

CIVIL PROCEDURE (LAW 5301)
University of Florida Levin College of Law

FALL 2020 SYLLABUS

1. Overview. This course examines the body of law governing how civil litigation unfolds, exploring the nuts and bolts of what lawyers actually do when they help a party bring or defend a claim. Additionally, at its core, civil procedure raises important questions about the role of courts and what makes a process fair and just. We will focus on the federal system, taking a close look at its procedural rules, statutes, and case law.

2. Required Materials. Our casebook is STEPHEN C. YEAZELL & JOANNA C. SCHWARTZ, CIVIL PROCEDURE (10th ed. 2018). The 2020 supplement also is required. Additional material will be posted on the course's Canvas site.

3. Class Meetings. Our class meets on Wednesdays from 1:00-2:15pm and Thursdays and Fridays from 11:00am-12:15pm in HH 285C.

4. Office Hours. I will hold office hours via Zoom on Wednesdays from 3:30-5:30pm. I encourage each of you to stop by during this window. I also am happy to meet by appointment outside of office hours; please email in advance to schedule a mutually convenient time.

5. Contact Information. My office is in Room 312L and my office telephone number is 352-273-0701. My e-mail address is endo@law.ufl.edu.

6. Course Objectives and Student Learning Outcomes. By the end of the semester, you should be able to (1) demonstrate a foundational understanding of the law of U.S. civil procedure, including the rules, statutes, and case law that govern jurisdiction, choice of law, stages of litigation (e.g., pleading, discovery, motions, etc.), and the ethical obligations of lawyers; (2) identify legal doctrines by reading primary legal authorities, and; (3) apply the law to new facts while taking into account the strategic and normative implications such as cost control and access to justice.

7. Assignments. A preliminary list of the reading assignments is included below in Section 18. We generally will discuss about 30-35 pages per class. At the end of each class, I will confirm the next assignment. If you miss class, prepare the next set of approximately 30 pages.

Additionally, over the course of the semester, there may be several ungraded exercises, which will provide you with opportunities to assess your growing understanding of the course materials and to receive feedback on your progress. While they will not be part of your final course grade, satisfactory and timely completion of the exercises is required for passing the course.

8. Class Preparation and Participation. The ABA contemplates that you will spend an average of eight hours per week doing out-of-class work for this course. Please leave plenty of time to complete your reading and other assignments—they likely will take longer than you think, especially at first.

In class, I encourage each of you to participate thoughtfully in the discussions. If you are not prepared when you are called on, you may pass on participating. Excessive passing may result in a reduction of your grade by one-third of a point (e.g., from a B+ to a B).

Although grade enhancement will be rare, exemplary class participation may raise your grade by one-third of a point or be used to differentiate among students with the same grade to achieve a curve. Quality, not quantity, is key.

Given the public health and safety guidelines and the potential remote participation of some members of the course, you must bring your computer and a pair of headphones to every class so that you will be able to participate in small-group discussions.

9. Class Attendance. The ABA requires “regular and punctual” course attendance. Regular attendance is a key element to understanding the material, which will prepare you for both the final exam and, ultimately, practice. Attendance will be taken at the start of each session via an electronic sign-in sheet. It is a serious violation of the Academic Honesty policy to sign in for other people or to have others sign in for you.

Excessive absence or tardiness may result in a reduction of your grade by one-third of a point (e.g., from a B+ to a B). Failure to attend 80% of the class sessions will result in your being barred from taking the final exam in this course.

Observance of a University-recognized religious holiday does not count as an absence and will not count against your absences. Please be sure to notify me of such absences in advance via email. Likewise, please email me as soon as practicable if a family, medical, or other similar emergency arises.

10. Electronic Devices. As noted above in Section 8, ***given the public health and safety guidelines and the potential remote participation of some members of the course, you must bring your computer and a pair of headphones to every class so that you will be able to participate in small-group discussions.*** You also may use a computer or tablet in class to take notes. While you will need to use your computer to participate in the small-group discussions and you are permitted to use a computer or tablet to take notes in class, be sure to be respectful of your colleagues. Additionally, there are several studies that suggest taking longhand note aids retention and comprehension (see, e.g., <https://doi.org/10.1177/0956797614524581>). You may not use a cell phone during class. You may not record class sessions without advance permission.

11. Essay. You must complete a 1,500-word essay, which is due by 11:59pm on Monday, November 30, 2020, to pass the class. The essay assignment will be posted several weeks before it is due. The final essay is an opportunity for you to demonstrate your ability to synthesize the materials that we have covered and rigorously explore the doctrinal, pragmatic, and policy implications of the how our system of civil procedure has been designed. Please review the note on academic honesty in Section 16 below.

12. Exam. The final exam will be a three-hour exam. All answers must be exclusively your own work. You may not consult with others about the exam once the exam period has started. Please review the note on academic honesty in Section 16 below.

13. Grading. Your grade in this class will be based on the final take-home essay (25%) and final exam (75%), subject to the provisions of Sections 7, 8, 9, and 16.

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

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

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

14. Accommodations. I am committed to making our classroom accessible to all members of our community. Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

15. 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 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 at <https://gatorevals.aa.ufl.edu/public-results/>.

16. Academic honesty. The legal profession—a self-regulating association—depends on the integrity, honor, and personal ethics of each member. Similarly, academic honesty and integrity are fundamental values of the UF Law School community. You should be sure that you 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, available at <https://www.law.ufl.edu/life-at-uf-law/officeof-student-affairs/additional-information/honor-code-and-committee/honor-code>. *Please also note that all students must comply with the COVID-related public health and safety guidelines and that a failure to do so is considered an Honor Code violation that may result in a failing grade.*

17. Synchronous remote learning. Some members of our class may regularly be joining via Zoom or other software. And, as noted in Sections 8 and 10, I anticipate we will use Zoom to facilitate small-group discussion in each class. We also might need to move to synchronous remote learning due to public health concerns. While a change in modality might require adaptation, my general expectations regarding student preparedness and engagement remain the same. Some additional guidance is provided below.

- a. General Logistics
 - i. Sign into Zoom using your official University of Florida email address and make sure that your listed Zoom name includes your first and last name. This will help me with attendance and setting discussion groups.
 - ii. If you are having connectivity issues or accessibility issues, please email me to let me know.
 - iii. Close any other programs, including email programs, other than electronic casebooks, MS-Word, or similar class-related programs.
 - iv. Have patience with your self, computer, colleagues, IT personnel, and professor as we work with this new method of classroom instruction!
- b. Video
 - i. Choose a stationary location where there are minimal distractions
 - ii. Turn on your video or webcam when you want to participate unless there are extenuating circumstances (and please know that it is more than understandable if children, pets, or other members of your household pass through)
 - iii. Make sure you are well-lit so that others can see you
 - iv. Please wear appropriate clothing, as you will be visible
 - v. Make eye contact with the camera when contributing
- c. Audio
 - i. Remember to mute yourself when you're not contributing
 - ii. Speak in a conversational tone
 - iii. Consider using headphones and a mic to prevent feedback or echo (and this will be necessary when we use the program while physically present in class)
 - iv. Do not have multiple computers near to each other in the same room or we will get a lot of loud feedback.
- d. Participation tips
 - i. Use the hand-raising function if you want to raise your hand.
 - ii. Feel free to use the chat window and function to converse with each other about the live class discussion with the caveat that it should not distract you from the live discussion and must be on-point and professional (keeping in mind that I can see it and it gets recorded too).

18. Reading Assignments

DATE	TOPIC	ASSIGNMENTS
8/26/20	Introduction: The Idea and the Practice of Procedure	CB 1-5 (stop at B.); CB 55 (Note: Civil Procedure in Your Substantive Courses)-56 (stop at Assessment Questions); CB 289-91; Goldberg v. Kelly (posted on Canvas)
8/27/20	Overview: Where Can the Suit Be Brought; Parties to the Lawsuit	CB 5(B.)-13 (stop at C.); CB 27(D.)-31 (stop at E.)
8/28/20	Overview: Stating the Case; Factual Development-Discovery;	CB 13(C.)-27 (stop at D.); CB 31(E)-37 (stop at F.)
9/2/20	Overview: Pretrial Disposition-Summary Judgment; Trial; Former Adjudication; Appeals	CB 37(F.)-55 (stop at Note: Civil Procedure in Your Substantive Courses)
9/3/20	Incentives to Litigate: Litigation in the U.S. at the Start of the Twenty-First Century; Reasons to Litigate	CB 293-15 (stop at 4.)
9/4/20	Incentives to Litigate: Reasons to Litigate; Financing Litigation	CB 315(4.)-32 (stop at C.); CB 332(C.)-55 (stop at <i>Buckhannon</i>) (the pages on financing litigation are optional)
9/9/20	Pleading: The Story of Pleading; Establishing the Law; Sorting Weak & Strong Cases	CB 365(3.)-80 (up to 4.); CB 380-97(up to b.)
9/10/20	Pleading: Sorting Weak & Strong Cases; Special Cases; Allocating the Elements; Ethical Limitations in Pleading; Default & Pre-Answer Motions	CB 397(b.)-27 (up to 3.)
9/11/20	Pleading: Answer, Reply, Amendment	CB 427(a)-50 (stop at Assessment Questions)
9/16/20	REMOTE LECTURE & EXERCISE	Materials posted on Canvas
9/17/20	Discovery: Modern Discovery; Tools of Discovery; Scope of Discovery	CB 455-65 (stop at 1.); CB 478(C.)-92 (stop at 3.)
9/18/20	Discovery: Scope of Discovery; Experts; Ensuring Compliance & Controlling Abuse of Discovery	CB 492(C.)-502 (up to Notes & Problems); 507(E.)-18
9/23/20	REMOTE LECTURE & EXERCISE	Materials posted on Canvas
9/24/20	Resolution Without Trial: Pressure to Choose Adjudication or an Alternative	CB 523-52 (stop at b.)
9/25/20	Resolution Without Trial: Adjudication Without Trial: Summary Judgment	CB 569(C)-88 (up to Assessment Questions); <i>Swanson</i> excerpt posted on Canvas
9/30/20	The Trier and the Trial: Choosing & Challenging Judges; Sharing Power	CB 593-610 (up to Notes & Problems); 626(E.)-642 (up to F.)

DATE	TOPIC	ASSIGNMENTS
	with a Jury; Judges Controlling Juries: Judgment as a Matter of Law	
10/1/20	Mid-Term Review [REMOTE]	Materials posted on Canvas
10/2/20	REMOTE LECTURE & EXERCISE	Materials posted on Canvas
10/7/20	Beginnings & International Shoe	CB 62(B.)-66; video lecture on <i>Pennoyer</i> ; 79 (<i>International Shoe</i>)-99 (stop at 3.)
10/8/20	Specific Jurisdiction	CB 99(3.)-111 (stop at <i>Nicastro</i>)
10/9/20	Specific Jurisdiction (cont.)	CB 111 (<i>Nicastro</i>)-28 (stop at 4.)
10/14/20	General Jurisdiction	CB 128(4.)-48 (stop at <i>Burnham</i>)
10/15/20	General Jurisdiction (cont.)	CB 148 (<i>Burnham</i>)-158(C.)
10/16/20	Consent and Notice	CB 158-77 (stop at E.)
10/21/20	Self-Imposed Restraints on Jurisdictional Power	CB 177(E.)-99 (stop at Assessment Questions)
10/22/20	Federal Question Jurisdiction; Diversity Jurisdiction	CB 205-225 (stop at <i>Hertz</i>)
10/23/20	Diversity Jurisdiction (cont.); Supplemental Jurisdiction; Removal	CB 225-49 (stop at Assessment Questions)
10/28/20	REMOTE LECTURE & EXERCISE	Materials posted on Canvas
10/29/20	<i>Erie</i>	CB 255-71
10/30/20	<i>Erie</i> (cont.)	CB 271-85 (stop at Assessment Questions)
11/4/20	Claim Preclusion	CB 704-35 (stop at B.)
11/5/20	ASYNCHRONOUS LECTURE & EXERCISE	Materials posted on Canvas
11/6/20	Issue Preclusion	CB 735(B.)-55 (stop at C.)
11/11/20	Boundaries of Preclusion & Repose	CB 755(C.)-70 (stop at Assessment Questions)
11/12/20	NO CLASS – VETERANS’ DAY	
11/13/20	Joinder	CB 777-94 (stop at 2.)
11/18/20	Joinder (cont.)	CB 794(2.)-812 (stop at C.)
11/19/20	Intervention & Interpleader	CB 812(C.)-28
11/20/20	Class Actions	CB 829-37(stop at b.); 850(4.)-55 (stop at <i>Dukes</i>)
11/24/20	Class Actions	CB 855-73 (stop at <i>Amchem</i>)
11/25/20	NO CLASS – THANKSGIVING	
11/26/20	NO CLASS – THANKSGIVING	
11/27/20	NO CLASS – THANKSGIVING	
11/30/20	Final Review Class [REMOTE]	Review notes; submit a review question by 11:59pm on Saturday, November 28, 2020

19. Certification. Please print this page and sign below to certify that you have read and understood the components of the syllabus.

Signature

Date

(Please print name here)