**Civil Procedure**

Fall 2021 (Section 1)

University of Florida Levin College of Law

Syllabus

Law 5301 Professor Andrew Hammond

Mon/Wed/Fri 10:45 am to 12 pm Holland Hall 312K/(352) 273-0961

Holland Hall 285B hammond@law.ufl.edu

Office Hours: Mon 2:30 – 3:30 pm

& Fri 12:15 pm – 1:15 pm

**Overview**

This course covers the constitutional framework, statutory law, and court rules and practices that govern federal civil litigation in the United States. Unlike your other first year courses, which 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 involves a tortious act, a property dispute, or a breach of contract).

We begin with a three-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 what steps define the litigation process (pleadings, discovery, dispositions, and appeals).

The course covers not only doctrine, but also strategic, practical, and policy considerations. Some of Civil Procedure involves learning and applying clear rules. Much of it, however, involves strategy and argument in how the rules are interpreted and applied to particular cases, as well as policy choices about that have implications on how our society resolves disputes and promises fair treatment.

**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 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 shape individuals’ access to federal courts.

**Required Course Materials & Workload**

The required materials for this course are the casebook, Stephen C. Yeazell & Joanna C. Schwartz, *Civil Procedure* (10th ed., 2018) (referred to as “CB” in assignments below), and its rules supplement, Stephen C. Yeazell & Joanna C. Schwartz, *Federal Rules of Civil Procedure with Selected Statutes*, *Cases, and Other Materials* (“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). We will also read a few recent decisions that are not in your casebook. I will post those to Canvas.

You are expected to read and be prepared to discuss all of the assigned reading each class, including all of the “Notes” assigned. Hint: 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 approximately 8 hours outside of class reading, preparing, and reviewing the material for our class meetings each week.

**Attendance**

Attendance is mandatory and an essential part of the course. As a result, I will take attendance each class. In accordance with ABA guidance, you are allowed six absences from class total, for any reason (including for illness, medical appointments, job interviews, school activities, work tasks, family issues, and the like). For ease of administration and to respect your privacy, I do not make any differentiation between “excused” or “unexcused” absences; this means that there is no need to tell me why you will be or were absent from class, so long as you have six or fewer absences total. Only observance of a University-recognized religious holiday does not count toward your six absences, but still please do notify me in advance of such absences. More than six absences may prevent you from sitting for the final exam and you will fail the course. Four to six absences may result in a reduction of your final grade.

**Preparing for and Participating in Class**

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. I do not anticipate changing reading assignments, but if I do, I will give you advanced notice.

I will seek your active participation in our class discussions—not to see whether you know the answers to my questions (and many will not have “right” or “wrong” answers), but so that we can work through those questions together. I “cold call” using a randomized class list, which simply means that I may call on any of you during the class period. As a result, you must be prepared to participate on any given day. “Prepared” means having read the assigned material for that day as well as any material not covered from the prior class. It means that you’re ready to discuss the material, but it does not require that you have ready answers for any question that might come up.

While I expect you to come to every class and to come prepared, I recognize, however, that exceptional circumstances may lead you not to have read the material for a particular day. If that occurs, I’d much rather you show up unprepared than not show up at all. I just ask that you let me know the night before class that you will not be prepared. If you do come unprepared without letting me know, your grade may suffer. You should resort to this procedure sparingly, once or twice a term.

Attorneys need to be able to speak confidently in public settings, including in front of large groups, but law students do not possess that skill at the very beginning of their first semester. Your active participation in class will help you to develop it. If you have anxieties about speaking in class, please reach out to me soon. I’m happy to work with you to find a way for you to participate comfortably, so that you can get the most out of this course.

**Screen Policy**

Laptop use is not permitted in this class when we meet in-person. I will post all powerpoint slides and handouts I use in class, which will serve as useful materials for you to review throughout the semester and for the final exam. If you require an accommodation for this policy, please see below under “Other General Information.”

**Office Hours**

My office hours this semester will be on Mondays from 2:30 to 3:30 pm and on Fridays from 12:15 pm to 1:15 pm. I will keep the first thirty minutes open for students who want to drop in. For the other times, you can sign up for a 10-minute slot on Canvas. While I love talking about civil procedure and the law more generally, I am happy to talk about whatever you’d like. You do not need to prepare for office hours.

**Grades and the Final Exam**

Your grade in the course will be based on a final exam, with potential adjustment based on your attendance and participation. The exam is scheduled for Friday, December 10, 2021 at 8:30 am. The final exam will last four hours, and it will be limited open book, for which you may use only your copy of the rules supplement. No other materials will be allowed. I will hold additional office hours during the reading period. Once the exam period begins on Friday, December 3rd, I will not communicate with any students about the course or the exam until after the exam period ends on Thursday, December 16th. I will provide more information on the exam in class.

Information on UF Law grading policies: The law school grading policy is available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. Students receive grade points according to the following scale:

Grade Points Grade Points Grade Points

A 4.00 C+ 2.33 D- 0.67

A- 3.67 C 2.00 E (Failure) 0.00

B+ 3.33 C- 1.67

B 3.00 D+ 1.33

B- 2.67 D 1.00

**Other General Information**

Policy related to make-up exams or other work: The law school policy on delay in taking exams is available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

Statement related to accommodations for students with disabilities: This class will be accessible to all members of our law school community. Students requesting accommodations for disabilities must first register with the Disability Resource Center (https://disability.ufl.edu/). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester.”

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. Click [here](https://gatorevals.aa.ufl.edu/students/) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students [here](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:

Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs.  If you are comfortable doing so, you may also notify me so that I can direct you to further 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 [U Matter, We Care website](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*: [Visit the Counseling and Wellness Center website](https://counseling.ufl.edu/) or call 352-392-1575 for information on crisis services as well as non-crisis services.
* *Student Health Care Center*: Call 352-392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](https://shcc.ufl.edu/).
* *University Police Department*: [Visit UF Police Department website](https://police.ufl.edu/) or call 352-392-1111 (or 9-1-1 for emergencies).
* *UF Health Shands Emergency Room / Trauma Center:* For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; [Visit the UF Health Emergency Room and Trauma Center website](https://ufhealth.org/emergency-room-trauma-center).

**Class Schedule and Assignments**

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| **CLASS** | **DATE** | **TOPIC** | **ASSIGNMENT** | |
| 1 | Mon  8/23/21 | **Overview of a Civil Lawsuit:**  Overview of Jurisdiction, Venue, and Service of Process | CB 1-18  Supp: U.S. Const. Art. III §§ 1-2;  28 U.S.C. §§ 1331, 1332, 2072;  FRCP 7; 8(a); 11; 12(b)(1), (e) | |
| 2 | Wed 8/25/21 | Overview of Pleading and Discovery | CB 18-37 (up to F.)  Supp: FRCP 8(b), (c); 12(a)-(b); 13(a)-(c); 15; 26(a)(1)(A), (b)(1-2), (c) | |
| 3 | Fri 8/27/21 | Overview of Summary Judgment, Trial, Former Adjudication, and Appeals | CB 37(F.)-59  Supp: FRCP 56(a); 50(a), (b); 28 U.S.C. § 1291 | |
| 4 | Mon  8/30/21 | **Personal Jurisdiction:**  In what court, geographically, can I file a lawsuit? | CB 77(B.)-88 (up to 2.)  Supp: U.S. Const. Art. IV § 1 & Amend. XIV § 1 | |
| 5 | Wed 9/1/21 | Personal Jurisdiction: In Rem Jurisdiction | CB 88(2.)-99 (up to 3.) | |
| 6 | Fri  9/3/21 | Personal Jurisdiction: Specific Jurisdiction | CB 99(3.)-128 (up to 4.)  Supp: FRCP 4(k)(1) | |
| 7 | Mon 9/6/21 | ***NO CLASS (LABOR DAY)*** |  | |
| 8 | Wed 9/8/21 | Personal Jurisdiction: General Jurisdiction | CB 128(4.)-146  *Ford* (\*Canvas) | |
| 9 | Fri  9/10/21 | Personal Jurisdiction: Consent, Notice, and Service of Process | CB 158(C.)-177 (up to E.)  Supp: FRCP 4(a)-(d), (l), (m) | |
| 10 | Mon  9/13/21 | Personal Jurisdiction: Long-Arm Statutes, Venue, and Forum Non Conveniens | CB 177(E)-195 (up to *Atlantic Marine* )  Supp: 28 U.S.C. §§ 1391, 1404, 1406, 1631 | |
| 11 | Wed 9/15/21 | **Subject Matter Jurisdiction**:  Federal Question Jurisdiction | CB 205-218, *Grable* (\*Canvas)  Supp: 28 U.S.C. § 1331; U.S. Const. Art. III §§ 1-2 | |
| 12 | Fri  9/17/21 | Subject Matter Jurisdiction:  Diversity Jurisdiction | CB 218(C.)-232 (up to D.)  Supp: 28 U.S.C. § 1332; FRCP 12(h)(3) | |
| 13 | Mon  9/20/21 | Subject Matter Jurisdiction:  Supplemental Jurisdiction | CB 232(D.)-240  Supp: 28 U.S.C. § 1367 | |
| 14 | Wed 9/22/21 | Subject Matter Jurisdiction:  Removal | CB 241-249  Supp: 28 U.S.C. § 1441(a)-(d), 1446, 1447; FRCP 18, 20 |
| 15 | Fri 9/24/21 | **The *Erie* Doctrine:** What law, state or federal, applies? | CB 255-274 (through n.2)  Supp: 28 U.S.C. § 1652 |
| 16 | Mon 9/27/21 | The *Erie* Doctrine (cont’d) | CB 274(2.)-283 (through first paragraph only), *Gasperini* (\*Canvas)  Supp: 28 U.S.C. § 2072 |
| 17 | Wed 9/29/21 | **Midterm Review #1: Personal and Subject Matter Jurisdiction, and *Erie*** | CANVAS: Submit your answers to Canvas for “Midterm Review #1” by Tuesday 9/28 at 8 pm, which we will go over in class |
| 18 | Fri 10/1/21 | **Incentives to Litigate:**  Remedies; Litigation Financing | Read CB 299-316 (up to a.)  CB 332-343 (up to c.); 347-357  FRCP 64, 65, 68, 69, 70  Listen to recorded lectures on Canvas |
| 19 | Mon  10/4/21 | **Pleading:** History and Functions; Notice Pleading | CB 361-381 (up to a.)  Supp: FRCP 7, 8, 12(b) |
| 20 | Wed 10/6/21 | Pleading: Modern Federal Pleading | CB 381(a.)-397 (up to b.)  Supp: FRCP 8, 9 |
| 21 | Fri 10/8/21 | ***NO CLASS (HOMECOMING)*** |  |
| 22 | Mon 10/11/21 | Pleading: Special Claims; Allocating Elements; Ethical Limitations | CB 397(.b)-421 (up to C.)  Supp: FRCP 11; 8 |
| 23 | Wed 10/13/21 | Pleading: Responding to the Complaint; Pre-Answer Motions; Answer; Reply | CB 421(C.)-436, 155-158 (up to C.)  Supp: FRCP 12, 55, 8 |
| 24 | Fri 10/15/21 | Pleading: Amendments | CB 437-450  Supp: FRCP 8, 15, 42 |
| 25 | Mon 10/18/21 | **Discovery:**  Stages; Methods | CB 462-478 (up to C.)  Supp: FRCP Read 16, 26(a)(1&2),(e)-(g), 30(a)-(d), 33, 34, 36, 37, 45(a) |
| 26 | Wed 10/20/21 | Discovery: Relevance; Proportionality; Privilege | CB 478(C.)-494 (up to D.)  Supp: FRCP 26(b)(1&2), (c) |
| 27 | Fri 10/22/21 | Discovery: Experts; Compliance; Sanctions | CB 501(D.)-518  Supp: FRCP 26(b)(3)-(5) & (g), 37 |
| 28 | Mon 10/25/21 | **Dispositions:**  Default; Dismissal; Settlement | CB 523-543 (up to c.)  Supp: FRCP 41, 55, 60(b) |
| 29 | Wed 10/27/21 | Dispositions: Summary Judgment | CB 569(C.)-588  Supp: FRCP 56 |
| 30 | Fri 10/29/21 | Dispositions: Right to Jury Trial; Judgment as a Matter of Law; Motion for a New Trial | CB 606(B.)-618; 650-656; Supp: FRCP 56, 1, 2, 38, 39; U.S. Const. Amend. VII; CB 626-636; 642-648; Supp: FRCP 50, 59 |
| 31 | Mon 11/1/21 | **Midterm Review #2: Review of Pleading, Discovery, and Dispositions** | CANVAS: Submit your answers to Canvas for “Midterm Review #2” by Sunday 10/31 at 8 pm, which we will go over in class. |
| 32 | Wed 11/3/21 | **Appeals:** Who can appeal? Final Judgment Rule | CB 661-680 (up to 2.) |
| 33 | Fri 11/5/21 | Appeals: Exceptions to the Final Judgment Rule; Scope of Review | CB 680(2.)-699 |
| 34 | Mon 11/8/21 | **Preclusion:** Claim Preclusion | Read CB 703-735 (up to B.)  Supp: FRCP 13 |
| 35 | Wed 11/10/21 | Preclusion: Issue Preclusion | CB 735(B.)-757 (up to D.) |
| 36 | Fri 11/12/21 | **Joinder:** Joinder of Claims; Joinder of Parties | CB 778-801  Supp: 28 U.S.C. § 1367; FRCP 18, 42, 13, 14, 20, 21 |
| 37 | Mon 11/15/21 | Joinder: Compulsory Joinder | CB 802-824  Supp: FRCP 12(b)(7), 19 |
| 38 | Wed 11/17/21 | **Class Actions:** Introduction; Federalism | CB 829-837(up to b.)  Supp: FRCP 23 |
| 39 | Fri 11/19/21 | Class Actions: Statutory Requirements; Settlement | CB 842(3.)-869, 873-883  Supp: 28 U.S.C. § 1331(d) |
| 40 | Mon  11/22/21 | **Midterm Review #3: Appeals, Preclusion, Joinder, and Class Actions** | CANVAS: Submit your answers to Canvas for “Midterm Review #3” by Sunday 11/21 at 8 pm, which we will go over in class. |
| 41 | Wed  11/24/21 | ***NO CLASS (Thanksgiving)*** |  |
| 42 | Fri 11/26/21 | ***NO CLASS (Thanksgiving)*** |  |
| 44 | Mon  11/29/21 | Final Review Session | No reading assignment. Please review your notes and the 2020 exam in preparation. |

**\*\*\*Final Examination: Friday, December 10, 2021 at 8:30 am\*\*\***