DRAFT (Nov. 5, 2019)

Civil Procedure for LLM Students

Spring 2020 Syllabus

Civil Procedure for LLM Students is the study of our civil (non-criminal) dispute resolution system, with an emphasis on litigation in the federal courts, as regulated by the Federal Rules of Civil Procedure (FRCP). We will cover pleadings, subject matter jurisdiction, personal jurisdiction, joinder of parties and claims (including class actions), discovery, dispositive pre-trial and trial motions, the preclusive effect of prior litigation, settlement of disputes, and alternatives to civil litigation.

At the surface, this is a survey of the U.S. litigation system, and will introduce students to many of the civil procedure issues tested on the New York, California, and Multi-State bar exams. It is not a bar review course, but it will introduce many of the civil procedure subjects covered by the bar.

At a deeper level, this is a comparative law class that compares multiple systems of dispute resolution, with much of the material supplied by the students from their experiences studying and practicing in many disparate legal systems. And for many students (and the instructor) it is an exploration of how common law lawyers and judges apply a common law approach to reading a code.

To place the course material in context, and provide opportunities for formative assessment, we will follow a simulated case over the course of the semester, and will conduct several advocacy exercises.

There will be two take-home mid-term exams, and a take-home final exam.

Reading Assignments:

Winter Break:

Read *The Buffalo Creek Disaster*

Class 1:

FRCP Rules 1, 2, 3, 8(a), 8(d), 12(b)(6)

Casebook pp 433-435, 462-471 (11 pages)

Class 2:

FRCP Rules 8(a), 8(d), 12(b)(6)

Patt v. Donner pp. 1-36

Casebook pp. 471-496 (25 pages)

Advocacy exercise #1

Class 3:

FRCP Rules 8(a), 8(d), 12(b)(6)

Casebook pp. 533-535 (2 pages plus Citibank case)

*Swanson v. Citibank*, 614 F.3d 400 (2010), <https://www.courtlistener.com/opinion/151889/swanson-v-citibank-na/>

Class 4:

FRCP Rule 11

Casebook pp. 509-519, 526-532 (23 pages)

Patt v. Donner pp. 65-73

Advocacy Exercise 2

Class 5:

The subject matter jurisdiction of the federal courts I: Federal Question Jurisdiction

28 United States Code (USC) S 1331

Casebook pp. 222-231, 238-242 (13 pages)

Class 6:

The subject matter jurisdiction of the federal courts II: Diversity Jurisdiction

28 USC S 1332

Casebook pp. 243-260 (17 pages)

Class 7:

The subject matter jurisdiction of the federal courts III: Supplemental and removal Jurisdiction

28 USC S 1367, 1441

Casebook pp. 270-276, 289-297 (14 pages)

Class 8:

Personal (“territorial”) Jurisdiction I

Casebook pp. 47-49, 55-59, 64-75 (17 pages)

Class 9:

Personal (“territorial”) Jurisdiction II

Casebook pp. 85-99 (14 pages)

Class 10:

Personal (“territorial”) Jurisdiction III

Casebook pp. 99-119 (20 pages)

Class 11:

Personal (“territorial”) Jurisdiction IV

Casebook pp. 119-128 (9 pages)

Plus lecture on BMS

Class 12:

Personal (“territorial”) Jurisdiction V

Casebook pp. 155-170, 193-206 (28 pages)

Class 13:

Venue, Change of Venue, and Forum Non Conveniens

Casebook pp. 321-333 (12 pages)

Class 14:

Answering the Complaint and Amending the Pleadings

In-Class Intervention Exercise

Class 15:

Joinder of Claims

Class 16:

Joinder of Parties

Class 17:

Class Actions I

Class 18:

Class Actions II

Class 19:

Discovery I

Class 20:

Discovery II

In-Class Discovery Sanctions Exercise

Class 21:

Summary Judgment

In-Class Summary Judgment Exercise

Class 22:

Right to a Civil Jury Trial

Class 23:

Trial Motions – Judgment as a Matter of Law

Class 24:

Post-Trial Motions – Renewed Judgment as a Matter of Law and New Trial

Class 25:

Arbitration and Settlement

Settlement Exercise Distributed

Class 26:

Preclusion I

Class 27:

Preclusion II

Settlement Exercise Due

Class 28:

Alternatives to Trial in Resolving Disputes (ADR)