

Spring 2023 Civil Procedure Syllabus and Course Information

Professor Elizabeth T. Lear

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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).

Office Hours and Appointments

My office hours are on Tuesday each week from 3:30 to 5:30. I'm in 312A in Holland Hall on the third floor. If you would like to make an individual appointment with me at another time, please email me at Lear@law.ufl.edu and we can set up a time to meet either virtually or in person. One caveat – *make sure that you include the "law" part of my email address*, otherwise you will email my brother who is a professor in Mechanical Engineering. Although he is always sympathetic to my students' woes, he is not particularly helpful.

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. Apply strategic and practical considerations throughout the process of filing and litigating a federal civil lawsuit.
4. Explain how procedural policy choices shape individuals' access to federal courts.

Required Course Materials & Workload

The required materials for this course are:

1. Friedenthal, Miller, Sexton, Hershkoff, Steinman, and McKenzie, Civil Procedure: Cases and Materials, 13th Ed. (West Publishing);
2. Friedenthal, Miller, Sexton, Hershkoff, Steinman, and McKenzie, 2022-23 Statutory Supplement;
3. Joseph W. Glannon, Civil Procedure, Examples and Explanations (8th ed.).

You must acquire the casebook and the supplement in *hard copy*. I recommend buying a copy of the Glannon's E&E as well; however, it is available to you online as through the UF Law Library site.

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.

Attendance

Attendance is mandatory and an essential part of the course. 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).

Screen Policy

Laptops are banned in my classes. I know it's tough but taking notes by hand is proven to assist in recall and learning. Note further that you may not look at your phone during class. One of the critical characteristics of a good lawyer is the ability to listen and pay attention, even when horribly bored or uninterested! Student Affairs records all our classes. I have told Dean Inman that you are welcome to access these recordings at any time without special permission.

Preparing for and Participating in Class

While I expect you to come to every class and to come prepared, I recognize that exceptional circumstances may lead you to be unprepared on 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 (by email) the night before class that you will not be prepared. If you do come unprepared without letting me know, I will subtract 5 points from your final exam score at the end of the term.

Grading Information and Grading Scale

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>. The following chart describes the specific letter grade/grade point equivalent in place:

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

Final Exam/Final Grade

Regular attendance, preparation, and active participation in classroom discussion are required. Your course in the grade will be based primarily on a final exam. If your exam score puts you close to the “cutoff” point for a higher grade, and the mandatory grading rules allow me to award additional grades in that higher category, class participation will be used to break any “ties” among students with the same exam score. The final exam will be timed, during the regular exam period, and will be open book. More information on the exam will be provided in class.

Make-up Exams

The law school policy regarding delaying or rescheduling 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>.

Accommodations

Students requesting accommodation for disabilities must first register with the UF Disability Resources Center, <https://drc.dso.ufl.edu/>. The Center will provide documentation to the student, who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

Student course evaluations

Students can provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will receive notice of the specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

Academic Honesty

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. See <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

Class Schedule and Assignments

References below are to Friedenthal, Miller, Sexton, Hershkoff, Steinman, and McKenzie, Civil Procedure: Cases and Materials, 13th Ed. (West Publishing) and the Supplement thereto referenced above. Check the Supplement each day and read any and all Rules, statutes and/or materials that may be relevant to the pages assigned in the casebook. Each assignment represents the reading for one class period.

A. Selecting the Proper Court

1. Overview and Early Personal Jurisdiction Cases (Lecture)
2. Personal Jurisdiction, pp. 91-101
3. Personal Jurisdiction, pp. 101-113 (make sure to bring your supp. to class)
4. Personal Jurisdiction, pp. 113-127
5. Personal Jurisdiction, pp. 127-143
6. Personal Jurisdiction, pp. 143-161
7. General Jurisdiction, pp. 173-194
8. Internet Jurisdiction, pp. 200-207
9. Review
10. Practice Exam Question

B. Subject Matter Jurisdiction

1. Diversity Jurisdiction, pp. 304-325 (n. 6), 28 U.S.C. §1332 (Supp.)
2. Federal question Jurisdiction, pp. 326-339, 28 U.S.C. §1331 (Supp.)
3. Federal Question cont., pp. 339-352, 28 U.S.C §1331 (Supp.)
4. Supplemental Jurisdiction, pp. 352-365, 28 U.S.C §1367 (Supp.)
5. Supplemental Jurisdiction (cont.) and Removal, pp. 374-387, 28 U.S.C §1367, 28 U.S.C. §§1441(a)(b) & (c), 1446(a)(b) & (c), 1447 (Supp.)

C. Venue and Transfer – pp. 404-420, 28 U.S.C. §§1391, 1404, 1406

D. Ascertaining the Applicable Law

1. Swift, Erie, pp. 441-453, 28 U.S.C. §1652 (Supp.)
2. Hanna, pp. 468-480, 28 U.S.C. §2072 (Supp.)
3. Walker and Stewart, pp. 480-492
4. Review

E. Pleading

1. The Complaint, pp. 603-616, Rules 8(a) and 12(b)
2. Same, pp. 628-645, Iqbal Complaint in Supp.
3. Read Rule 12 thoroughly, Rule 12 Hypos on Canvas.
4. Answering the Complaint, Deterring Frivolous Pleadings, pp. 678-684, pp. 706-715, Rules 8 and 11
5. Amendments, pp. 688-698, Rule 15

F. Joinder of Claims and Parties

1. Claims Joinder, pp. 723-734, Rules 18(a) and 13(a)-(e)
2. Same, pp. 734-740, Rules 13(g) & (h)
3. Party Joinder, pp. 743-752, Rules 19-20
4. Impleader and lecture on Intervention & Interpleader, pp. 762-766, Rules 14 and 24, 28 U.S.C. 1335
5. Review/ Glannon's E&E hypos (TBA)

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

H. Summary Judgment

1. Rule 56, pp. 1009-1027

2. Drafting assignment on Canvas (at home prior to review of assignment in class)
3. Review of Summary Judgment assignment

H. Claim and Issue Preclusion

1. Claim Preclusion – Glannon’s E&E chapters 26-27. Please do all the examples prior to class.
2. Issue Preclusion—Glannon’s E&E chapters 28-29. Please do all the examples prior to class.