

**CIVIL PROCEDURE II
REQ7105A ~ Spring 2024**

Professor Stephanie Clark

SYLLABUS

CONTACT INFORMATION AND OFFICE HOURS

- Professor Clark:
 - Email (preferred): sclark@vermontlaw.edu
 - Office phone: (802) 831-1315
- Teaching Assistants:
 - Katharine “Kat” Alvarez Rios: <mailto:katharinealvarezrios@vermontlaw.edu>
 - TBD

Office Hours:

- Professor Clark – TBD [Also by appointment, please email to set up a time].
- TAs: TBD

COURSE OVERVIEW

This course, along with Civil Procedure II, will generally cover the process of civil litigation in our U.S. federal courts. We will survey questions that face attorneys and clients who seek to initiate and defend against a federal lawsuit. We will examine the Federal Rules of Civil Procedure (the “Fed. R. Civ. P.”), Title 28 of the United States Code, the Constitution, and Supreme Court opinions construing this law. Beyond learning procedural law, will examine strategic, ethical, professional, and economic considerations that arise in civil litigation. Specifically, this semester, we will cover what I call the big three: Subject Matter Jurisdiction, Personal Jurisdiction, and Venue, as well as Pleading. This call will also provide practice in answering essay and multiple-choice questions for the bar exam.

This Syllabus, and other important documents and information, are posted on **Canvas** (the course web site). Enrolled students must either check Canvas on a regular basis, or sign up for Canvas updates to be sent via email.

REQUIRED MATERIALS

The required text for this course is:

Glannon, Joseph, et al., Civil Procedure: A Coursebook. Fourth Edition. (Wolters Kluwer 2021) ISBN 978-1-5438-2625-8. CAUTION: Glannon recently released the Fourth Edition (last

several years); if you are attempting to buy this book used, the Third Edition is NOT identical to the Fourth Edition and all page number assignments will be for the Fourth Edition.

Glannon Supplement (2021). You may use the 2020 or the 2021 supplement if you can find one used.

SUPPLEMENTAL MATERIALS

A number of commercial treatises and study aids for Civil Procedure are available. Professor Arthur Miller's Civil Procedure audio lectures are very helpful. I also recommend the below three publications, though none are required. You may want to consult with our TAs or ASP mentors on what supplementary materials they found most helpful.

Glannon, CIVIL PROCEDURE: EXAMPLES & EXPLANATIONS (Wolters Kluwer)

Glannon, THE GLANNON GUIDE TO CIVIL PROCEDURE (Wolters Kluwer)

Spencer, ACING CIVIL PROCEDURE (Thomson West)

USEFUL WEBSITES

<https://www.uscourts.gov/>

<https://www.supremecourt.gov/>

<https://www.scotusblog.com/>

<https://www.vermontjudiciary.org/>

Additional resources, materials, and assignments will be posted in our Canvas site under "Files" from time to time. Any time I add materials or assignments, I will send an announcement to the class.

GRADING

The grade in this course will be based on the following components: a closed book midterm worth 25 percent, and a closed book final exam worth 75 percent. Instructions and additional information will be posted at a later date. The class will be graded on a B curve. A student who is unprepared for class may receive a one increment decrease to their final grade (e.g., from B to a B-). As in our first semester, if you are unprepared when called upon and "pass," then you will choose who is being called upon in your stead.

The final course grade may be adjusted up for outstanding class preparation and participation that demonstrates a level of engagement above and beyond that which is expected at the professional graduate school level. Class participation is measured primarily by its

meaningfulness and utility to the discussion. While frequency matters, it is the substance of your contribution that matters more.

The final course grade may also be adjusted down for lack of professionalism, violations of VLGS policies and procedures, multiple unexcused class absences, and otherwise in the discretion of the professor, if a deduction is merited due to disruptive, disrespectful, or offensive conduct in class. Professionalism includes attendance, punctuality, class preparation and participation, responsibility, respect, and civility. Each is explained below.

COURSE EXPECTATIONS

Attendance

Class attendance is mandatory. The attendance policy is explained in more detail in the Vermont Law and Graduate School Student Handbook II.A., which provides that a student will receive a grade of F-Wd (failure withdrawal) if they are absent from 20% of regularly scheduled classes. Please read the full attendance policy posted in the Handbook before the beginning of the term. **The Academic Regulations permit individual professors to set a higher requirement (but not a lower requirement) and for this class you will receive a grade of F-Wd if you are absent from more than two regularly scheduled classes.** You are required to monitor your own compliance with this policy. Two tardies equals one absence under this policy.

If additional absences are due to a health issue or other extraordinary circumstance beyond your control, contact Vice Dean for Students, Joseph Brennan as a withdrawal or medical leave may be appropriate. You may also contact Associate Dean of Diversity, Equity, and Inclusion, Lisa Ryan for any accommodation request for additional absences. You can review our accommodations policy, and all policies and procedures, in the Student Handbook.

Please make every effort to attend class fully, and excuse yourself only if absolutely necessary. Other than scanning the QR code at the start of class for attendance, your phone should be off during class.

Class Preparation and Participation

As noted under the Grading section, you are expected to be prepared for class and to participate regularly. This class, like Civil Procedure I, will use the Socratic method, and I will call on you at random. Students should expect to be called upon to answer questions about the reading materials, or questions based on the reading materials. If you are not prepared on a particular day, you may “pass.” If you pass, however, you must select whom I will call on instead of you and your participation grade may suffer. Class discussion, including responding to questions and comments from me and your classmates, is an essential component of our class. If you are not the person called upon, and you would like to say something or ask a question, please raise your hand and wait to be called upon. If you are not speaking, please listen to the contributions of your classmates. Please do not interrupt when someone is speaking, and know that I will limit how far the conversation goes with questions and hypotheticals – and sometimes I may not

answer your question (though I will always tell you why)! I will also not be able to call on you every time you raise your hand, and this translates to being more so for students who frequently contribute to our class discussions. There are many reasons why I may not call on someone who has their hand raised including the class flow or pace in terms of material that needs to be covered in a class, or to give other students who are less inclined to raise their hand, more opportunities to engage. It is never because I am disinterested in a student's contributions.

Email and Canvas

Civil Procedure II will use a Canvas course web page. You will be automatically enrolled in the course Canvas site, but it is your responsibility to check Canvas periodically for updates that are posted under [Announcements](#). This syllabus, assignments, and related materials are posted there as well. Recordings and a copy of any PowerPoint slides I use will be available after class on our Canvas site.

I use the Announcements function on Canvas to communicate with the class. Please check your VLGS email regularly to ensure that you do not miss any important Announcements. The VLGS email system is an official method of communication at VLGS and for this course. It is the primary way that I communicate with you outside class. You are expected to check your VLGS email on a regular basis. This means at least once a day and probably more often on class days.

I encourage you to take notes by hand, even if you typically use a laptop. Handwriting slows down your thought process and forces you to develop your critical listening skills. The use of the internet or email during class is forbidden, unless I indicate otherwise. Texting during class is also prohibited.

Respect and Civility

You are expected to show respect for the Professor and your classmates. Please arrive before the time for class to start. Do not leave during class except for emergencies, as this causes a great deal of distraction and disruption.

Students must raise their hands and wait to be called on in class before speaking. As noted above, if you are not speaking, please listen to the contributions of your classmates. Listening is a basic professional courtesy and an expectation in this class. Please also respect the various contributions of other students, even if you disagree with the statement(s) offered by your classmates. If you are a frequent contributor to class discussion, you might not always be called on to speak.

OFFICE HOURS:

Regular office hours will be set after our first class and will be announced in Canvas. Appointments can also be made on Teams and are generally scheduled in 30-minute blocks. Email Professor Clark (or the Teaching Assistants once assigned) to schedule an office hours appointment.

COPYRIGHT

All materials (written and recorded) in this course, including those on the course web site, are copyrighted. This also includes any recording of the class by the professor, any student, or any other person. These materials are only for the use of the individual student enrolled in this course and may not be reproduced or distributed without the express written consent of the professor.

ASSIGNMENTS

I will cover about 40 pages of material per week. ***You should read the text of any Rule or Statute cited in the casebook as you do your reading.*** I encourage you to write out your answers to questions posed in the text. This is the best way to consolidate materials and to give you a sense of whether you are understanding the readings. The broad schedule of assignments is below and will be posted in Canvas. The schedule will be updated and adjusted periodically. Updates will appear in our Canvas Files and will be noted in our [Announcements](#).

LEARNING OUTCOMES

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

1. Demonstrate knowledge of substantive legal doctrine fundamental to civil litigation in federal trial courts;
2. Apply legal analysis skills to hypothetical fact patterns involving issues related to federal civil litigation;
3. Employ critical reading techniques to extract relevant facts, law, and policy from cases and other materials related to the procedures of civil litigation;
4. Practice learning independently and as part of a group;
5. Practice bar style multiple choice and essay questions; and
6. Recognize ethical issues that may arise when representing a client in the course of civil litigation.

These outcomes will be achieved through careful reading, discussion, responding to objective questions without study aids, and the completion of problems that require you to spot and analyze civil procedure issues in a fact pattern.

AMENDMENTS TO THE SYLLABUS

Any amendments to the Syllabus will be made in writing and the updated version will be posted in Canvas (replacing the previous version).

OUR ROADMAP FOR CIVIL PROCEDURE II

- I. Joinder of Claims and Parties
- II. Supplemental Jurisdiction
- III. Discovery
- IV. Disposition without Trial – Summary Judgment

- V. Trial
- VI. JNOV and Directed Verdict
- VII. Claim and Issue Preclusion

READING AND ASSIGNMENT SCHEDULE

Glannon Text = GT

Glannon Supplement = GS

Federal Rules of Civil Procedure = FRCP

CLASS	ASSIGNMENT	AGENDA
WEEK 1		
Class 1: TU - 1/16	Read: GT: pp 601-617; FRCP 18(a) & 20	Introduction to Joinder; Counterclaims, Crossclaims, and Impleader
Class 2: TH - 1/18	Read: GT: pp 617-639; FRCP 13 & 14(a)	
WEEK 2		
Class 3: TU – 1/23	Read: 28 U.S.C. sec. 1376 GT: 711-723	Joinder Review; Supplemental Jurisdiction
Class 4: TH - 1/25	Read: GT: 723-739	
WEEK 3		
Class 5: TU – 1/30	Read: GT: 749-760; FRCP 26(a)(1) & (g)	Supplemental Jurisdiction Review; Introduction to Discovery (Possible small group practice)
Class 6: TH - 2/1	Read: GT: 760-774	
WEEK 4		
Class 7: TU – 2/6	Read: GT: 799-830 FRCP: 33-36, 37(b)(2)(A)- (C)	Basic Techniques of Discovery and Controlling Discovery; Discovery Review

Class 8: TH - 2/8	Read: GT: 831-838; 845-846; 849-858	
WEEK 5		
Class 9: TU – 2/13 Class 10: TH - 2/15	Watch: Spring Video on Discovery Study for Midterm	NO CLASS – DISCOVERY VIDEO; STUDY FOR MIDTERM
WEEK 6		
Class 11: TU – 2/20 Class 12: TH - 2/22	Review Session MIDTERM	In Class Midterm: Joinder, Supplemental Jurisdiction, & Discovery
WEEK 7		
Class 13: TU – 2/27 Class 14: TH - 2/29	Read: GT: 980-1003 FRCP: 56 Watch: Video	Introduction to Summary Judgment
WEEK 8		
TU – 3/5 TH - 3/7		NO CLASS – SPRING BREAK
WEEK 9		
Class 15: TU – 3/12 Class 16: TH - 3/14	Read: GT: 1003-1017 Watch: Midterm Video	Summary Judgment (cont.), and Summary Judgment Review
WEEK 10		
Class 17: TU – 3/19 Class 18: TH - 3/21	Read: GT: 1042-1081 FRCP: 50	*Possible Asynchronous Class*

	Watch: Videos	Jury Trials; Directed Verdict & JNOV
WEEK 11		
Class 19: TU – 3/26 Class 20: TH - 3/28	Read: GT: 1189-1205; 1223-1244	Claim Preclusion & Issue Preclusion
WEEK 12		
Class 21: TU – 4/2 Class 22: TH - 4/4		NO CLASS
WEEK 13		
Class 23: TU – 4/9 Class 24: TH - 4/11	Watch: Panopto Video Lecture on Introduction to Erie Doctrine	Preclusion Review; Discussion of Erie Doctrine
WEEK 14		
Class 25: TU - 4/16 Class 26: TH - 4/18		NO CLASS
WEEK 15		
Class 27: TU – 4/23 Class 28: TH - 4/25	Review!	Introduction to ADR; Course Evaluations; & Final Review Session
FINAL EXAM – TBD (Scheduled by Registrar)		

See you soon in our spring semester!