

OHJD CIVIL PROCEDURE (Req 7107.J2)

Vermont Law School – Fall 2025

Professor Jason Dykstra

Syllabus & Schedule

Office Phone: (802) 831-1071 (please provide your first and last name when leaving a voicemail)

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Class: Wednesdays, 6:00-9:20 EST (refer to schedule for specifics)

Office Hours: Thursdays from 12-2 EST, starting the week of 9/8/25 (and by appointment).

Note: I hold office hours via Teams and by appointment on Thursdays. You may sign up for office hours on Canvas for any time that is available. To meet me, however, you must sign up at least twenty-four hours in advance.

I am also available to meet with you outside of these times. You may email me to set up an appointment.

INTRODUCTION AND OVERVIEW

This course will generally cover the process of *civil* litigation in the federal courts of the United States. We will survey questions that face attorneys and clients who seek to initiate or 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, we will examine strategic, ethical, professional, and economic considerations that arise in civil litigation. Specifically, this semester, we will cover the big three: Subject Matter Jurisdiction, Personal Jurisdiction and Venue, as well as Pleading, Joinder, Discovery and Summary Judgment. This class will also provide practice in answering essay and multiple-choice questions for the bar exam.

REQUIRED MATERIALS

1. Yeazell, Schwartz, and Carroll, *Civil Procedure*, 11th edition (Aspen Publishing 2022) ISBN-13: 978-1543856286 *Please note, this edition contains significant variations from the 10th edition. As such, I do not recommend purchasing an out-of-date copy of the book, but I also don’t prohibit it. If you do use a different edition, it is up to you to make sure you are reading the appropriate materials.
2. Yeazell, Schwartz, and Carroll, *Federal Rules of Civil Procedure: With Selected Statutes, Cases, and Other Materials 2025 (Supplements)* (Aspen Publishing 2025) ISBN-13: 979-8892070041

OPTIONAL MATERIALS

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

- Glannon, *Civil Procedure: Examples and Explanations for Civil Procedure* (Wolters Kluwer)
- Spencer's *Acing Civil Procedure: A Checklist Approach to Solving Procedural Problems* (Thomson West)

Note: Please always double-check that the optional materials are current!

GRADING

Your grade will be based on a one hour closed book midterm exam (25%) and a four hour closed book final exam (75%). This class will be graded on a B curve. Poor participation may result in a half-grade decrease to your final grade.

USEFUL WEB SITES

- <http://www.uscourts.gov> (this website has links to the Federal Rules, and to all the federal courts including the Second Circuit Court of Appeals and the Federal District Court of Vermont)
- <http://www.supremecourtus.gov> (U.S. Supreme Court)
- <http://www.scotusblog.com> (An excellent blog)
- <https://www.vermontjudiciary.org> (Vermont courts)
- <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure> (go to FRCP pdf link; free; FRCP only)

GRADING

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CLASS ATTENDANCE

Class attendance is mandatory, including the classes that will occur during the September 2024 residency. Vermont Law and Graduate School Academic Regulation II.A. provides that a student will receive a grade of F-Wd if they are absent from 20% of regularly scheduled classes. **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 or any required class of the Residency.** However, any absence may impact your understanding of the material and your participation grade. You are required to monitor your own compliance with this policy.

If additional absences (more than 2) are due to a disability, contact Associate Dean of Diversity, Equity, and Inclusion Ryan for an accommodation request. You can review our accommodation policy and forms: [Accommodations | Vermont Law and Graduate School](#) If the absences are not due to a disability, contact Dean Brennan about the next steps.

CLASS DISCUSSION & PREPARATION

You are expected to have read the assigned materials before class. Our class discussion will commence with the assumption that you are familiar with the assigned materials. I understand that calling on students at random—often called the Socratic Method—may produce anxiety, and as I was once a very shy student, so I am sympathetic. But the upsides of using the Socratic Method as a general classroom tool substantially outweigh the downsides. The Socratic Method will encourage you to prepare thoroughly and will help you develop the skill of answering questions on your feet—an essential skill, in my mind, for **all** lawyers (yes, even transactional lawyers).

The Socratic Method helps keep numerous students engaged, both through the possibility of being called on and because every student can think about how to answer the questions and issues. The Socratic Method helps me gauge how well the class is understanding a concept. If I rely on people who raise their hands, I may get a distorted view of the class's overall understanding. If I tell a certain group to prepare for a class discussion, then (in my experience) only that small group learns the materials.

In addition to the Socratic Method, I welcome student volunteers. You should tackle hypotheticals, make comments, and ask questions. This is your first semester of law school; it's important to start building a community. Let's all work extra hard to make sure we are staying engaged with each other and the materials.

I realize that sometimes life happens even during law school. You may elect not to engage in cold calling (that is, use your **Free Pass**) ONCE during the semester. To use your free pass, you must email me no later than 60 minutes before the class. You do not need to give me any reason for using your free pass. I may accidentally call on you (despite your email). If that happens,

please remind me that you used your pass. (But I will double-check that after class!) Please do not hesitate to use your pass. That's what it's there for.

To be counted as present, you must have your video on for the whole class (absent an accommodation or emergency circumstances). However, if you need to excuse yourself for a sustained period during class, please send me a private message on Teams 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.

Recordings and a copy of any slides I use will be available after class on our Canvas site.

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

ACADEMIC SUCCESS

Please consult the Academic Success Web Site for other resources to help you including a list of ASP (Academic Success Program) Workshops. Students who take advantage of ASP Workshops and Resources tend to be the most successful in my class.

COURSE WEBSITE

Our course website is on Canvas; you will be automatically enrolled. I will use the site to communicate with you, post relevant materials, and occasionally prompt and continue class discussions. I will generally communicate with you through "Announcements" so you may want to set up your Announcements to come to your email.

ASSIGNMENTS

I will usually cover about 40-50 pages of material per week, but less in the beginning. 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 the questions posed in the text. This is the best way to consolidate the materials and to give you a sense of whether you are understanding the readings. You should also build in a few minutes prior to class to review your notes and answers – especially if you get ahead of the class in your reading. I also encourage briefing every case that we read.

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; and
5. Recognize ethical issues that may arise when representing a client during civil litigation.

These outcomes will be achieved through careful reading, discussion, responses 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 one week before the assignment.

FRAME FOR CIVIL PROCEDURE

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. General Jurisdiction
- C. Specific Jurisdiction

III. Venue

- 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)
4. Joinder of Claims and Parties

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. Discovery

VI. Summary Judgment

READING & ASSIGNMENT SCHEDULE

Date/Class	Topics	Complete Before Class
Class 1 August 27	Introduction and Overview; Article III; Introduction to Subject Matter Jurisdiction & Federal Question Jurisdiction	Yeazell 3-13, 49-52, 141-150; Article III (Yeazell Supp. 204-05); 28 U.S.C. § 1331 and § 1332 (Yeazell Supp. 253-257); <i>Louisville & Nashville Railroad Co. v. Mottley</i> (in Handouts Module on Canvas); Student Introductions Discussion on Canvas
Class 2 September 3	No Class: Travel Day	
Class 3 (Live) September 5 11:15-12:30	Introduction to Diversity Jurisdiction Diversity of Citizenship – Citizenship of Persons and the Complete Diversity Rule	Yeazell 150-155; FRCP 8(a) (Yeazell Supp. 35); Review 28 U.S.C. § 1332(a) and read § 1367 (Yeazell Supp. 253, 264-265); and review Article III, Sec. 2 (Yeazell Supp. 204); <i>Mas v. Perry</i> and <i>Gordan v. Steele</i> (both in Handouts Module on Canvas)
Class 4 (Live) September 6 10:45-12:00	Citizenship of Corporations and Amount in Controversy; Aggregating Claims and Review of Jurisdiction	Yeazell 155-161; review 28 U.S.C. § 1332(c) (Yeazell Supp. 253)
Class 5 September 10	Removal; Timed Essay Practice	Yeazell 168-173; 28 U.S.C. § 1441(a)-(b) (Yeazell Supp. 273)
Class 6 September 17	Intro. to Personal Jurisdiction, Historical Framework, Modern Framework & Absorbing In Rem Jurisdiction, Specific Jurisdiction	Yeazell 53-77; U.S. Const. amend. XIV (Due Process Clause) (Yeazell Supp. 209)
Class 7 September 24	General Jurisdiction & Refinements to Specific Jurisdiction, Specific Jurisdiction & The Internet	Yeazell 77-94
Class 8 October 1	Tag Jurisdiction, Consent to Jurisdiction, and Long Arm-Statutes; Personal Jurisdiction Review; Midterm Review	Yeazell 94-98, 101-102, 105 n.3, 118-121, <i>Mallory v. Norfolk Southern</i> (Yeazell Supp. 333-337)
Class 9 October 8	In Class Midterm	
Class 10 October 15	Fall Break - No Class	
Class 11 October 22	ASYNCHRONOUS CLASS: Introduction to Venue and Transfer and Dismissal of Venue; Venue Quiz; Watch Video Explaining Venue Quiz (Video 5)	Yeazell 121-123; 28 U.S.C. § 1391(a)-(d) (Yeazell Supp. (266-267.)
Class 12 October 29	Introduction to Pleading; Heightened Pleading and Plausible Pleading; Rule 11 and Sanctions	Yeazell 259-267, 273-293, 297-305; FRCP: 1, 2, 3, 7, 8, 10, 11, and 12.

Class 13 November 5	Joinder: Counterclaims, Crossclaims and Impleader; Introduction to Supplemental Jurisdiction	Yeazell 583-616; FRCP 13, 14(a), 18(a), 20
Class 14 November 12	Responding to the Complaint: Default and Motions to Dismiss; Waiver Trap and Omnibus Motion Rule; Answering and Amending Pleadings	Yeazell 305-327; 385-389 (but skip <i>Peralta</i> which involves a default in a state court); FRCP 6(a), 7, 8(b)-(d), 12, 15, 55, 60(b)-(c)
Class 15 November 19	Discovery	Yeazell 331-332 (skipping <i>Zubulake</i>), 334-348, 352-355 (skipping <i>Rengifo</i>), 356-378 (skipping <i>Sec. Nat. Bank of Sioux City</i>), 379-380; FRCP 16, 26, 30, 33, 34, 35, 36, 37; skim 45 <ul style="list-style-type: none"> – Quasi Optional: I encourage you to fill out the “Discovery Worksheet,” cached on Canvas because it will help you dig through the Rules that govern Discovery – Note: The end of the chapter (pp.380-83) contains some assessment questions and answers that you might find useful
Class 16 November 26	Summary Judgment	Yeazell 416-434; FRCP 56
Class 17 December 3	Final Class: Catch Up (If Needed); Discuss Arbitration and Mediation; Final Review and Q and A; Course Evaluations	
Final Exam	Four Hour Final Exam - Exact Date and Time TBA	