

**CIVIL PROCEDURE**  
**Law 5301-19495**  
**UF Levin College of Law**  
**Fall 2021**  
**Syllabus – PART I**

**Professor Stephanie Bornstein** [she/her]

Holland Hall, Office 310

bornstein@law.ufl.edu

(352) 273-0957

Office Hours: Wed., 5:00-7:00pm & by appointment at other times (email me to arrange)

Class Meetings: Tues., Wed., Thurs., 1:15-2:30pm, Room HH 285C

**OVERVIEW**

This course covers the basic constitutional and statutory law, rules, and practices that govern federal civil litigation—that is, bringing a civil (as opposed to criminal) lawsuit in federal (as opposed to state) court. While the rest of your first year courses cover a particular substantive area of law (e.g., Torts, Property, Contracts), Civil Procedure is the study of why and how to bring a civil lawsuit in federal court, regardless of the substance involved (e.g., whether the case is over an accidental tort, a property dispute, or a breach of contract).

We begin with a four-class overview of the choices and processes involved in filing and pursuing a federal civil lawsuit. We then dig in and work our way through each major topic in roughly chronological order of the stages of litigation. Among the topics we will cover are: who can bring a lawsuit against whom (the constitutional framework for U.S. courts, preclusion, joinder); in what court, both in terms of geographic location (personal jurisdiction) and in terms of the topic of the lawsuit (subject matter jurisdiction); and using what steps in the litigation process (pleading, discovery, dispositions).

The course covers doctrine, but also strategic, practical, and policy considerations. Some of Civil Procedure involves learning and applying clear rules. Much of it, however, involves strategic thinking and persuasive argument in how the rules are interpreted and applied to particular cases, as well as policy choices about procedural doctrine that have implications on individuals' access to justice.

**Course Objectives & Student Learning Outcomes**

After completing this course, students should be able to:

1. Describe the constitutional and statutory foundations of the federal court system and their application to jurisdiction and venue in federal civil lawsuits;
2. Demonstrate an understanding of the procedural rules and statutes that govern the process of litigation of civil lawsuits in federal court;
3. Explain an attorney's ethical obligations when making representations to the court during federal civil litigation;
4. Apply strategic and practical considerations throughout the process of filing and litigating a federal civil lawsuit; and
5. Explain how procedural policy choices have implications for individuals' access to federal courts.

## **Required Course Materials & Workload**

Students are required to login to the course Canvas site and are responsible for downloading course-related materials posted there when listed in an assignment or announced in class.

The required materials for this course are the casebook, Stephen C. Yeazell & Joanna C. Schwartz, *Civil Procedure* (10th ed., 2019) (referred to as “CB” in assignments below), and its 2019 rules supplement, Stephen C. Yeazell & Joanna C. Schwartz, *2019 Federal Rules of Civil Procedure with Selected Statutes, Cases, and Other Materials* (2019) (“Supp” below). The supplement includes the Federal Rules of Civil Procedure (“FRCP” below), related federal statutes (U.S. Code or “U.S.C.” below), the U.S. Constitution (“U.S. Const.” below), and a few recent case decisions.

For certain classes, I may assign additional short readings to complement or update the casebook (“Class Handout” below). All Class Handouts will be available on the course Canvas site, posted by Friday of the week preceding the relevant class.

You are expected to read and be prepared to discuss all of the assigned reading each class, including all of the “Notes” assigned. Doctrinal information and questions we will discuss in class often appear in the “Notes” section of the casebook.

In accordance with Standard 310 of the American Bar Association’s (ABA) standards for law schools, students are expected to devote 2 hours of out-of-class preparation for every 1 credit hour of in-class instruction. Because this course has 4 credit hours of in-class instruction weekly, you should expect to spend at least 8 hours outside of class reading, preparing, and reviewing the material for our class meetings each week.

## **Grades & Class Participation**

Regular attendance, preparation, and active participation in classroom discussion are required. Your course in the grade will be based on a final exam and class participation.

Participation will be factored into your grade, with excellent participation raising your final course grade by one-third of a letter grade where possible (e.g., from an A- to an A or a B to a B+). Excellent participation means offering a few thoughtful comments or questions in more than half of all classes, listening to and engaging with points raised by other students, and exercising judgment to foster others’ participation, too. Because the course must adhere to a mandatory mean grade, participation may also be used to differentiate among the course grades of students with equal final exam grades.

The final exam will be timed, during the regular exam period. More information on the exam will be provided in class.

## **Attendance & Punctuality**

Attendance is required and an essential part of the course. All students must follow the attendance tracking procedures, which will be explained in class, and are responsible for making sure they have properly recorded their attendance.

In accordance with ABA guidelines on acceptable rates of classroom absences, you are generally allowed 8 absences from class total, for any reason (including for illness or medical appointments other than those related to COVID-19, job interviews, school activities, work tasks, and the like). For ease of administration and to respect your privacy, I do not make any differentiation between “excused” or “unexcused” absences, except for in two circumstances listed below. This means that there is no need to tell me why you will be or were absent from class, so long as you have 8 or fewer absences total.

The two exceptions to this policy are (1) absences for observance of a University-recognized religious holiday and (2) absences due to COVID-19, both of which do not count toward your 8 total absences; please do notify me in advance of such absences. In addition, please notify me should you have a family or medical situation or an emergency that will require missing more than 8 classes, and we will discuss how to accommodate your situation.

More than 8 absences may negatively affect your final course grade. Students who miss more than 30% of scheduled classes may be prohibited from sitting for the final examination and unable to pass the course.

As a matter of professionalism, you are expected to be on time for class—meaning seated and ready to begin when class starts. Arriving late is disruptive not only to me, but to your fellow students. After 2 late arrivals, each additional late arrival will be counted as a class absence.

### **COVID-19 Information**

If you are experiencing COVID-19 symptoms (see <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please leave campus immediately. Please use the UF Health screening system and follow the instructions about when you may return to campus (see <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if>). Any related absences will be accommodated (see “Attendance” above).

### **Use of Laptops**

Students are permitted to use laptops to take notes in class, however any other use of laptops during class is prohibited. Impermissible uses include, but are not limited to, using email or instant messaging programs, visiting social media sites, or any use of the Web, even if you believe it pertains to class. Misuse of laptops during class may result in you losing the privilege of using a laptop in the classroom and may negatively affect the class participation portion of your grade.

Students are strongly encouraged to listen, participate in the discussion, process the material, and take notes accordingly, rather than to try to transcribe everything that is said in class.

### **Office Hours**

Office hours are “drop in” with no appointment needed on Wednesdays from 5:00pm-7:00pm (so as not to conflict with your other classes) and by appointment. If you are unable to meet during these hours, please do not hesitate to email me to set up an appointment. I am happy to meet as needed at other times. My office is HOL 310, on the third floor of Holland Hall.

### **Syllabus & Class Assignments**

The syllabus will be distributed in two parts to allow for flexibility in our course pace. The first part contains reading assignments for weeks 1-5 of class, followed by a list of topics that will be covered in the remainder of the course. The second part of the syllabus with assignments for weeks 6-13 will be posted on the class Canvas site and distributed in class during week 5. In addition, reading assignments may be subject to change.

Please keep up with the reading as assigned; if we do not get through everything in a given class, we will pick up where we left off the next day, with the goal of completing each

week's material by the end of the week. You are responsible for both reviewing anything we did not get to in the prior class and completing the material as listed on the syllabus for each class.

Please also note three scheduling changes: Class on Tuesday, November 23 is cancelled. In lieu of this class meeting, two classes will be extended by 35 minutes: on Thursday, October 7 and Thursday, November 18, class will run from 1:15pm to 3:05pm.

### **Other General Information**

#### Policy related to make-up exams or other work

The law school policy on delay in taking exams is available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#12>.

#### Statement related to accommodations for students with disabilities

Students requesting accommodation for disabilities must first register with the UF Disability Resources Center, <https://drc.dso.ufl.edu/>. Once registered, students will receive an accommodation letter, which the student must then present to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting an accommodation. Students with disabilities should follow this procedure as early as possible in the semester to ensure that you can be accommodated promptly.

#### Information on UF Law grading policies

The law school grading policy is available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>. Students receive grade points according to the following scale:

<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.00	B-	2.67	D+	1.33
A-	3.67	C+	2.33	D (Poor)	1.00
B+	3.33	C (Satisfactory)	2.00	D-	0.67
B (Good)	3.00	C-	1.67	E (Failure)	0.00

#### Student course evaluations

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email you receive from GatorEvals in your Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

#### Compliance with UF Honor Code

Academic honesty and integrity are fundamental values of the UF Law School community. Students are expected to understand and comply with the UF Student Honor Code, available at <https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>, and the Law School's application of it, information available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

### Health and Wellness Resources

- U Matter, We Care: If you or someone you know is in distress, please contact [umatter@ufl.edu](mailto:umatter@ufl.edu), 352-392-1575, or visit <https://umatter.ufl.edu> to refer or report a concern and a team member will reach out to the student in distress.
- Counseling and Wellness Center: For information on crisis and non-crisis services, please call 352-392-1575 or visit <https://counseling.ufl.edu>.
- Student Health Care Center: For information to help you find medical care, please call 352-392-1161 or visit <https://shcc.ufl.edu>.
- Office of Victim Services: A victim advocate is available 24 hours a day, 7 days a week to provide support for victims of actual or threatened violence. All services are free and confidential. Please call 352-392-5648 or visit <https://police.ufl.edu/about/divisions/office-of-victim-services>.
- Office for Accessibility and Gender Equity (Title IX): For issues related to sexual misconduct or gender-based harassment, visit <https://titleix.ufl.edu> for resources and additional contact information.

## SCHEDULE OF CLASS TOPICS AND ASSIGNMENTS

CLASS	DATE	TOPIC	ASSIGNMENT
1	T 8/24/21	<u>Overview of a Civil Lawsuit</u> Overview of Jurisdiction, Venue, and Service of Process	CB 1-13 (up to C.) Supp: U.S. Const. Art. III §§ 1-2; 28 U.S.C. §§ 1331, 1332(a)-(c), 2072
2	W 8/25/21	Overview of Pleading	CB 13(C.)-27 (up to D.) Supp: Skim FRCP 7; 8; 11; 12(a)(1)&(4), (b); 13(a)-(c); 15(a)
3	Th 8/26/21	Overview of Discovery, Summary Judgment, and Trial	CB 31(E.)-32; 37(F.)-47 (up to H.) Supp: Skim FRCP 56(a); 50(a), (b)
4	T 8/31/21	Overview of Former Adjudication and Appeals	CB 47(H.)-59 Supp: 28 U.S.C. § 1291
5	W 9/1/21	<u>Personal Jurisdiction:</u> <u>In what court, geographically, can I file a lawsuit?</u>	CB 61-76 (through n.6.b.) Supp: U.S. Const. Art. IV § 1 & Amend. XIV § 1
6	Th 9/2/21	Personal Jurisdiction; Long-Arm Statutes	CB 77(B.)-88 (up to 2.); 177(E.)-181 (up to 2.) Supp: FRCP 4(k)(1)(a) Class Handout: Fla. Stat. § 48.193 [link on Canvas]
7	T 9/7/21	Personal Jurisdiction	CB 88(2.)-107 (through n.2)
8	W 9/8/21	Personal Jurisdiction	CB 107(“Procedure as Strategy”)-121 (through n.5.b.)
9	Th 9/9/21	Personal Jurisdiction	CB 121( <i>Abdouch</i> )-133 (through n.3)
10	T 9/14/21	Personal Jurisdiction	CB 133( <i>Daimler</i> )-148 (through n.5)
11	W 9/15/21	Personal Jurisdiction	Class Handout: <i>Ford Motor Co.</i> materials [link on Canvas] CB 148(n.6)-155 (through n.4)
12	Th 9/16/21	Personal Jurisdiction; Notice and Service of Process	CB 158(C.)-172 (up to 2.)
13	T 9/21/21	Personal Jurisdiction: Notice and Service of Process (cont’d); Venue	CB 172(2.)-177 (up to E.); 181(2.)-186 Supp: FRCP 4(a)-(d), (l), (m), Sample Notice & Waiver [after text of Rule 4]; 12(a)(1)(A); 28 U.S.C. §§ 1391, 1406
14	W 9/22/21	Personal Jurisdiction: Transfer and Forum Non Conveniens	CB 187(3.)-199 Supp: 28 U.S.C. § 1404
15	Th 9/23/21	Review of Personal Jurisdiction	Class Handout: Read, issue spot, and outline an answer for “Review Problem 1,” which we will go over in class [link on Canvas].

Weeks 6-13	9/28/21- 11/23/21	Topics to be Covered: Subject Matter Jurisdiction; Erie Doctrine; Pleading; Discovery; Dispositions; Preclusion; Joinder
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