

CIVIL PROCEDURE II
Western State College of Law
Professor Marisa S. Cianciarulo
SPRING 2025

Monday and Wednesday, 10:00-11:20 a.m.
Room L810

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Office Hours and Communication Policy:

Due to my position as Dean, I am regularly in the building Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m. I have an open-door policy: you are welcome to stop by, and a member of the staff will let you know if I'm available. To better ensure that I'm in my office when you would like to meet, please send [Christy](#) an email to schedule an appointment.

I welcome questions via email and make every effort to respond to them promptly during business hours. I generally do not immediately respond to emails received on evenings and weekends, but I will read and respond to them as soon as possible on the following business day. Please note that I do not provide written comments on case briefs, practice exams, or other written materials, but I am happy to review and discuss them during office hours.

Programmatic Learning Outcomes:

Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

1. Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

2. Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

3. Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

4. Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

5. Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

6. Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

7. Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

8. Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

Programmatic Learning Outcomes Supported by This Course:

1. LEARNING OUTCOME #1: Doctrinal Knowledge.

Civil Procedure II supports this learning outcome by providing students with knowledge of the following topics sufficient to pass the final exam and prepare for the bar exam:

- pleading;
- discovery methods and requirements;
- principles of former adjudication and issue/claim preclusion;
- means of achieving resolution without a trial;
- trial;
- appeal;
- class actions.

2. LEARNING OUTCOME #3: Legal Analysis.

Students will be able to evaluate facts, spot issues, and reach valid conclusions in the area of Civil Procedure; understand legal rules stemming from common law, statutes, and the Federal Rules of Civil Procedure; and analyze fact patterns and

apply the correct legal rules of Civil Procedure. Students will be able to identify and interpret rules of Civil Procedure established in statutes, cases, and the Federal Rules of Civil Procedure; distinguish facts that matter to the resolution of a procedure-related dispute from those facts that do not matter; apply correct legal rules to fact patterns and articulate legal arguments and rationales favoring all positions on a procedure-related dispute; and be cognizant of important policy concerns that underlay the law of Civil Procedure.

3. LEARNING OUTCOME #5: Communication.

Students will be able to orally present analysis, advice, counsel, and other information in an organized, persuasive and professional manner when called upon by the professor.

Course requirements: In order to receive course credit you must read and study the assigned materials, attend and participate in the semi-weekly class, and earn a passing grade.

TWEN: All students must be registered for The West Education Network (TWEN). I will use the TWEN page to communicate with the class electronically and to post slides, handouts, and revised syllabi. Please be certain that you include your correct Western State email address when you register.

Attendance and Participation: Attendance is required in accordance with the College of Law's attendance policy. You are expected to attend all scheduled meetings of this class. An attendance roster will be circulated at each class meeting. It is your responsibility to sign the roster. Those students whose names do not appear on the roster will be marked absent unless they sign the roster before the end of class. In addition, anyone who arrives late or leaves early without my prior approval will be considered absent. Absence from more than 20 percent of the class meetings will result in a course grade of "AF." Signing another's name to the roster or asking someone to sign your name when you are not present is a violation of the Honor Code and will result in academic and disciplinary action.

Participation is required. You are expected to have read the assigned material (including the notes and problems and supplementary material) and be willing and able to share your thoughts with the class. I will randomly call upon students. Random calling is meant to simulate what judges, employers and clients will expect of you as lawyers, which is that you have prepared for court and/or meetings by reading relevant materials carefully and noting any questions you have, and that you are able to answer reasonable questions about the material. **There is no "pass"** if you are not prepared unless I grant one **prior to class for good cause**. Your final grade will be lowered by 0.1 points on a 4.0

scale for each day that you are not prepared when called upon. Please make sure that you delete old syllabi when new versions are posted, as mistakenly reading the wrong day's assignment is not an excuse for being unprepared.

Coursework: While the amount of time you need to set aside for class preparation will vary with the degree of difficulty of the materials we will be discussing, per the ABA rules, you should be devoting a minimum of three hours of outside of class study time for each 90-minute class session, and often more than that. "Study time" may include reading the assigned materials, case briefing and outline preparation, completing U World questions, taking practice tests, etc.

Prepare for class by following the below approach BEFORE each class:

1. First, read the assigned casebook pages and, if assigned for that week, any rules, statutes, and constitutional provisions.
2. Try to answer the Notes and Questions (if applicable) at the end of each case you read in the textbook. You may be called on in class to discuss these questions.
3. Brief each case you are assigned to read.

DURING class approach:

1. Do NOT try to write down every word. Your completed case briefs should allow you to make notes and add commentary without needing to write down everything discussed in class.
2. Highlight or make a note of key rules and discussion we spend a lot of time discussing in class.
3. Pay attention to examples and hypos as those often form the basis of future exams.
4. Always try to answer the questions being asked in class in your head even if a classmate is the one being called on.
5. Focus on class and don't allow yourself to get distracted by your phone or the internet or any other distractions in class.

POST-class approach:

1. Review your notes from class while they are fresh in your head. Make a note of any areas of confusion now so you can ask me in office hours or after class. Do not be afraid to ask a question if you are confused.
2. Reread any cases or areas of confusion as needed as well as hypos and examples discussed in class; use supplements to help (see "Recommended Study Aids" below).
3. Create and regularly update an organization tool (flashcards, outlines, approaches, visual charts, etc.) that will help you memorize and synthesize your rules to prepare for exams.
4. Schedule office hours with me if you need help with anything.

Grading: Your final grade will be based in part on the closed-book midterm exam (30%) and closed-book final exam (50%), both of which will consist of bar examination-style multiple choice questions and hypothetical fact patterns which you will be expected to address in essay form. Four untimed, open-book UWorld quizzes, each worth 5%, will comprise the remaining 20% of your final grade. There are no make-ups for quizzes, for any reason. Your final grade may be reduced for failure to be prepared for class. (See “Attendance and Participation” above.)

Western State College of Law’s Students with Disabilities Policy: Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza’s phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law’s “Policy against Discrimination and Harassment.”

Required Texts/Programs:

Stephen C. Yeazell, Joanna C. Schwartz, Maureen Carroll, CIVIL PROCEDURE (11TH ED. 2023) (“Casebook”)

Stephen C. Yeazell, Joanna C. Schwartz, Maureen Carroll, 2024 FEDERAL RULES OF CIVIL PROCEDURE (“Supplement”)

Themis U World access for multiple-choice

Recommended Study Aids:

Steven L. Emanuel, CRUNCH TIME: CIVIL PROCEDURE

Joseph W. Glannon, THE GLANNON GUIDE TO CIVIL PROCEDURE

Joseph W. Glannon, EXAMPLES & EXPLANATIONS: CIVIL PROCEDURE

Reading Assignments and UWorld Quizzes:

FRCP = Federal Rule(s) of Civil Procedure

USC = United States Code

§ = section

¶ = paragraph

Please note that the Supplement contains the FRCP, relevant USC provisions, and U.S. Constitution.

WEEK 1 PLEADING (I)

- 1) *Jan. 13* Casebook pp. 11-16, 259-273; FRCP 8(a).
- 2) *Jan. 15* Casebook pp. 273-293.

WEEK 2 PLEADING (II)

- Jan. 20* Federal holiday. No class.
- 3) *Jan. 22* Casebook, pp. 17-21, pp. 305-315.

WEEK 3 PLEADING (III); DISCOVERY (I)

- 4) *Jan. 27* Casebook, pp. 316-329.

*****UWorld quiz #1 (Pleading), due Sunday, Feb. 1*****

- 5) *Jan. 29* Casebook, pp. 24-29, 331-347.

WEEK 4 DISCOVERY (II)

- 6) *Feb. 3* Casebook, pp. 347-359.
- 7) *Feb. 5* Casebook, pp. 359-366.

WEEK 5 DISCOVERY (III)

8) *Feb. 10* Casebook, pp. 366-371.

9) *Feb. 12* Casebook, pp. 371-383.

WEEK 6 SUMMARY JUDGMENT

10) *Feb. 18* Casebook, pp. 29-33, 416-424.

11) *Feb. 19* Casebook, pp. 424-436 (except assessment questions Q1, Q2, and Q3).

*****UWorld quiz #2 (Discovery and Summary Judgment), due Sunday, Feb. 23*****

WEEK 7 MIDTERM REVIEW AND MIDTERM EXAM

12) *Feb. 24* Midterm review.

13) *Feb. 26* Midterm exam.

WEEK 8 JUDGMENT AS A MATTER OF LAW; NEW TRIAL

14) *Mar. 3* Casebook, pp. 33-38, 464-471.

15) *Mar. 5* Casebook, pp. 471-482.

SPRING BREAK, MAR. 10-14

WEEK 9 MIDTERM EXAM REVIEW; APPEAL (I)

16) *Mar. 17* Midterm exam review. No reading assignment.

17) *Mar. 19* Casebook, pp. 40-44, 491-505.

WEEK 10 APPEAL (II); PRECLUSION/FORMER ADJUDICATION (I)

18) *Mar. 24* Casebook, pp. 505-521.

*****UWorld quiz #3 (JMOL, New Trial, Appeal), due Sunday, Mar. 30*****

19) *Mar. 26* Casebook, pp. 38-40; 523-537.

WEEK 11 PRECLUSION/FORMER ADJUDICATION (II)

20) *Mar. 31* Casebook, pp. 537-549.

21) *Apr. 2* Casebook, pp. 549-556.

WEEK 12 PRECLUSION/FORMER ADJUDICATION (III)

22) *Apr. 7* Casebook, pp. 556-565.

23) *Apr. 9* Casebook, pp. 565-579.

WEEK 13 CLASS ACTIONS

24) *Apr. 14* Casebook, pp. 621-631.

25) *Apr. 16* Casebook, pp. 631-651.

WEEK 14 CLASS ACTIONS; REVIEW

26) *Apr. 21* Casebook, pp. 651-663.

*****UWorld quiz #4 (Preclusion, Class Actions), due Sunday, Apr. 27*****

27) *Apr. 23* No reading assignment.

WEEK 15 REVIEW

27) *Apr. 28* No reading assignment.

Final exam Q&A:

Last day to email me questions:

THIS SYLLABUS IS SUBJECT TO CHANGE. REVISED SYLLABI WILL BE POSTED TO TWEN AND A MESSAGE SENT TO ADVISE YOU OF ANY NEW POSTINGS.