

**CIVIL PROCEDURE I**  
**Western State College of Law**  
**Professor Marisa S. Cianciarulo**  
**FALL 2024**

Monday and Wednesday, 10:00-11:30 a.m.  
Room TBD

Prof. Marisa S. Cianciarulo  
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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](mailto:Christy@wsulaw.edu) 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.

**[Western State College of Law Programmatic Learning Outcomes](#) supported by this course:**

1. LEARNING OUTCOME #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 Associations, Evidence, Civil Procedure, Constitutional Law, Estates, Community Property Remedies, and Professional Responsibility.

Civil Procedure I 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:

- Understanding the limits of judicial power over defendants in the form of personal jurisdiction;
- Understanding the line between state and federal power, or subject matter jurisdiction;

- Knowing the circumstances under which federal courts must apply state law;
  - Knowing the requirements for joinder of claims and parties;
  - Having a general understanding of the U.S. litigation system.
2. LEARNING OUTCOME #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.

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 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).

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. 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](mailto: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](mailto: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 quizzes (you will be provided access during Orientation)

**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            INTRODUCTION TO CIVIL PROCEDURE**

- 1) *Aug. 19*      Syllabus; Casebook, pp. 1-4, 205-208; case on pp. 229-232 (Fuentes v. Shevin). Prepare three questions that you have about the case. The questions can be of any nature or level of complexity (e.g., What is a “writ of replevin”? What does “due process” mean? Why would we read a case from 1972 about a stove?). You need not submit these questions to me in writing; they are for class discussion purposes only.
  
- 2) *Aug. 21*      28 USC § 2072, Casebook, “Note: Reading the Rules,” pp. 13-14; U.S. Const. Art. III §§ 1, 2; FRCP 1-3; 28 USC §§ 1, 41, 43, 44, 132, 133, 1331, 1332(a), 1333, 1334(a), 1338.

### **WEEK 2            PERSONAL JURISDICTION I**

- 3) *Aug. 26*      U.S. Const. Amend. V, XIV; Casebook, pp. 4-5 (“Where Can the Suit be Brought?” and “Personal Jurisdiction”); Casebook, pp. 49-59; FRCP 12(b).
  
- 4) *Aug. 28*      Casebook, pp. 59-69.

### **WEEK 3            PERSONAL JURISDICTION II**

- Sep. 2*            Labor Day holiday
  
- 5) *Sep. 4*        Casebook, pp. 69-77.

**WEEK 4            PERSONAL JURISDICTION III**

- 6) *Sep. 9*            Burger King v. Rudzewicz, 471 U.S. 462 (1985) [on TWEN]; FRCP 4(k)(1);  
Asahi Metal Indus. Co. v. Superior Ct., 480 U.S. 102 (1987) [on TWEN];
- 7) *Sep. 11*            Casebook, pp. 77-87; FRCP 4(k)(1).

**WEEK 5            PERSONAL JURISDICTION IV**

- 8) *Sep. 16*            Casebook, pp. 87-101.
- 9) *Sep. 18*            Casebook, pp. 101-117.

**WEEK 6            PERSONAL JURISDICTION V**

- 10) *Sep. 23*            Casebook, pp. 118-126; FRCP 4(d), 4(k)(1).
- 11) *Sep. 25*            Casebook, pp. 126-140; 28 U.S.C. §§ 1404, 1406, 1631.

**\*\*\*UWorld quiz, due Sunday, Sep. 29\*\*\***

**WEEK 7            MID-SEMESTER REVIEW; MIDTERM EXAM**

- 12) *Sep. 30*            MID-SEMESTER REVIEW (no assigned reading).
- 13) *Oct. 2*            MIDTERM EXAM (no assigned reading).

**WEEK 8            SUBJECT MATTER JURISDICTION I: FEDERAL QUESTION JURISDICTION; SUBJECT MATTER  
JURISDICTION II: DIVERSITY JURISDICTION**

- 14) *Oct. 7*            Casebook, pp. 141-150; review U.S. Const. Art. III §§ 1, 2; review 28 U.S.C.  
§ 1331.
- 15) *Oct. 9*            Casebook, pp. 6-9; Casebook, pp. 150-159; FRCP 12 (focus on (b), (g) and  
(h)); 28 U.S.C. § 1332(a)-(c).

**WEEK 9**            **SUBJECT MATTER JURISDICTION III: SUPPLEMENTAL JURISDICTION; MIDTERM EXAM REVIEW**

16) *Oct. 14*    Casebook, pp. 159-165; 28 U.S.C. § 1367.

17) *Oct. 16*    DISCUSSION OF MIDTERM EXAM (no assigned reading).

**WEEK 10**           **SUBJECT MATTER JURISDICTION IV: REMOVAL FROM STATE COURT TO FEDERAL COURT; JOINDER I**

18) *Oct. 21*    Casebook, pp. 241-253; 28 U.S.C. §§ 1441(a)-(e)(1), 1441(f), 1446, 1447; FRCP 81(c).

**\*\*\*UWorld Quiz, due Sunday, Oct. 27\*\*\***

19) *Oct. 23*    Casebook, pp. 777-788; FRCP 13, 18; 28 U.S.C. § 1367.

**WEEK 11**           **JOINDER II**

20) *Oct. 28*    Casebook, pp. 788-801; FRCP 14, 20, 21, 42.

21) *Oct. 30*    Casebook, pp. 802-812; FRCP 19.

**WEEK 12**           **JOINDER III**

22) *Nov. 4*     Casebook, pp. 812-824; FRCP 24.

23) *Nov. 6*     Casebook, pp. 825-828; Cohen v. The Republic of the Philippines, 146 F.R.D. 90 (S.D.N.Y. 1993) [on TWEN]; FRCP 22.

**\*\*\*UWorld Quiz, due Sunday, Nov. 10\*\*\***

**WEEK 13**           **ERIE DOCTRINE I**

24) *Nov. 12*    Casebook, pp. 255-271; 28 U.S.C. § 1652.

25) *Nov. 13*    Casebook, pp. 272-281.



**WEEK 14**      **ERIE DOCTRINE II; FINAL REVIEW**

26) *Nov. 18*    Casebook, pp. 282-287; Gasperini v. Center for Humanities, 518 U.S. 415 (1996) [on TWEN]; Shady Grove Orthopedic Assoc., P.A. v. Allstate Ins. Co., 130 S. Ct. 1431 (2010) [on TWEN].

**\*\*\*UWorld Quiz, due Sunday, Nov. 24\*\*\***

27) *Nov. 20*    No assigned reading.

**WEEK 15**      **FINAL REVIEW**

28) *Nov. 25*    No assigned reading.

**FINAL EXAM QUESTION AND ANSWER SESSION: TBD**

**LAST DAY TO EMAIL ME QUESTIONS PRIOR TO THE FINAL EXAM: TBD, by noon**

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