

**CIVIL PROCEDURE
REQ 7107 J1
OHJD Fall 2024
Professor Stephanie Clark**

SYLLABUS

CONTACT INFORMATION AND OFFICE HOURS

- Professor Clark:
 - Email (preferred): sclark@vermontlaw.edu
 - Office phone: (802) 831-1315
- Teaching Assistants:
 - Anais Minks: anaisminks@vermontlaw.edu
 - Mirna Hanna: mirnahanna@vermontlaw.edu

Office Hours:

- Professor Clark – **Tuesdays: 5:00 to 6:00 pm EST.** [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, Discovery, Judgments as a Matter of Law, Claim and Issue Preclusion, and the Erie Doctrine (state law in federal court). This class will also provide practice with issue spotting, and in answering essay and multiple-choice questions for the bar exam, as well as experiential and integrated problems that you will work through in small groups.

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 texts for this course are:

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: Civil Procedure: Rules, Statutes, and Other Materials (Aspen Pub. 2022) ISBN 978-1-5438-5622-4. You may use the 2020 or the 2021 supplement if you can find one used. NOTE: There is an updated 2024 version now available but you are not required to purchase the 2024 version.

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 PROCEEDURE (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: exercises and problems worth 20%, a closed book midterm worth 20%, and a closed book final exam worth 60%. 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-). 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 punctuality, attendance, class preparation and participation, responsibility, respect, and civility. Each is explained below.

COURSE EXPECTATIONS

Attendance

Class attendance is mandatory, and punctuality is included in overall attendance. 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 and I consider 6:01 p.m. as a tardy.

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.

In order to be counted as present, you must have your video on. If you need to excuse yourself during class, please send me a private message so I can count you as present. Please make every effort to attend class in a distraction free space with minimal interruptions and consistent and reliable internet.

Class Preparation and Participation

As noted under the Grading section, you are expected to be prepared for class and to participate regularly. This class 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. Please do not use the chat function

on Teams to communicate during class unless I ask you to. Instead, please use the “raise hand” function if you would like to say something or ask a question.

Email and Canvas

Canvas is a learning management system (LMS). Many faculty create a Canvas course web page for documents, quizzes, and discussion forums. You will be automatically enrolled in the course Canvas site, but it is your responsibility to verify that the email address registered with Canvas is one that you can access and check frequently for course updates. You can access your Canvas settings by clicking “Account” on the top left side of the Dashboard screen, beneath the VLGS logo.

You should check Canvas periodically for updates that are posted under [Announcements](#). This syllabus and related materials are posted there as well, under correspondingly named tabs on the left side of the screen. Other resources are also posted there. You are responsible for the materials posted under the tabs: [Announcements](#), [Syllabus](#), [Modules](#), and the Required Course Materials, including slides, that will be posted in [Files](#). The Syllabus and Modules and will indicate when there is assigned reading or videos outside of the Casebook and Supplement. All reading, videos, and other assignments can also be found in our Canvas [Modules](#). Recordings will be posted under the [Panopto Video](#) tab, 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. You should 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. If you are not speaking, please listen to the contributions of your classmates. 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 and the link are posted on the homepage in Canvas. Regular office hours are on a "drop in" basis, and usually are attended by a number of students. The group conversation is very helpful as often students have the same questions and/or learn from each other's questions. I strongly encourage attending office hours! Individual appointments can also be made on Teams and are generally scheduled in 30-minute blocks. Email Professor Clark or the Teaching Assistants to schedule an 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 50-60 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 is posted in Canvas under [Modules](#). The schedule will be updated and adjusted periodically. Updates will appear in Canvas and will be noted in our [Announcements](#). Announcements also are sent directly to your VLGS email.

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 act 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, as well as participate in skills-based exercises in class; 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 I

- I. Subject Matter Jurisdiction
 - A. Federal Question Jurisdiction (1331)
 - B. Diversity Jurisdiction (1332)
 1. Citizenship of Persons
 2. Complete Diversity Rule
 3. Citizenship of Corporations and Other Entities
 4. Amount in Controversy Requirement; Aggregating Claims
 - C. Removal (1441)
 1. Standard
 2. Procedure
- II. Personal Jurisdiction
 - A. Introduction and Evolution
 - B. Specific Jurisdiction
 - C. General Jurisdiction
- III. Venue – Video lecture only
 - A. Generally (1391)
 - B. Transfer and Dismissal (1404 and 1406)
 - C. Forum Non Conveniens
- IV. Pleading
 - A. Complaints
 1. History of Pleading
 2. Current Standard of Pleading: Plausible Pleading
 3. Care and Candor in Pleading (Rule 11)
 - B. Responding to the Complaint
 1. Default
 2. Rule 12 Motions
 - a. Omnibus Motion Rule
 - b. Rule 12 Waiver Trap
 3. Answering
 - C. Amending Pleadings
- V. Joinder of Claims and Parties
 - a. Intro. to Supplemental Jurisdiction (1376)
- VI. Discovery
- VII. Summary Judgment
- VIII. JNOV and Directed Verdict
- IX. Claim and Issue Preclusion
- X. Erie Doctrine

READING AND ASSIGNMENT SCHEDULE

Glannon Text = GT

Glannon Supplement = GS

Federal Rules of Civil Procedure = FRCP

- **Regular Class Time = Thursdays, 6:00 to 9:20 pm EST**
- Asynchronous Classes = only as necessary, and as designated below
- Combination Classes = only as necessary, are 6:00 to 8:00 pm EST, with additional asynchronous material, and will be designated below

CLASS	ASSIGNMENT	AGENDA
WEEK 1		
Class 1 - Thursday, 8/29	Read: Course Syllabus & Schedule GT: pp 3-19; 91-108; 43-61 GS: Article III; 28 USC sec. 1331; and 28 U.S.C. sec. 1332(a)-(c)	Introductions and Overview Article III: Begin Subject Matter Jurisdiction (SMJ) - Federal Question Jurisdiction & Diversity Jurisdiction: Diversity of Citizenship; and Complete Diversity Rule
WEEK 2		
Thursday, 9/5: NO CLASS (See you soon in VT!)		
Class 2 - Friday, 9/6 – (In person) 11:15 – 12:30	Friday reading: GT: 61-89	Friday: Diversity SMJ (cont.): Citizenship of Corporations and Amount in Controversy; Aggregating Claims
Class 3 - Saturday, 9/7 – (In person) 10:45 – 12:00	Saturday reading: GT: 127-144 28 U.S.C. 1441(a)-(b), 1446, 1447	Saturday: Concurrent Jurisdiction & Removal
WEEK 3		
Class 4 - Thursday, 9/12	Review: SMJ and Removal Read: U.S. Const. Amend. XIV GT: 147-178	Review; Intro. to Personal Jurisdiction
WEEK 4		

Class 5 - Thursday, 9/19	Read: GT: 184-200; 251-270	Personal Jurisdiction: Specific & General Jurisdiction
WEEK 5		
Class 6 - Thursday, 9/26	Read: GT: 216-234	Personal Jurisdiction (cont.): Stream of Commerce; Review General SMJ & Personal Jurisdiction; and Timed Practice Midterm
		VENUE (Basics) & PLEADING
WEEK 6		
Class 7 - Thursday, 10/3	Watch: Video on Practice Midterm Video Lecture on Venue Read: GT: 369-378; 383-385 U.S.C. sec. 1391, 1404, 1406 GT: 429-449, 456-476	Introduction to Venue; Transfer and Dismissal of Venue; and <i>Forum Non Conveniens</i> Introduction to Pleading; Heightened Pleading and Plausible Pleading
WEEK 7		
Class 8 - Thursday, 10/10	Review!	In Class Midterm (SMJ, Removal, and PJ – Not Stream of Commerce)
WEEK 8		
Class 9 - Thursday, 10/17	Watch: Video on Midterm Read: GT: 529-552 GS: Fed. R. Civ. P. 11 Watch:	Brief Midterm Review Pleading (cont.): Rule 11; Sanctions Responding to the Complaint:

	<p>Videos on Responding to the Complaint, and Waiver Trap & Omnibus</p> <p>Read: GT: 477-479, 488-505 GS: Fed. R. Civ. P. 12</p>	<p>Default and Motions to Dismiss; Waiver Trap and Omnibus Motion Rule</p>
WEEK 9		
Class 10 - Thursday, 10/24	<p>Read: GT: 505-519, 553-567 GS: Fed. R. Civ. P. 8(b)-(c) and Fed. R. Civ. P. 15</p> <p>Read: GT: 601-617; FRCP 18(a) & 20</p>	<p>Answering the Complaint and Amending Pleadings</p> <p>JOINDER</p> <p>Introduction to Joinder</p>
WEEK 10		
<p>ASYNCHRONOUS: We will <u>not</u> be meeting for regular class!</p> <p>Class 11 - Thursday, 10/31:</p>	<p>Watch: Video on Joinder Video on Discovery</p> <p>Read: GT: pp 617-639; FRCP 13, 14(a), & 24</p> <p>Read: 28 U.S.C. sec. 1376 GT: 733-739</p> <p>Read: GT: 749-774; FRCP 26 – review the entire rule, and specifically read 26(a)(1) & (g)</p>	<p>Review Answers & Amendments</p> <p>Joinder (cont.): Counterclaims, Crossclaims, Impleader, and Intervention; and Supplemental Jurisdiction (Intro. only)</p> <p>DISCOVERY</p> <p>Introduction to Discovery</p>
WEEK 11		
<p>EXTRA OFFICE HOUR for Joinder Review: Tuesday, 11/6: 4:00 – 5:00</p> <p>Class 12 - Thursday, 11/7</p>	<p>Read: GT: 799-838 FRCP: 33-36, 37(b)(2)(A)-(C) GT: 845-847; 849-867</p>	<p>Basic Techniques of Discovery and Controlling Discovery; Discovery Exercise and Practice</p>

WEEK 12		
Class 13 - Thursday, 11/14	Watch: Intro to SJ Video Read: GT: 980-1017 FRCP: 56	Summary Judgment
WEEK 13		
Class 14 - Thursday, 11/21 EXTRA OFFICE HOUR for Preclusion and Erie: Friday, 11/22: 4:00 – 5:00	Read: GT: 1189-1205; 1223-1244 GT: 871-901 Watch: Video Introduction to Erie Doctrine	Claim Preclusion & Issue Preclusion; and Erie Doctrine
WEEK 14		
EXTRA OFFICE HOUR for Directed Verdicts & JNOV: Tuesday, 11/26: 4:00- 5:00 ASYNCHRONOUS – NO CLASS Class 15 - Thursday, 11/28	Watch: Video on Directed Verdicts and JNOV Read: GT: 1053-1058; 1076-1082 FRCP 50 OPTIONAL: <i>PA RR</i> and <i>Lane</i> cases THANKSGIVING NO CLASS	Directed Verdicts & JNOV (Judgment Notwithstanding the Verdict)
WEEK 15		
Class 16 - Thursday, 12/5	Review!	Review Claim & Issue Preclusion; R50 Basics; and Final Course Review, Practice, & Course Evaluations
FINAL EXAM – TBD (Scheduled by Registrar)		

See you soon!