1036, 1042-1061, 1069-1102, 1108-1159
[on your own] PM Exercise Nine; CALI CIV 04

Chapter 6. *Ascertaining the Applicable Law [Erie R.R.]* (4 classes, including video)
FMSH 404-440, 468-475
Note this chapter is a floater; we may cover it at a different point in the semester.

Chapter 15. *Securing and Enforcing Judgments*
OMIT

Chapter 18. *Alternative Dispute Resolution*
OMIT

Chapter 17. *The Binding Effect of Prior Decisions; Res Judicata and Collateral Estoppel* (6 classes)
FMSH 1249-1275, 1279-1284, 1299-1332
[on your own] PM Exercise Seven; CALI CIV 17

Chapter 16. *Appellate Review* (2 classes, including video)
FMSH 1187-1193, 1224-1230, 1241-1248