

HAMLIN UNIVERSITY SCHOOL OF LAW

Syllabus for Civil Procedure II Spring, 2009

Professor Douglas McFarland

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Class Meetings and Office Hours

The class meets on Mondays and Thursdays from 8:00 to 9:15. My other class meets Wednesdays from 9:00 to 10:50. Office hours are Mondays and Thursdays from 9:15 to 12:00, and Wednesdays from 11:00 to 12:30. I am available almost any time I am at the school; these times are likely to be much of the day Mondays, Wednesdays, and Thursdays. I may or may not be in the office on Tuesdays and Fridays. Anytime I am here, I am generally available.

Required Text and Supplemental Materials

The required casebook is Allan Ides & Christopher N. May, *Civil Procedure: Cases and Problems* (2d ed. 2006) [I & M]. The required enriching text is Roger C. Park & Douglas D. McFarland, *Computer-Aided Exercises on Civil Procedure* (5th ed. 2004) [P & M] with accompanying exercises from the Center for Computer-Assisted Legal Instruction [CALI], which are available on the CALI website [www.cali.org]. You are also required to have a current copy of the Federal Rules of Civil Procedure.

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*.

A website for this class can be found on The West Education Network [TWEN]. The syllabus, additional course materials, sample examinations, and computer-assisted lessons from the Center for Computer-Assisted Legal Instruction [CALI] will be posted on the TWEN site. Students should register on TWEN as soon as possible and check the site periodically for announcements and other materials.

Course Description and Objectives

This course provides a continued survey of the law and policy of the civil litigation process, particularly initiating and responding to lawsuits and preparing for trial. Specific topics include pleading, discovery, joinder of claims and parties, summary judgment, trial, appeal, and claim and issue preclusion.

The objectives of this course are the following:

- 1) learning legal method;
- 2) understanding the development of the law of civil procedure;
- 3) familiarity and ability to work with the Federal Rules of Civil Procedure;
- 4) a nodding acquaintance with other procedural systems; and
- 5) 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, sometimes in groups. Students will be asked to demonstrate the ability to read statutes.

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 four absences in a semester) will result in removal of the student from the class roster; no make-up work will be offered.

Examinations 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 Ides & May [I & M] and Park & McFarland [P & M]. For each class, prepare ahead 25-30 pages, depending on the nature of the materials. When the materials deal with one or more of the Federal Rules of Civil Procedure [FRCP], you must in addition study the applicable rule(s) (and preferably also the advisory committee comments). You will need to bring the FRCP rulebook to class nearly every day this semester. The number of classes for each chapter are only estimates.

Chapter VII. D. Pleadings and Discovery [Pleadings] (partial) [2 classes]

Handout cases [*Schiavone*, *Zielinski*]

I & M 571-585

Chapter VII. E. Discovery [2 classes]

I & M 585-603, 609-616, 603-609, 616-652

P & M Exercise Six at appropriate points in chapter, and CALI CIV 08, 12, or 15
[note these are games to be played with another student(s)]

Chapter VIII. Joinder of Claims and Parties [6 classes]

I & M 653-668, 674-690, 703-736, 742-746, 748-758

[note CALI has joinder lessons]

Chapter IX. Class Actions [1 class]
I & M 783-805, 840-866

Chapter X. Adjudication Without Trial [3 classes]
I & M 867-893, 903-921
P & M Exercise Seven and CALI CIV 13 (on your own)
I & M 921-935

Chapter VI. The *Erie* Doctrine and Related Problems [3 classes, including video]
[note: this chapter is a floater, and may be moved to another place]
I & M 441-455, 492-498, 472-480, 498-501, 480-486, 501-505, 486-492, 525-527

Chapter XI. Trial [4+ classes]
I & M 937-942, 948-958, 966-969
Handout [or TWEN] Materials on Jury Trial and Trial to the Court
P & M Exercise Nine (243-257) (on your own)
I & M 969-1014

Chapter XIII. The Binding Effect of a Final Judgment [4+ classes]
I & M 1097-1109, 1115-1143, 1157-1184
P & M Exercise Eleven and CALI CIV 17 (on your own)

Chapter XII. Appellate Review [2 classes, including video]
I & M 1015-1016, 1054-1057
28 U.S.C. §§ 1292, 1651; Fed. R. Civ. P. 54(b); skim Fed. R. App. P.
I & M 1074-1077, 1093-1095