

**CRITICAL PERSPECTIVES ON CIVIL PROCEDURE (LAW 6936 – 14270)**  
University of Florida Levin College of Law

**SPRING 2022 SYLLABUS**

**1. Overview.** This seminar will closely examine several areas of civil procedure such as pleading, discovery, and summary judgment to explore competing understandings of justice. We will consider how ostensibly neutral rules and doctrines might operate differently for litigants from particular communities, especially those defined by factors such as race, sex, gender, disability, ethnicity, national origin, immigration status, sexual orientation, wealth, and religion. This seminar is structured to satisfy the College of Law’s Advanced Writing Requirement through either (A) three reaction papers ranging from 8-10 pages on a topic related to the week’s reading assignment or (B) one 25-page research paper (this option requires the approval of the instructor).

**2. Course Objectives and Student Learning Outcomes.** By the end of the semester, you should be able to (1) demonstrate knowledge of the implications of critical perspectives for various procedural rules, mechanisms, and doctrines and (2) apply the law to new facts while taking into account the strategic and normative implications such as cost control and access to justice.

**3. Required Materials.** There is no required casebook. All of the reading material will be posted on the course’s Canvas site.

**4. Class Meetings.** Our class meets on Wednesday from 10:00am-12:00pm in HH 355A.

**5. Office Hours.** I will hold office hours on Wednesdays from 4:30-6:30pm. I encourage each of you to take advantage of these office hours. I also am genuinely happy to meet by appointment outside of these scheduled hours; please email in advance to schedule a mutually convenient time.

**6. 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](mailto:endo@law.ufl.edu).

**7. Assignments.** The reading assignments for the first two weeks are included below in Section 19. We generally will discuss about 40-70 pages per class. At the end of each class, I will confirm the next assignment. If you miss class, prepare the next set of readings.

Additionally, after the first week, up to three students will be designated “discussion leaders” for each class. In this role, the students will be expected to be able to: (1) summarize the assigned reading; (2) explain any key terms, rules, procedural mechanisms, and doctrines from the reading, and; (3) draft at least one question for discussion. Ten percent of the final grade will be based on your performance as a discussion leader.

**8. Class Preparation and Participation.** 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 2 credit hours of in-class instruction weekly, you should expect to spend approximately 4 hours outside of

class reading, preparing, and reviewing the material for our class meetings each week. This is independent of the time spent completing the writing assignments.

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

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others, especially when engaging with issues that may elicit strong emotions. Our discussions will be more constructive if you examine the bases for your propositions and the inferences you draw from their interactions so that you can articulate your reasoning. Also, listen carefully to what your colleagues have to say and create space for their participation to get the benefit of multiple perspectives—as a group, we are likely to differ across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. Especially when you disagree, use those moments to test your logic and engage deeply with the substantive issues. Be mindful of both your intentions and your impact.

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

**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.

Excessive absence or tardiness may result in a reduction of your grade by one-third of a point. Absent extenuating circumstances, 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 & Recordings.** You may use a computer or tablet in class to take notes but be sure to be respectful of your colleagues and do not engage in activities that might be distracting. Additionally, there are several studies that suggest taking longhand note can aid retention and comprehension (*see, e.g.,* <https://doi.org/10.1177/0956797614524581>). Please set your telephones to “silent” mode when in class.

Under a new state law, students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

**11. Writing Requirements.** This seminar is structured in such a way as to satisfy the College of Law’s Advanced Writing Requirement. According to the Faculty Handbook, all J.D. candidates must complete—under close faculty supervision—a major, written product that shows evidence of original scholarship based on individual research. If fulfilled in an advanced course, the required writing may take the form of one or a number of finished written products that together demonstrate these qualities. The general standard for fulfillment of the advanced writing requirement is one or more papers that are cumulatively at least 25 pages of double-spaced, 12-point text or the equivalent.

In this seminar, students must choose to either submit three reaction papers or a longer, research paper. These options are described in greater detail below. Either option satisfies the College of Law’s Advanced Writing Requirement.

- *Option 1 – Three Reaction Papers:* Students will write three reaction papers during the course of the term. Each submission should be roughly 8 to 10 pages, 12-point Times Roman font, double spaced). Each paper should relate to the ideas or issues raised in the readings for a given week. You should incorporate outside research.

To receive full credit for a reaction paper to count, you must submit it by 8pm on the relevant Tuesday (i.e., the night before class). I ask (but do not require) that you post your papers to Canvas so we can all learn from them for discussion.

You can choose the sessions for which you will write the reaction papers but you are strongly encouraged to write your first paper for one of the first six class sessions. All three reaction papers are due by 11:59pm on Tuesday, April 19, 2022, to receive credit in the course.

In calculating your final grade, the first paper will be worth 25% of your grade, the second paper will be worth 30% of your grade, and the final paper will be worth 35% of your final grade.

- *Option 2 – Research Paper:* Students have the option of writing a more significant paper, but you must get approval from me by February 16, 2022. I am more than happy to meet with any student interested in writing a paper to discuss topics – even if students do not start out with any sense of what they wish to write. The paper will need to be at least 25 pages of double-spaced, 12-point text or the equivalent and based on your own research. The final research papers are due by 11:59pm on Monday, April 25, 2022, to receive credit in the course.

The writing options provide 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. They must be exclusively your own work and all sources must be cited.

**12. Exam.** There is no final exam. If applicable, the law school policy on exam delays and accommodations can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

**13. Grading.** Your grade in this class will be based on your reaction papers or research paper (90% total) and your performance as discussion leader (10%), subject to the provisions of Sections 7, 8, 9, 10, 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: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

**14. Accommodations.** I am committed to making our classroom accessible to all members of our community. Reasonable accommodations ensure equal opportunity for students with disabilities. 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>.

**17. Mental Health & Wellness.** Law school can be very stressful, particularly in your first semester. If you are struggling, please know that you are not expected to deal with issues on your own—indeed, an important part of professionalism is knowing when to ask for help. The Office of Student Affairs is an excellent resource. The university provides many other resources to help you through law school, including several options through its Counseling & Wellness Center.

**18. Reading Assignments (subject to change)**

DATE	TOPIC	ASSIGNMENTS
01/19/22	Survey of Critical Legal Thought Approaches and Foundational Concepts (1 of 2)	Roy L. Brooks, CRITICAL PROCEDURE (1998) [read book pp. 3–36]; Richard Delgado, The Ethereal Scholar: Does Critical Legal Studies Have What Minorities Want, 22 HARV. C.R.-C.L. L. REV. 301 (1987) [read pp. 301–14]; David Andrew Price, Taking Rights Cynically: A Review of Critical Legal Studies, 48 271, CAMBRIDGE L.J. 272 (1989) [read pp. 271–78]; Patricia J. Williams, Alchemical Notes: Reconstructing Ideals from Deconstructed Rights, 22 HARV. C.R.-C.L. L. REV. 401 (1987) [read pp. 401–08]

DATE	TOPIC	ASSIGNMENTS
01/26/22	Survey of Critical Legal Thought Approaches and Foundational Concepts (2 of 2)	Portia Pedro, A Prelude to a Critical Race Theoretical Account of Civil Procedure, 107 VA. L. REV. ONLINE 143 (2021); Kimberlé Williams Crenshaw, Twenty Years of Critical Race Theory: Looking Back to Move Forward, 43 CONN. L. REV. 1253 (2011) [read pp. 1255–64, 1277–1310]
02/02/22	Personal Jurisdiction	[Material on Canvas]
02/09/22	Discovery	[Material on Canvas]
02/16/22	Summary Judgment	[Material on Canvas]
02/23/22	Choice of Law	[Material on Canvas]
03/02/22	Class Actions	[Material on Canvas]
03/09/22	<b>SPRING BREAK – NO CLASS</b>	
03/16/22	Pro Se Litigants	[Material on Canvas]
03/23/22	Prisoner Procedure	[Material on Canvas]
03/30/22	Undocumented Procedure	[Material on Canvas]
04/06/22	Judicial Neutrality	[Material on Canvas]
04/13/22	Rulemaking	[Material on Canvas]
04/20/22	New Applications	[Material on Canvas]