Civil Procedure is about the law that governs the civil litigation process in federal court. The subject is vast, and we cannot possibly cover it all in a single semester. However, we will study a number of the most fundamental concepts, including: personal jurisdiction; notice/service of process; subject-matter jurisdiction; venue; vertical choice of law (the Erie Doctrine); pleading; joinder; discovery; and adjudication without trial, among other topics.

You will find Civil Procedure to be quite different from your other first-year substantive law courses insofar as it is derived primarily from rules, statutes, the Constitution, and judicial interpretations thereof. Unlike Contracts or Torts, for example, which deal with substantive law, Civil Procedure provides the tools for enforcing or defending the legal rights or claims that arise from that substance. Although we will read numerous cases, much of our focus will be on the careful analysis, interpretation, and application of procedural rules, statutes, and constitutional principles in the context of a civil action in federal court.

The following materials are required for this course:

2. A. Benjamin Spencer, Federal Civil Rules Supplement 2020-2021 (“FRCP Supp.”)
3. Additional materials will be made available electronically through eLearning Commons (eLC), Electronic Course Reserves via GAVEL, and/or email.

Teaching Assistant: Roby Jernigan (2L) (roby.jernigan@uga.edu) will be my Teaching Assistant, helping me with various aspects of the course. Among other things, Roby will conduct regular office hours throughout the semester to respond to questions that you may have about the material. He will communicate with you directly regarding the time and manner in which those office hours will be conducted.

Assignments: The assignments for this course are listed below in the intended order of coverage. Each assignment is tentative, and may be changed by prior announcement. Throughout the course, I will refer to assignments by their numbers. On Thursday of each week, I will announce in class and by email the reading assignments for the following week. Adjustments will be made, if necessary, depending upon the pace of our coverage. I will keep you informed in this regard.

Class participation and engagement are very important for this course, and I expect everyone to be well prepared to discuss the assigned reading for each class meeting. If
for some unavoidable reason you are not prepared on a particular day, you must inform me of this by placing a note on the podium before class begins. Such “unprepared” notifications are to be used only in exceptional circumstances.

**Attendance:** Under the ABA Standards for Law Schools, regular class attendance is required. Attendance will be taken during each class meeting, and along with participation, may be considered in determining final grades. **There are no excused absences.** You are allowed a **maximum of 6 absences.** Exceeding that number may jeopardize your ability to take the final exam in this course or otherwise negatively affect your final grade.

**Tardiness is not permitted.** Class will begin promptly at 9:00 a.m. Students are expected to be present and fully prepared to commence class at that time. If you are late for class, whatever the reason, consider yourself absent. **Do not enter the classroom once class has commenced.**

**Computer use during class.** You may use a computer only for note taking. Any other use of your computer during class is expressly prohibited.

While taking notes on your computer is permitted, I **strongly encourage you to handwrite your notes.** In my experience, this will better enable you to engage with the material, participate in class discussions, and more easily reference your Casebook and FRCP Supplement.

**Cell phones and other electronic devices** must be silenced or turned off prior to the beginning of class and may not, under any circumstances, be used during class.

**Final Exam (Nov. 30 – 9:00 a.m.):** The 4-hour Final Exam will be **closed book** and **closed notes.** This means that you will not be permitted to consult your Casebook, notes, outlines, or any other outside materials during the exam. However, you will be permitted to use your FRCP Supplement, including any handwritten notes that you make in the margins next to the pertinent rules and statutes that we cover.

The exam will consist of a combination of multiple-choice and essay questions. I will provide you with more information about the exam later in the semester.

**Practice Exam:** A Practice Exam (closed book/closed notes) will be administered around the mid-point of the semester. My **Teaching Assistant Roby Jernigan** will administer the Practice Exam and will provide you with written feedback.

The purpose of the Practice Exam is to give you a sense of what the Final Exam will be like. You will not receive a grade. **It is for practice only.** However, to get the maximum benefit from the exercise, you should treat it similar to an actual exam.

**Academic Honesty:** All work done in this course is subject to the Law School’s Honor Code and Plagiarism Policy, as well as the University’s Academic Honesty Policy and Non-Discrimination and Anti-Harassment Policy.
Accommodations: Students requiring accommodations under the Americans with Disabilities Act must contact Dr. Casey Graham at casey.graham@uga.edu.

Mental Health and Wellness Resources: If you or someone you know needs assistance, you are encouraged to contact Dr. Casey Graham at (706) 542-5167 or casey.graham@uga.edu. You may also contact Student Care and Outreach in the Division of Student Affairs at (706) 542-7774 or visit https://sco.uga.edu. They will help you navigate any difficult circumstances you may be facing by connecting you with the appropriate resources or services.

The law school has a web page highlighting numerous health and wellness resources, including several resources specific to law students or the legal profession (https://portal.law.uga.edu/health-wellness-resources).

The University also has several resources for students seeking mental health services (https://www.uhs.uga.edu/bewelluga/bewelluga) or crisis support (https://www.uhs.uga.edu/info/emergencies).

If you need help managing stress, anxiety, relationships, etc., please visit BeWellUGA (https://www.uhs.uga.edu/bewelluga/bewelluga) for a list of free workshops, classes, mentoring, and health coaching led by licensed clinicians and health educators in the University Health Center.

Additional resources can be accessed through the UGA App.

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ASSIGNMENTS

I. Introduction and Overview

A. What is Civil Procedure?

1. Casebook: pp. 1-17
   FRCP Supp.: Rules 1-3

2. Handout: Lemon v. Combs (available in eLC and GAVEL)

II. Personal Jurisdiction

Learning Objectives — At the end of this section you should be able to: (1) explain the meaning, constitutional standard for, and importance of personal jurisdiction; (2) identify the locations in which a court could acquire personal jurisdiction over a party in a given action; (3) determine whether a selected forum has personal jurisdiction over a party; and (4) effectively argue for and against the existence of personal jurisdiction in any individual action.
A. Historical Roots of Personal Jurisdiction

3. Traditional Bases of Personal Jurisdiction—Casebook: pp. 19-31 (Pennoyer); FRCP Supp.: U.S. Constitution, Art. IV, Sec. 1 (p. 9) and 28 U.S.C. § 1738 (p. 239)


B. Modern Personal Jurisdiction Doctrine

5. Casebook: pp. 35-44 (International Shoe)

C. Specific Jurisdiction: Applying the Minimum Contacts Analysis


7. Minimum Contacts: The Constitutional Authority for Personal Jurisdiction
   (a) Casebook: pp. 47-58 (McGee; Hanson)
   (b) Casebook: pp. 58-73 (World-Wide Volkswagen, etc.)
   (c) Casebook: pp. 73-82 (Burger King)
   (d) Casebook: pp. 82-104 (Asahi; Nicastro)
   (e) Casebook: pp. 105-12 (Bristol-Myers)

8. Modern Challenge: Personal Jurisdiction Based on Internet Contacts—Casebook: pp. 112-23 (Young)

D. Alternatives to Specific Jurisdiction

9. General Jurisdiction—Casebook: pp. 123-38 (Daimler, etc.)


11. Transient Jurisdiction & Consent—Casebook: pp. 151-72 (Burnham; Carnival Cruise Lines)

E. Personal Jurisdiction in the Federal Courts

12. Casebook: pp. 172-78
III. Notice/Service of Process

Learning Objectives — At the end of this section you should be able to: (1) explain the constitutional standard for providing sufficient notice; (2) determine what level of service is necessary to satisfy the constitutional requirements for providing adequate notice; and (3) determine and apply the statutory/rule-based method for properly effecting service of process.

A. The Constitutional Notice Requirement

13. Casebook: pp. 179-98 (Mullane; Dusenberry; Flowers) [Note: Read Mullane for important background, but students will not be called on to discuss this decision. Our focus will be on Dusenberry and Flowers.]

B. Statutory Notice: Service of Process

FRCP Supp.: Rule 4(a)-(h), (k)-(m)

IV. Subject-Matter Jurisdiction

Learning Objectives — At the end of this section you should be able to: (1) determine the existence of federal subject-matter jurisdiction in an action; (2) determine the citizenship of a party for purposes of evaluating diversity jurisdiction; (3) determine when a federal court can exercise supplemental jurisdiction over a state law claim; (4) determine whether an action filed in state court may be removed to federal court; and (5) explain the procedure for effecting removal of an action from state to federal court.

Introduction and Overview

15. Casebook: pp. 219-21

A. Diversity Jurisdiction

FRCP Supp.: 28 U.S.C. § 1332(a)-(c)

FRCP Supp.: 28 U.S.C. § 1332(a)

B. Federal Question Jurisdiction


20. Essential Federal Element Requirement—Casebook: pp. 255-64 (Grable) [Lecture Only – students will not be called on to discuss Grable]

C. Supplemental Jurisdiction


22. Pendent and Ancillary Jurisdiction after Gibbs—Casebook: pp. 270-72 (Aldinger; Owen; Finley)

23. Modern Supplemental Jurisdiction Doctrine—Casebook: pp. 272-75

24. Interpretive Difficulties with § 1367—Casebook: pp. 276-96 (Exxon Mobil)

D. Removal Jurisdiction

FRCP Supp.: 28 U.S.C. § 1441(a)-(c)


V. Venue

Learning Objectives — At the end of this section you should be able to: (1) identify districts in which venue would be proper; (2) determine whether venue is proper in a selected district; (3) recognize whether an action can and should be transferred to another district; (4) effectively argue for and against the transfer of an action to another district; and (5) determine the law applicable to claims that are properly transferred to another district.

A. Original Venue

27. The Basic Venue Rules—Casebook: pp. 313-27
FRCP Supp.: 28 U.S.C. § 1391(a)-(d)

B. Change of Venue

29. Standards for Venue Transfers—Casebook: pp. 350-56 (Smith; Philip Morris)

C. Forum Non Conveniens

30. Casebook: pp. 357-71 (Piper Aircraft)

VI. The Erie Doctrine: State Law in Federal Courts

Learning Objectives — At the end of this section you should be able to:
(1) determine whether federal or state law applies to various claims and legal issues in a federal court action; and (2) effectively argue for and against the application of federal or state law to any given claim or legal issue in a federal court action.

A. Introduction and Applicable Law Prior to Erie

31. Casebook: pp. 373-79 (Swift)

B. Establishing the Erie Doctrine

32. Casebook: pp. 379-92 (Erie)

C. Development of the Erie Doctrine

33. Casebook: pp. 393-406 (York)

34. Casebook: pp. 406-12 (Byrd)

D. The Rules Enabling Act and the Modern Erie Doctrine

35. Casebook: pp. 412-25 (Hanna)
   FRCP Supp.: 28 U.S.C. § 2072

36. Casebook: pp. 439-53 (Shady Grove) [READ ONLY – students will not be called on to discuss Shady Grove]

Part Two of the Syllabus will be distributed later in the semester.