

WESTERN STATE UNIVERSITY COLLEGE OF LAW
At Westcliff University

CIVIL PROCEDURE II, Section 142 B
SYLLABUS AND COURSE POLICIES – Spring 2025

Professor: Tina Schindler

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Class meetings: Mondays & Wednesdays; 1:30 pm to 2:50 pm

A. LEARNING OUTCOMES

Course Level Learning Outcomes:

This three (3) credit, semester-long course is the second half of the required six (6) credit courses which will explore the procedural rules which govern civil (as opposed to criminal) disputes. During the first semester you explored issues relating to the beginning phases of a lawsuit in federal court: personal and in rem jurisdiction, notice and opportunity to be heard, subject matter jurisdiction, removal, venue and transfer, pleadings, and choice of law (*Erie*). You should retain your notes from the first semester as they will come in handy when you study for the bar exam and when we refer to matters covered in the first semester. During the 14 weeks (42 hours) of class instruction this semester you will:

- Study joinder of claims and parties in a civil lawsuit including class actions (and the application of supplemental jurisdiction to joined claims that lack an independent basis of subject matter jurisdiction which we touched on the first semester), discovery, pretrial disposition (including summary judgment), disposition at the trial itself, claim and issue preclusion, and appeal. While this semester will be somewhat more practice oriented and rule based (as opposed to case law driven), the same skills that you developed in the first semester will continue to be utilized in Civil Procedure II.
- Continue to practice the analytical skills you will need to succeed in law school and in the practice of law, as well as to pass the bar exam – primarily how to read, interpret, apply and distinguish cases, statutes, and particularly this semester procedural rules.
- Continue to practice proper essay writing format, including use of issue headings, IRAC format, and analysis that explains how and why the facts prove or disprove the rules, all of which are necessary skills to succeed in law school and in the practice of law, as well as to pass the bar exam.
- Continue to improve multiple-choice test taking strategies and skills through practice of assigned multiple-choice questions.

Program Level (JD Program) 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.

B. DISABILITY SERVICES STATEMENT

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."

C. REQUIRED TEXTS AND PROGRAMS

1. Freer, Perdue & Effron, *Civil Procedure: Cases, Materials & Questions (“Freer”)*, 9th ed. Carolina Academic Press, 2024 (NOTE: earlier editions are out of date)
2. Baicker-McKee, Janssen, *A Student’s Guide to the Federal Rules of Civil Procedure*, West Academic, 2024-2025 Edition (“**Rules Supplement**”) (NOTE: earlier editions are out of date)
3. Core Knowledge for Lawyers (“**Core**”) – online practice questions (included with new textbook purchase) – **Class Code 125-048-9407 (NEW CODE FOR SPRING)**
4. Themis **U World** access for assigned multiple-choice questions (access provided during Orientation)

D. BACKGROUND AS YOU APPROACH CIVIL PROCEDURE II:

Civil Procedure is highly controversial these days. The federal rules were originally intended to eliminate the formalist barriers to justice so that cases can be determined “on the merits.” Some critics contend that the liberal ethos of the federal rules has promoted a “litigation explosion” of baseless lawsuits that has clogged our courts and denied justice to all but the wealthiest litigants. These critics advocate more liberal use of summary judgment and arbitration to de-rail litigation out of court at an early stage. The federal courts have responded by raising the pleading bar (*see Twiqbal* from last semester as an example), making summary judgment a more powerful tool in the hands of defendants (as we will see this semester) and by upholding “fine-print” mandatory arbitration provisions in consumer contracts that prohibit class action arbitration. Several years ago, Congress enacted the Class Action Fairness Act to cut back on class actions which is a joinder device intended to empower persons who otherwise might be unable to enforce their rights in court. Others, however, argue that the “litigation explosion” is a myth created by wealthy “repeat-player” defendants to justify “fixing” the rules to make it easier to dismiss claims against them.

Discovery is another bone of contention. Intended originally as a reform measure designed to level the playing field between rich and poor litigants by providing equal access to relevant information, many experts believe discovery is out of control, abused by some litigators to achieve unfair tactical advantage in litigation. In response, a series of rules amendments over the years has chipped away at liberal discovery.

As you work your way through this course, you need to ask yourself whether the federal rules have achieved the goals of securing the “just, speedy, and inexpensive determination of every action.” (FRCP 1)

Also very helpfully, the casebook authors will often pose questions and problems at the end of a segment of reading. It is important that you apply what you have read to answer their questions/problems as part of your class preparation. This “application” work will help you get more out of the reading assignment, gain a deeper understanding of class discussion, and in the long run, help you learn the material in a deeper way that will “stick” for a longer period of time.

E. EXPECTATIONS FOR OUTSIDE CLASS PREPARATION

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 1.5-hour weekly class session, and often more than that. “Study time” may include reading the assigned materials, case briefing and outline preparation, completing all assignments, 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. Most of the federal rules in the rules supplement include how the rule fits it, the architecture of the rule, and how it works in practice. You are, therefore, required, as part of your preparation for class, to read these carefully as well. You may be called on to break down the rule or statute for the class.
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 answer these questions.
3. Brief each case you are assigned to read AND try to breakdown the FRCP/Statutes on your own BEFORE coming to class. **This semester you may be called on to share your breakdown of a rule with the class on the board.**

DURING class approach:

1. Do NOT try to write down every word. Your completed case briefs/rule breakdowns should allow you to make notes and add commentary without needing to write down everything discussed in class since you should have most important details already written in your brief if you are correctly briefing your cases and answering the notes and questions prior to 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 the professor in office hours or after class. Do not be afraid to ask a question if you are confused.
2. Reread any cases, rules, comments after the rules, or areas of confusion is needed as well as hypos and examples discussed in class; use supplements to help here too (as provided in class 1).
3. Complete any post-class U World or Core Knowledge assignments or any other assignments listed.
4. 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.
5. Go to office hours if you need help with anything.

F. EXAMS AND GRADING

Throughout the semester, I will be happy to review with students answers to practice exams and

practice questions that I will distribute from time to time or that are available on the course webpage. *Do not wait until the end of the semester to begin taking practice exams and answering practice questions.*

There will be a graded mid-term exam and a final exam. The mid-term exam will consist of at least one essay question and perhaps several short-answer and/or multiple-choice questions. The final exam will contain one or two essay questions, and multiple-choice questions. The final course grade will consist of:

- 10% for good faith completion of all assignments (includes Core Knowledge for Lawyers, U World, briefs, quizzes, practice tests, and any other assignments), class participation, and professionalism;
- 20% weighting of the mid-term examination; and
- 70% weighting of the final examination (weighted 50% essay and 50% multiple-choice).

All exams will be closed book just like the CA bar exam.

G. CLASSROOM PARTICIPATION

Legal education is a cooperative venture and oral communication skills will be important throughout your professional life. Each of you must be prepared to participate in class on a regular basis. If you have not read the materials, you are unprepared. I will periodically call on students in class at random to describe cases or rules and to answer questions. Even though some students find this method unattractive or intimidating, overcoming intimidating circumstances is an important and time-tested part of the legal education process. And the single most effective way to overcome the intimidation is to be prepared. Also, it is fairly inconsiderate of the time and efforts of your fellow students to come to class unprepared.

Please note, however, that there is a significant difference between being unprepared and being unable to correctly answer a question. No one knows the answer to every law-related question. An important part of the learning experience is testing your own opinions and conclusions. You will not be penalized for venturing an incorrect answer as long as it is a thoughtful answer based on preparation. An important part of the learning process involves thinking out loud and making mistakes.

H. ATTENDANCE, DECORUM, AND NOTE TAKING IN CLASS

I will take attendance at the beginning of each class by asking you to sign in for the class on a roll sheet. If you are not signed in, you are absent. In accordance with the school rules, **if you miss more than four 1.5-hour classes, you will be academically dismissed from the course.**

You should be in your seat at the commencement of class to be counted as present for the class. Similarly, you should not leave until the end of class. If you have an emergency that causes you to have to leave during the class, please do so unobtrusively. If you have a disability which prevents you from remaining in your seat during the class, please contact the Registrar or the Academic Dean.

Smart phones and the like should not be heard or used in the classroom. You may use your laptop computer, but it should be open only to course related materials. I know that many students use their laptops to take notes in class. I want to make you aware that **studies have shown that students do better on exams when they take notes by hand (the old-fashioned way)**. Remember that technology is a tool. It cannot replace the wonderful learning tool that is your mind. Do everything you can to make sure that your mind is fully engaged during class, and that even when you are not directly participating in class discussion that you are actively listening and thinking.

VIDEO AND AUDIO RECORDINGS

Students are expressly prohibited from recording any part of this course without prior express permission from me (this includes use of AI technology that records for you – having a machine take notes for you will not aid in your memorization or learning). Meetings of this course might be recorded by me. Any recordings will be available to students registered for this class as they are intended to supplement the classroom experience. Students are expected to follow appropriate Western State College of Law policies and maintain the security of passwords used to access recorded lectures. Recordings, PowerPoint slides, and any materials provided in class or on the course module may not be reproduced, shared with those not in the class, or uploaded to other online environments.

USE OF ARTIFICIAL INTELLIGENCE

It is a violation of the Western State College of Law Honor Code to misrepresent work or ideas that you submit or exchange with your instructor by characterizing them as your own, such as presenting work or ideas that do not acknowledge the use of generative AI tools (e.g., but not limited to, ChatGTP, DALL-E). Students shall give credit to AI tools whenever used, even if only to generate ideas. Please feel free to reach out to me with any questions you may have about the use of generative AI tools before submitting any content that has been informed by these tools.

I. SEATING CHART

A seating chart will be distributed during one of the beginning classes. Please print your full name legibly in the seat you choose for your permanent seat. If you wish to change your seat later, please notify me so that I can make the appropriate change on the chart.

J. OFFICE HOURS

I am delighted to talk with students almost any time. I am happy to have office hours both in person and/or online via Zoom. Since your schedules all vary, please email me directly to set up an office hour appointment and I will be sure to meet with you at a time convenient for you. I will also set up some office hours through the course page weekly as well. **Any requests to review practice essays and/or rule outlines/approaches must be done in person.**

All zoom office hour meetings will use the following zoom link:

<https://us06web.zoom.us/j/82522592912?pwd=OWthS0R2UmFEWHBXd3JtV3lMZHAyQT09>

Meeting ID: 825 2259 2912

Passcode: 143826

K. WEB COURSE (LEXIS CLASSROOM)

Sometime before the first day of class I will set up a Lexis Web Course for this class. You will be able to access all course materials there. During the semester I will use this web course to send you emails, make class announcements, and post course documents such as this syllabus, in class handouts and PowerPoints, and other documents that pertain to the topics we will study. I will also use the web course to post practice exams. **Please make sure you have access to the site AND that you set up notifications for announcements.**

L. READING ASSIGNMENTS (subject to modification)

Class	Topic	Required Reading PRIOR to Class	Corresponding required assignments – POST class
Class 1 (1/13)	Scope of Litigation -Joinder and Supplemental Jurisdiction A. Introduction and Integration B. Real Party in Interest, Capacity and Standing C. Claim Joinder by Plaintiffs	Freer pp. 661-672 FRCP 18 28 USC §1367	
Class 2 (1/15)	Scope of Litigation -Joinder and Supplemental Jurisdiction D. Permissive Party Joinder by Plaintiffs	Freer pp. 672-685 FRCP 20 28 USC §1367	
Monday, 1/20/25 – NO CLASSES – Martin Luther King Holiday			
Class 3 (1/22)	Scope of Litigation -Joinder and Supplemental Jurisdiction E. Claims Joinder by Defendants: 1. Counterclaims 2. Crossclaims	Freer pp. 685-698 FRCP 13 (a), (b), (g) 28 USC §1367	
Class 4 (1/27)	Scope of Litigation -Joinder and Supplemental Jurisdiction F. Overriding Plaintiff’s Party Structure 1. Impleader	Freer pp. 698-713 FRCP 14 28 USC §1367	

Class 5 (1/29)	Scope of Litigation -Joinder and Supplemental Jurisdiction F. Overriding Plaintiff's Party Structure 2. Compulsory Joinder (Necessary and Indispensable Parties)	Freer pp. 713-724 FRCP 19	
Class 6 (2/3)	Scope of Litigation -Joinder and Supplemental Jurisdiction F. Overriding Plaintiff's Party Structure 3. Intervention Special Multiparty Litigation: Interpleader	Freer pp. 724-728 FRCP 24 Freer pp. 729-739 FRCP 22 28 U.S.C. §§ 1335, 1397, 2361	16 MBE Qs on Joinder & Supplemental Jx through U World
Class 7 (2/5)	Special Multiparty Litigation: Class Action	Freer pp. 739-754 FRCP 23	10 Joinder & Supp. Jx Qs on Core Knowledge
Class 8 (2/10)	Special Multiparty Litigation: Class Action	Freer pp. 754-790 FRCP 23	4 MBE Qs on Class Action through U World 8 Special Multi-Party Litigation Qs on Core Knowledge
Class 9 (2/12)	Discovery A. Introduction and Integration B. Required Disclosures C. Discovery Tools	Freer pp. 383-391 FRCP 26(a), (d) & (e), 27, 28(a) and (c), 29-33	
Monday, 2/17/25 – No Class (Presidents' Day Holiday) – class meets 2/18/25 instead			
Class 10 (2/18) Tuesday	Discovery C. Discovery Tools	Freer pp. 391-395 FRCP 34-36, 45	
Class 11 (2/19)	Discovery D. Scope of Discovery 1. General Scope	Freer pp. 398-405 FRCP 26(b)(1), (c)(1)(B)	
Class 12 (2/24)	Discovery D. Scope of Discovery 2. ESI Discovery 3. Work Product	Freer pp. 406-423 FRCP 26(b)(1), (2), (3), & (c)(1)(B)	20 MBE Qs on Discovery (Part 1) through U World 10 Discovery Qs on Core Knowledge
Class 13 (2/26)	Discovery	Freer pp. 423-436	20 MBE Qs on Discovery (Part 2) &

	D. Scope of Discovery 4. Experts, etc. E. Timing and Pretrial Disclosures, Conferences, and Orders F. Sanctions	FRCP 26(b)(4) & (5) Freer pp. 436-455 FRCP 26(f) and 16 FRCP 26(g) and 37	7 Pretrial Conference & Order through U World
Class 14 (3/3)	Midterm Review		
Class 15 (3/5)	Midterm		
Monday 3/10/25 & Wednesday 3/12/25 – No Classes (Spring Break Week) – time to get ahead in studying!			
Class 16 (3/17)	Adjudication With and Without a Trial or a Jury <ul style="list-style-type: none"> • Right to a Jury Trial 	Freer pp. 457-484 FRCP 38 7th Am., U.S. Const.	22 MBE Qs on Jury Trials through U World
Class 17 (3/19)	Adjudication With and Without a Trial or a Jury continued <ul style="list-style-type: none"> • Summary Judgment 	Freer pp. 484-500 FRCP 56	
Class 18 (3/24)	Adjudication With and Without a Trial or a Jury continued <ul style="list-style-type: none"> • Summary Judgment 	FRCP 56	6 MBE Qs on Motion for Summary Judgment 8 Adjudication w/ or w/o Trial Qs on Core Knowledge
Class 19 (3/26)	Midterm Review		
Class 20 (3/31)	Adjudication With and Without a Trial or a Jury continued <ul style="list-style-type: none"> • Judgment as a Matter of Law • New Trials • Motion to Set Aside a Judgment or Order 	Freer pp. 500-528 FRCP 50 , 59, 60	12 MBE Qs on JMOL & 17 on new trial/set aside judgment through U World
Class 21 (4/2)	Preclusive Effects of Prior Judgments <ul style="list-style-type: none"> • Introduction and Integration • Claim Preclusion (Res Judicata) 	Freer pp. 609-625	
Class 22 (4/7)	Preclusive Effects of Prior Judgments <ul style="list-style-type: none"> • Claim Preclusion (Res Judicata) continued 	Freer pp. 625-632	
Class 23 (4/9)	Preclusive Effects of Prior Judgments <ul style="list-style-type: none"> • Issue Preclusion 	Freer pp. 632-638	

	(Collateral Estoppel)		
Class 24 (4/14)	Issue Preclusion (Collateral Estoppel) continued	Freer pp. 638-648	
Class 25 (4/16)	Issue Preclusion (Collateral Estoppel) continued	Freer pp. 648-659	15 MBE Qs on Preclusion through U World
Class 26 (4/21)	Review of preclusion doctrines, practice essays, practice multiple-choice questions		8 Preclusion Qs on Core Knowledge
Class 27 (4/23)	Appellate Review	Freer pp. 791-817 FRCP 23(f) and 54(b) 28 USC. §§ 1291 and 1292	8 MBE Qs on Final Judgment Rule & 9 on Scope of Review & 3 on Judicial Findings and Conclusions through U World 6 Appellate Review Qs on Core Knowledge
Class 28 (4/28)	Final exam review		
FINAL EXAM TBD – CHECK FINAL EXAM SCHEDULE			

NOTE about Class Coverage: Topics NOT covered this academic year in this class (these topics are in the case book, but we don't have time to cover every single page unless you want to read even more than you already are and have me talk even faster.....(-:

- Provisional Remedies (you will cover these in your Remedies class as they are tested on the CA bar exam essays and multiple-choice questions) – pp. 279-304 in the book.
- Alternative Dispute Resolution – pp. 819-862 (there are entire courses on this subject that you can take if you are interested) – this is not tested on the CA bar exam essays or multiple-choice questions but it is helpful if you plan on practicing law.