Federal Civil Procedure

PROFESSOR DONNA YOUNG

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Office Hours: Tuesdays and Thursdays - 10:30 to Noon. I encourage students to meet with me outside class hours to discuss relevant issues raised in and outside the classroom. I welcome drop-in visits and I am happy to schedule appointments.

Legal Assistant: Sherri Meyer, Rm. 301, 445-3335.
Sponsors Fellows: Kayla Perry and Kathryn Seely

COURSE OVERVIEW

This course provides a survey of the common law, statutory, and constitutional foundations of federal civil procedure and the policy choices that underlie access to the federal courts. It covers the procedures followed by the federal courts in civil (noncriminal) disputes and examines the ways in which common understandings of fairness shape the design of the American civil procedural system. The course examines the dynamics and tactics of lawyers’ roles and is designed to familiarize students with the fundamental constructs of the federal civil judicial system. These constructs require an understanding of key provisions of the United States Constitution, the Federal Rules of Civil Procedure, and federal statutory provisions – including topics such as federal court jurisdiction, notice, venue, the law to be applied by the federal courts, pretrial procedures, matters related to trials, motions, verdicts, judgments, and joinder of claims and parties.

TEACHING METHODS

This class will be primarily conducted using a modified Socratic method - I will call on students randomly to facilitate discussion of the materials. I will lecture only when necessary for emphasis and in order to explain matters that are not obvious from the materials. It is very important that students are prepared to discuss each assignment because the primary means of in-class examination of the issues raised in the assignments will be through class participation and discussion.
A Teaching Assistant (Sponsler Fellow) will be assigned to each section. They will hold regular office hours and review sessions to discuss problems and exercises that will have been distributed in advance.

**COURSE GOALS/OBJECTIVES**

The course will contribute to the acquisition of essential legal skills (legal synthesis, analysis, strategies and reasoning, statutory interpretation, advocacy, communication, professionalism, and critical thinking) and values (professional responsibility) inherent in the study and practice of law. Each student will be expected to:

1. Demonstrate foundational knowledge and understanding of federal procedural law.
2. Demonstrate the ability to communicate effectively in a legal context, in writing and orally.
3. Demonstrate basic legal analysis, legal reasoning, and problem-solving skills.
4. Demonstrate knowledge and understanding of the lawyer’s professional responsibility to advance the mission of service to the underrepresented so that all individuals have equal access to the privileges of our justice system.
5. Demonstrate an awareness and understanding of the knowledge, skills, and values necessary to be competent and effective lawyers in a multicultural world.

**LEARNING OUTCOMES**

At the end of this course, students should be able to:

1. Demonstrate foundational knowledge and understanding of key concepts in Federal Civil Procedure in the subject areas covered in class.
2. Demonstrate an ability to apply their knowledge of the rules of federal civil procedure and critical thinking skills to perform competent legal analysis, reasoning, and problem solving.
3. Demonstrate professional judgment and professionalism through conduct consistent with the legal profession's values and standards in order to advance the mission of service to the underrepresented so that all individuals have equal access to the privileges of our justice system.
REQUIRED READING MATERIALS


3. OTHER MATERIALS: In addition to the required materials, I will provide the class with handouts and CANVAS postings as they are needed.

Abbreviations:
CB = Casebook
Supp. = Supplementary cases, notes, and other materials
FRCP = Federal Rules of Civil Procedure (in Supplement)
US Const. = US Constitution (in Supplement)
28 U.S.C = Title 28, United States Code (in Supplement)

GRADING POLICY

The final closed-book exam will be worth 100% of your final grade. You will be given two mandatory practice (ungraded) exams. In addition, you may be given short exercises in class and via the class CANVAS site. The first practice examination will cover personal jurisdiction and will be scheduled for a 50 minute period following the completion of the materials on personal jurisdiction. This practice exam is mandatory, but will not be formally graded. A model answer and comments will be provided and individual meetings with your TA’s will be arranged in order to discuss your progress. The second practice exam will be administered via CANVAS (subject-matter TBA). You will be given a model answer and grading guide and asked to assess your answers. Feedback will be offered.

PROFESSIONALISM / PARTICIPATION / ATTENDANCE

You are expected to attend class regularly (please refer to the attendance policy in the Albany Law School Student Handbook), arrive on time at the beginning of each class, and stay until class is over. You are expected to read the assignments prior to each class and be prepared to provide full, insightful answers to questions that you may be asked. Each student will be called on randomly to lead discussion of assigned materials. Class discussions are important. If you are unable to attend a class please try to notify me in advance.

USE OF ELECTRONICS

I welcome the use of laptops in class. However, students must turn off access to social media on ALL devices. Please refrain from messaging, e-mailing, surfing the net, playing games, writing papers, doing homework, etc. during class time. Do not display
material on screen which may be distracting to me or your classmates. Please silence cell phones when you are in the classroom. **Audio or video recording or live transmission of the class is prohibited without my prior permission.** This is law school policy and violation of that policy can subject students to disciplinary action.

**E-MAIL COMMUNICATION POLICY**

I encourage students to E-mail me outside class hours with any questions or comments about the class or the assigned materials. I will answer each E-mail as promptly as I can. Though E-mail (and other electronic) correspondence is generally considered informal, please keep in mind that E-mail communication within the law school should conform to the standards of professional communication expected in legal practice - e.g. write in complete sentences, address the recipient by name and title (if necessary), sign your name at the end of the message, acknowledge receipt of E-mail messages addressed personally to you. E-mails sent by me to the class should be opened and read as promptly as possible.

Before your scheduled exam at the end of the semester I will conduct an “E-review” (students are encouraged to E-mail me questions that I will answer and forward to the entire class).

**NAMES/PRONOUNS**

Feel free to tell me what pronouns/name you use and how to pronounce your name. If you prefer a name that is not on the official attendance sheet, let me know. My preferred pronouns are: she, her, hers.
ASSIGNMENTS

The following list of assignments provides you with an outline of the subjects covered in this course, and the order in which they will be covered. Flexibility is built into the schedule and therefore the amount of material covered in each class will depend on the depth of class discussion and level of detail of the assigned reading. The numbered assignments DO NOT necessarily correspond to one reading assignment. As a rough guide – many class sessions will cover about 4 cases and the accompanying notes. Please try to read ahead about 4 cases in preparation for each class. The assignments are subject to change/revision with advance notice. References to rules, statutes, and constitutional provisions are part of the reading assignment. Please read them.

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A. INTRODUCTION

1+2. Introduction ......................................................................................... Supp. xi-xiii; CB 1-27;
Assessment Questions.................................CB 56-57 - Q1 & Q2 (Do on your own).

B. PERSONAL JURISDICTION

2+3. Pennoyer and International Shoe .......................................................... CB 61-86;
...........................................................................(Read note on Milliken v. Meyer p.78-79);
.........................................................................................US Const. Amendment XIV.

4. International Shoe Framework ............................................................... CB 86-99;

5. Specific Jurisdiction.............................................................................. CB 99-128;
...........................................................................(Read note 3 on Burger King v. Rudzewicz, p.109-110);
........................................................................................................ FRCP 4(k) (1) (A).


7. Challenge and Waiver ................................................................. CB 155-158; FRCP 12(b), (h), and (g);
Consent / Long Arm Statutes ......................................................... CB 158-163; CB 177-181;
Illustrative Long Arm Statutes.............................................................Handout.

Practice Exam- 50 minutes.
C. NOTICE & SERVICE OF PROCESS


D. VENUE

9. Venue (continued).............................................. 28 U.S.C. §1391; FRCP 12(b) (3);
Handout; Transfer & Forum Non Conveniens............ CB 187-195; §1404, §1406, §1631;
Assessment Questions...........................................CB 199-203 (Do on your own).

E. SUBJECT MATTER JURISDICTION

10. Federal Question Jurisdiction............................................. CB 205-218;
Diversity Jurisdiction...............................................CB 218-229; 28 U.S.C. §1332;
Amount in Controversy.............................................CB 229—232.

Removal .............................................. CB 244-249; 28 U.S.C. §§1441, 1446-48; FRCP 81c;
Assessment Questions............................................CB 249-253 (Do on your own).

F. THE ERIE PROBLEM

12. The Erie Problem .................................................CB 255-271 (Read Swift v. Tyson p. 256-258);

Assessment Questions...............................................CB 285-287 (Do on your own).

G. PLEADING

14. Sufficiency of a Complaint.................................CB 361-402; FRCP 8, 12;
.........(Read Notes on Conley v. Gibson and Twombly Note 2(c) p. 382-385).

15. Allocating elements/Ethical Limitations .......... CB 402-421; Rule 11 (REVIEW).

16. Responding to a Complaint.................................CB 421-437; FRCP 8, 12, 7.

17. Amendments/Relation Back.................................CB 437-450; FRCP 15;
Assessment Questions.............................................CB 450-453 (Do on your own).
H. MATTERS RELATED TO TRIALS


19. Proportionality/Privacy/Privilege ................................................................. CB 483-485; 488-507; FRCP 26(b) (2) (C); 26(c); 26(b) (1); 26(b) (5); 26(b) (3).

20. Ensuring Compliance/Controlling Abuse ................................................................. CB 507-518; FRCP 37(e); CB 519-522 (Do on your own).

21. Adjudication without trial (Summary Judgment) ................................................ CB 523-524; CB 569-588.

22. Judgement as a Matter of Law ................................................................. CB 626-648; CB 657-659 (Do on your own).

I. JOINDER OF CLAIMS AND PARTIES

23. Joinder .............................................................................................................. CB 777-801; FRCP 18, 42, 54(b), 13, 13(g).

24. Compulsory Joinder/Intervention ......................................................................... CB 802-818; FRCP 14; 19; 20; 42; 12(b)(7).