CIVIL PROCEDURE I  
FALL SEMESTER 2010  

Professor E. R. Lanier  

SYLLABUS  

The organization of this introductory course in Civil Procedure follows the sequence used in most such courses in American law schools. In the fall semester we will principally concentrate on the more conceptual aspects of civil procedure by studying the statutory and constitutional principles affecting the court selection process, jurisdiction and venue, and the relationship between the federal and state judicial systems. In the second semester we build on these foundations and explore some of the more practical aspects of the litigation process and rules (such as pleadings, joinder of parties, discovery, pre-trial dispositions, jury and non-jury trials, and principles of finality).

Reading materials for this semester are indicated on the following pages. You will note, however, that I have not specified a fixed assignment per week. Given the relative difficulty of our materials and uncertainty about your absorption rate, it is impossible to project a fixed pace for the entire semester. Allowing for these variances, you should expect your weekly assignments to average 25-40 pages. In each class I will specify your preparation obligation for the following class. In addition, we will schedule periodic writing exercises on major divisions of materials as indicated on the following schedule to afford you an opportunity to sharpen your analytical and writing skills using these substantive modules.

In addition to the casebook, you will be using a supplement that contains the Federal Rules of Civil Procedure and excerpts of various statutes. It is important that you refer to these rules and statutory provisions in conjunction with your study of the materials in the casebook.

Miscellaneous information about office hours, attendance requirements and the examination are included within. I will supplement this information by additional handouts and in our discussions in class.

Casebook  

(1) Yeazell, CIVIL PROCEDURE, Seventh Edition (Aspen Publishers)

& Supplements:

(2) FEDERAL RULES OF CIVIL PROCEDURE (2010)
TOPICS AND ASSIGNMENTS

Preface

I. AN OVERVIEW OF PROCEDURE
   A. The Idea and the Practice of Procedure
      1. Locating Procedure
      2. Clients, Lawyers, Procedure and Strategy
   B. Where Can the Suit Be Brought?
      1. Personal Jurisdiction
      2. Subject Matter Jurisdiction
         Hawkins v. Masters Farms, Inc.
      3. Venue
         Notes and Problems
      4. Service of Process
   C. Stating the Case
      1. The Lawyer’s Responsibility
         Bridges v. Diesel Service, Inc.
         Notes and Problems
         Note: Reading the Rules
      2. The Complaint
         Bell v. Novick Transfer Co.
         Notes and Problems
      3. The Response – Motions and Answer
         Notes and Problems
      4. Amendment of Pleadings
   D. Parties to the Lawsuit
      Notes and Problems
   E. Factual Development – Discovery
      Butler v. Rigby
      Notes and Problems
   F. Pretrial Disposition – Summary Judgment
      Notes and Problems
   G. Trial
      Norton v. Snapper Power Equipment
      Notes and Problems
   H. Former Adjudication
      Rush v. City of Maple Heights
      Notes and Problems
   I. Appeals
PART A
THE CONSTITUTIONAL FRAMEWORK
FOR U.S. LITIGATION

A. Approaching Civil Procedure 55
B. Constitutional Limits in Litigation 56
1. The Idea of Jurisdiction 56
2. Jurisdiction and the Constitution 57
3. The Constitution and Choice of Law 59

II. PERSONAL JURISDICTION

A. The Origins 61
Pennoyer v. Neff 61
Notes and Problems 67
Note on the Mechanics of Jurisdiction:
Challenge and Waiver 72
Notes and Problems 73

B. The Modern Constitutional Formulation of Power 74
1. Redefining Constitutional Power 74
   International Shoe co. v. Washington 75
   Notes and Problems 79
   McGee v. International Life Insurance Co. 83
   Hanson v. Denckla 83
   Notes and Problems 84

First Writing Exercise: Territorial and Extraterritorial Personal Jurisdiction

2. Absorbing In Rem Jurisdiction 85
   Shaffer v. Heitner 86
   Notes and Problems 93

3. Specific Jurisdiction: The Modern Cases 96
   World-Wide Volkswagen Corp. v. Woodson 96
   Notes and Problems 102
   Asahi Metal Industry Co. v. Superior Court 105
   Notes and Problems 110
   Burger King Corp. v. Rudzewicz 111
   Notes and Problems 115
   Pavlovich v. Superior Court 117
4. **General Jurisdiction**

   - *Perkins v. Benguet Consolidated Mining Co.*
   - *Helicopteros Nacionales De Columbia, S.A. v. Hall*
   - *Burnham v. Superior Court*

C. **Consent as a Substitute for Power**

   - *Carnival Cruise Lines, Inc. v. Shute*

D. **The Constitutional Requirement of Notice**

   - *Mullane v. Central Hanover Bank & Trust Co.*

E. **Self-Imposed Restraints on Jurisdictional Power:**

   - Long-Arm Statutes, Venue, and Discretionary Refusal of Jurisdiction
   1. **Long-Arm Statutes as a Restraint on Jurisdiction**
      - *Gibbons v. Brown*
   2. **Venue as a Further Localizing Principle**

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### Second Writing Exercise: Venue and Service of Process

3. **Declining Jurisdiction: Transfer and Forum Non Conveniens**
   - a. **Forum Non Conveniens**
      - *Piper Aircraft v. Reyno*
   - b. **Transfer under 28 U.S.C. §§ 1404, 1406, and 1631**

III. **SUBJECT MATTER JURISDICTION OF THE FEDERAL COURTS**

A. The Idea and the Structure of Subject Matter Jurisdiction

B. **Federal Question Jurisdiction**

   - *Louisville & Nashville Railroad v. Mottley*

C. **Diversity Jurisdiction**

   - *Redner v. Sanders*
IV. THE ERIE PROBLEM

A. State Courts as Lawmakers in a Federal System
   1. The Issue in Historical Context
   2. Constitutionalizing the Issue
      *Erie Railroad v. Tompkins*
      Notes and Problems
      Note: *Erie* and the Persistence of Federal Common Law

B. The Limits of State Power in Federal Courts
   1. Interpreting the Constitutional Command of Erie
      *Guaranty Trust Co. v. York*
      Notes and Problems
   2. De-constitutionalizing Erie
      *Hanna v. Plumer*
      Notes and Problems
   3. Determining the Scope of Federal Law: Avoiding and
      Accommodating Erie
      *Semtek Int’l Inc. v. Lockheed Martin Corp.*
      Notes and Problems
   4. Determining the Scope of State Law: An Entailment of *Erie*

**LIBRARY RESOURCE MATERIAL**

Freer, Introduction to Civil Procedure (Aspen Press)
ATTENDANCE AND PARTICIPATION IN CLASS

Regular class attendance is required by the academic rules and is essential to a coherent understanding of the course. The academic rules and requirements regarding attendance are set forth in the College of Law Bulletin. You should read them. I will deduct one point from your final grade in this course for each absence, excepting only excused absences. For this purpose, excused absences are only those necessitated by authenticated medical reasons. Work conflicts and conflicts with other law school activities are not excused absences for this purpose.

Each student should participate in class discussions. Some people find speaking in class much easier than do others. If you tend to be quiet during class, you should push yourself to raise your hand and join the discussion. If you are a regular participant, you should limit the frequency of your comments to allow others to participate. A rule of thumb is not to volunteer more than one
or two comments per class. Some people are more likely to volunteer a comment when there are fewer hands raised, or when there is a gap in the discussion. In calling on students who raise their hands, I try to call first on students who participate in the discussion less frequently. You can help me with this by raising your hand high so I will see you.

I would like to recognize each student who has a question or comment, but often I must move us forward to another topic when there are hands in the air. When this happens, please feel free to approach me after class to continue the conversation.

EXAMINATION AND GRADING

Your grade in this course will be based on a final examination. This exam will be three to four hours long. All grading will be done anonymously. I reserve the option to administer a mid-term examination.

Many students find it stressful to go through a whole semester's work without any concrete feedback. One way to get some feedback is to evaluate your own comprehension of what is going on in class. Do you know the answers to most of the questions? Do you understand why those questions are being asked? If you are having trouble understanding the material, spend time thinking about how you are studying, how you are taking notes, etc. Talk about it with other students. If you feel totally lost, come see me during office hours. Don't wait to see if it “comes together at the end”.

MAKE-UP EXAM POLICY

All make-ups must be arranged through the Office of the Associate Dean. The purpose of this rule is to preserve the anonymous grading system. If you have a legitimate excuse for delaying the exam contact the Associate Dean immediately, before the exam if possible.