

## **Fall 2024 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](mailto: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, 13<sup>th</sup> Ed. (West Publishing);
2. Friedenthal, Miller, Sexton, Hershkoff, Steinman, and McKenzie, 2022-23 Statutory Supplement;
3. Joseph W. Glannon, Civil Procedure, Examples and Explanations (8<sup>th</sup> 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 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.

### **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. *Out-of-class assignments are required must be completed and submitted. They are not graded, but failure to submit these assignments will have a negative impact on your final grade.*

### **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>.

### **Additional Information about UF Levin College of Law Policies**

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

## Class Schedule and Assignments

References below are to Friedenthal, Miller, Sexton, Hershkoff, Steinman, and McKenzie, Civil Procedure: Cases and Materials, 13<sup>th</sup> 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. Distinguishing General and Specific Jurisdiction, pp. 172-194
8. Review

***Out-of-class Assignment:*** Practice Exam Question – the question will be posted on Canvas for you to download. When finished, submit through canvas. I will post the question on Wednesday, September 13. You must submit it by midnight on Monday, September 18, 2023.

9. Practice Question Review

***Out-of-class Assignment:*** Rewrite and submit answer to Due Process portion of practice exam question. Submit your answer through canvas by midnight on Sunday, October 1, 2023.

### 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. 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

#### D. 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

#### E. 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)

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

#### G. 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.