

CIVIL PROCEDURE I
Fall 2019
M/W 2-3:20pm
Room 1101

Professor Marie-Amélie George

Office: Worrell 3331

Email: georgemp@wfu.edu

Phone: (336) 758-5852

Office Hours: Monday from 3:30 to 5:00p.m. and by appointment

TA: Grayson O'Saile

Email: osaign14@wfu.edu

Review Sessions: F 2-3:00pm in room 1108

“[W]hat substantive law says should be means nothing,
except in terms of what procedure says you can make real.”

– Karl Llewellyn

“[Civil] procedure is the etiquette of ritualized battle.”

– Stephen Yeazell

Introduction

Civil Procedure is the “how” of law. The rights and obligations about which you are learning in your other courses do not exist in a vacuum. Without court systems and mechanisms to guide disputes to peaceful resolution, rights do not have much value. Figuring out *how* to give effect to these rights and respect both sides in a dispute—in other words, *procedure*—calls for judgments that tap into fundamental concerns for fairness, accuracy, and efficiency.

This course will teach you about the lifecycle of a lawsuit and the procedures that are critically important to vindicating substantive rights. Part of this endeavor involves learning many of the essential statutes, rules, and judicial doctrines that govern whether a case may come into court, which court(s) may hear it, and who will decide the case. More critically, you will be mastering processes rather than just concrete information—the process of reading and interpreting constitutional provisions, statutes, and rules; the process of reading cases and synthesizing doctrine; and the process of distilling disparate sources of law to understand a problem fully and make a convincing argument. Regardless of whether you become a litigator, developing these core skills are vital for every successful lawyer.

Since procedure is related to the basic fairness of the justice system, our conversations may touch on deeply held beliefs or challenge your ideas about the legal system. Please remain respectful of different viewpoints and be open to having your own perspective changed.

Learning Objectives

At the end of this semester, you should be able to:

- Identify the relevant legal principles of cases and apply them to new sets of facts.
- Identify the relevant rules of Federal Civil Procedure and apply them to new sets of facts.
- Analyze how procedural rules affect substantive outcomes.

- Explain and apply the principles governing pleading, notice, venue, and jurisdiction.
- Create basic litigation documents.
- Express your legal analysis in writing and oral presentations.

Course Materials

- Joseph W. Glannon, et al., Civil Procedure: A Coursebook (3rd Edition 2017).
- Federal Civil Rules of Civil Procedure (eff. Dec. 1, 2017)
- Other materials as assigned.

Office Hours

You are encouraged to come by my office (Worrell 3331) with questions or concerns. My formal office hours are Monday from 3:30 to 5:00p.m., but you are also welcome to schedule an appointment for another time by emailing me at georgemp@wfu.edu.

Gray O'Saile, your TA, is also available to answer questions by email at osaign14@wfu.edu and during the Friday review sessions. The review sessions will be held every Friday at 2pm in room 1108, beginning the second week of the semester, during which you will work through a practice problem to apply the week's doctrinal material and hone your analytical skills.

Class Policies & Procedures

Reading for Class

Unless otherwise indicated, page numbers in your syllabus refer to your Glannon coursebook. FRCP refers to the Federal Rules of Civil Procedure.

You are responsible for reading all the assigned class material, whether or not we cover all of the material during class.

Accommodations

I am committed to making our classroom a safe and accessible space for all members of our community. If you need a reasonable accommodation for this course please make sure to contact the Wake Forest Learning Assistance Center (Reynolda Hall, 336-758-5929) or Student Health Services (Wellbeing Center/Reynolds Gym Ground floor, 336-758-5218). If you need an accommodation because English is not your native language, please contact Tracey Coan (Law School Dean's Office, coantb@wfu.edu).

Computer and Technology Policy

You may use your laptop during class for course-related purposes. However, during class you may not access email, instant message, social networking, games, or have screens open for anything other than work related to civil procedure. If laptop use becomes a detriment to classroom learning, I reserve the right to implement an individual or class-wide ban.

Cell phones must be silenced and put away. If you have a legitimate need to leave your cell phone out, please speak to me ahead of time.

Class Polling

We will use real-time polling in class. Please sign up for a free account at <https://www.polleverywhere.com>.

Grading

Your grade is comprised of four main components: midterm (15%), drafting assignments (10%), attendance and participation (10%), and the final exam (65%).

Midterm

There will be a midterm exam on October 7th. The midterm will be worth 15% of your final grade, unless you perform *better* on your final exam than on your midterm exam, in which case your midterm exam grade will be discarded and your final exam will count for 80% of your grade. This makes the midterm exam an optimal chance to practice your test-taking skills without fear – the midterm can only help you.

Please note that there is a mandatory midterm review session on Friday, October 4th, at 1pm.

Drafting Assignments

You will complete two drafting exercises to help you understand the practical application of the legal doctrines we are studying. These will be done in small groups, since law is a collaborative profession. Assignments turned in late must be accompanied by a Motion for Extension of Time.¹ Assignments turned in more than 24-hours after they are due will not be accepted.

Attendance and Participation

I expect everyone to attend class, to keep up with reading and assignments, engage in class discussions, participate in the in-class exercises, and complete the online quizzes. Please be on time to class. It is distracting for someone to enter the classroom after class has begun. Consistently arriving late to class will lower your final grade.

In addition to voluntary class participation – which I encourage! – I will randomly call on students during each class. I understand that sometimes, for whatever reason, you would prefer to not be called upon to speak on a particular day. Please contact me before class to let me know. Using this option more than once during the semester, however, will result in a lowering of your final grade.

Three or more absences will result in a lowering of your final grade. In accordance with the law school's policy on class attendance, students who miss five or more classes will not be permitted to sit for the final exam absent extraordinary circumstances (i.e., hospitalization, loss of an immediate family member, or events of a similar magnitude).

¹ FRCP 6.

If you are on time, do not accrue more than the allowed number of passes/absences, are generally prepared when called upon in class, and complete the assignments, you will receive full credit for attendance and participation as part of your final grade.

Final Exam

The final exam will consist of multiple choice and essay questions. You will be allowed to bring your own outline to the exam, defined as any outline to which you have contributed at least 20% and the remainder has been created by students currently enrolled in this section of civil procedure. I have set aside the last week of classes to review the course material, during which time you can ask questions you may have about what we have covered.

Other Matters

Being a law student is challenging. Please don't hesitate to contact me with concerns about the course or your law school experience.

Being a law professor is also challenging. Please retain your sense of flexibility and humor.

Schedule of Assignments

We will endeavor to stay on schedule, but the following is subject to change as the semester progresses.

Introduction to Basic Concepts	
August 19 <i>American Court Systems Sources of Rules & Procedure</i>	Read pp. 3-11; 33-37 FRCP 1
August 21 <i>Overview of the Litigation Process</i>	Read pp. 21-33
Initiating a Lawsuit	
August 26 <i>Notice Pleading</i>	Read pp. 419-421; 427-446 FRCP 3, 8(a), 8(d)-(e), 9(a) – (g)
August 28 <i>Pleading Post-Twqbal</i>	Read pp. 453-473 (omit note 6 on pp. 468) Complaints on Sakai FRCP 10
9/2: No class – Labor Day	
September 4 <i>Notice & Service of Process</i>	Read pp. 327-348; 359-61 FRCP 4
9/6: Complaint Drafting Exercise Due by 5:00 p.m.	
Responding to a Lawsuit – Or Not	
September 9 <i>Review Complaint Drafting Exercise Default</i>	Read pp. 475-486 FRCP 55
September 11 <i>Defenses & Waiver</i>	Read pp. 486-503 FRCP 8(b)-(d); 12(a)-(c), (e)-(h)
September 16 <i>Answering</i>	Read pp. 503-524
Subject Matter Jurisdiction	
September 18 <i>Diversity Jurisdiction & Citizenship</i>	Read U.S. Const. art. III, § 2 Read pp. 13-18; 41-59
9/19: Quiz #1	
September 23 <i>Corporate Citizenship Amount in Controversy Requirement</i>	Read pp. 59-85
September 25 <i>Federal Questions</i>	Read pp. 91-108 28 U.S.C. §§ 1331, 2201-2202

September 30* <i>Federal Questions Continued</i>	Read pp. 108-125
October 2 <i>Removal</i>	Read pp. 127 – 144 Read 28 U.S.C. § 1441(a), 1446
**October 4 – MAKEUP CLASS at 1pm Room 1309 <i>Midterm Review</i>	Materials on Sakai
10/7: In-class Midterm	
10/9: No class – enjoy the break!	
A Sanctions Interlude...	
October 14 <i>Care and Candor in Pleadings</i>	Read pp. 525-36, 543-58 FRCP 11
Personal Jurisdiction	
October 16 <i>Intro to Personal Jurisdiction</i> <i>General Jurisdiction</i>	Read pp. 147-148, 164-78, 249-268 (omit note 6 on page 266-67)
October 21 <i>Specific Jurisdiction</i>	Read pp. 184-212
October 23 <i>Specific Jurisdiction cont.</i>	Read pp. 214-33 <i>Bristol-Myers Squibb</i> (on Sakai)
October 28 <i>Internet Contacts</i>	<i>Binion v. O'Neal & HVLPO2 v. Oxygen Frog</i> (on Sakai)
October 30 <i>In Rem Jurisdiction</i> <i>Transient Contacts</i> <i>Consent and Waiver</i>	Read pp. 271-305
11/1: Quiz #2	
Motion to Dismiss Drafting Exercise Due by 11/3 at 5:00 p.m.	
Choice of Law	
November 4 <i>Vertical Choice of Law</i>	Read pp. 893-916; 28 U.S.C. §1652
November 6 <i>Review of MTD Drafting Exercise</i> <i>Horizontal Choice of Law</i>	Read pp. 917-931

* This class will be recorded due to the holiday.

**November 8 - MAKEUP CLASS at 1pm Room 1309 <i>Substance v. Procedure</i>	Read pp. 933-957
Venue	
November 11 <i>Introduction to Venue</i>	Read pp. 367 – 384 Parker Essays (on Sakai)
November 13 <i>Challenges to Venue</i>	Read pp. 385-414
11/15: Quiz #3	
Go! Fight! Win!	
11/18: No class	
**November 19 – MAKEUP CLASS at 10:30am in 1308 <i>Review</i>	Materials on Sakai
**November 20 – RESCHEDULED CLASS at 9am in 1308 <i>Review</i>	Materials on Sakai
11/25: No class – enjoy the break!	