**LAW 5301 (4 credits)**

**CIVIL PROCEDURE**

**Professor Lear**

**Spring 2018**

**Course Information**

1. **Required Texts**: Friedenthal, Miller, Sexton and Hershkoff, *Civil Procedure* (11th Ed., West Publishing) and the 2017-18 Supplement thereto; Glannon, *Examples and Explanations, Civil Procedure* (7th Ed., Aspen Publishers).

2. **Office Hours**: Tuesday 2-4 or by appointment.

3. **Class Participation**: I expect you to be well-prepared each day. If you are not, please tell me at the beginning of the class and I will call on you on the following day. If I call on you and you’re not prepared (and you haven’t told me in advance), I’ll be really mad – and I’ll take points off your final grade.

4. **Exam**: The exam will be on Examsoft in class.

5. **Attendance**: After six absences you will be dropped from the class.

6. **Laptop Policy**: Laptops and other electronic devices may not be used in this class. You will need your laptop to take the exam, however.

7. My office number is 312A. My email is [lear@law.ufl.edu](mailto:lear@law.ufl.edu). If you email me, please make sure you have “law” in the address, otherwise you will contact my brother in Mechanical Engineering.

8. **Student learning outcomes**:

By the end of this course, students should be able to:

1. Demonstrate an understanding of and the ability to apply the Federal Rules of Civil Procedure and other federal statutes that govern the process of litigation of civil lawsuits in federal court;

2. Demonstrate an understanding of and the ability to apply constitutional concepts of personal jurisdiction, subject matter jurisdiction and the Erie Doctrine to factual problems involving litigation in federal and state courts;

3. Demonstrate an understanding of the structure of the federal courts and the relationship of the federal and state courts in the federal court system.

9. **Grading**:

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

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| --- | --- |
| Letter Grade | Point Equivalent |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0 |

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

10. **Workload**: ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Civil Procedure has 4 “classroom hours” of in-class instruction each week, requiring at least 8 hours of preparation outside of class. Because the course includes statutory and regulatory excerpts that require careful reading, as well as discussion problems that require thoughtful advance written preparation, you should spend at least one hour on every 10-15 pages of reading.

11. **Accommodations**: Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the Dean Rachel Inman when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

12. **Academic misconduct**: Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

**Syllabus**

The assignments are from Friedenthal, Miller, Sexton and Hershkoff, Civil Procedure (11th Ed., West Publishing) and the 2017-2018 Supplement thereto. Make sure that you check the Supplement each day and read any and all Rules, statutes and/or case materials that may be relevant to the pages assigned in the casebook. Each assignment represents the reading for one class hour.

A. Selecting the Proper Court

1. Personal Jurisdiction – Pennoyer v. Neff, pp. 75-89

2. Personal Jurisdiction – International Shoe, pp. 89-96

3. Personal Jurisdiction – Long Arm Statutes, pp. 96-108 (Bring Supplement!)

4. Personal Jurisdiction – Worldwide VW, pp. 109-124

5. Personal Jurisdiction – Asahi, pp. 124-132

6. Personal Jurisdiction – McIntyre, pp. 133-150

7. General Jurisdiction – pp. 150-158, Supp. 356-364

8. Tag Jurisdiction – pp. 180-191

B. Subject Matter Jurisdiction

1. Diversity Jurisdiction, pp. 266-282; 28 U.S.C. §1332 (Supp.)

2. Pp. 282-291

3. Federal question Jurisdiction, pp. 291-306; 28 U.S.C. §1331 (Supp.)

4. Pp. 306-318.

5. Supplemental Jurisdiction, pp. 318-330; 28 U.S.C 1367 (in Supp.).

6. Same, pp. 339-345 (and statute in Supp.); Removal, pp. 345-352 (and statutes in Supp.).

7. Venue and Transfer, pp. 368-382 (and statutes in Supp.).

C. Ascertaining the Applicable Law

1. Swift, Erie, pp. 397-409; 28 U.S.C. §1652 (Supp.).
2. Hanna, pp. 423-433; 28 U.S.C. §2072 (Supp.).
3. Pp. 433-446, 469-470.

D. Pleading

1. Pp. 559-568; Rules 8(a) and 12(b).
2. Pp. 579-591 (Read Iqbal complaint in Supp.).
3. Read Rule 12 thoroughly, Rule 12 Hypos on TWEN.
4. Answering the Complaint, Amendments, pp. 618-632, Rules 8 and 15.
5. Amendments cont., pp. 633-639, Rule 15(c); Deterring Frivolous Pleadings, pp. 648-657, Rule 11.

E. Joinder of Claims and Parties

1. Pp. 661-674, Rules 18(a) and 13(a)-(f).

2. Pp. 674-680, Rule 13(g) & (h)

3. Pp. 686-695, Rules 19-20

1. Pp. 706-713; Rule 14

F. Summary Judgment – Handout; TBA

G. Claim and Issue Preclusion – TBA

H. Discovery – Lecture on Discovery Techniques; Skim Rules 26-37