I. COURSE INTRODUCTION

This three-hour course is an introduction to the process of litigation and its alternatives. It covers topics fundamental to the practice of law and use of the civil justice system. Whether one litigates or does deals, works in the private sector or government, understanding how lawsuits get filed and get resolved is necessary. What does a complaint look like? What information do you have to produce when you sue or get sued? What claims are resolved before trial, during trial, on appeal? This course covers all of that. It starts with the complaint, answer, and related motions; then addresses discovery; then resolution without trial; the decision-making process at trial; and finally appeals. The goals for this course are that all leave with a basic conceptual understanding of these topics and a familiarity with the tools that are used, i.e. the pleadings, discovery devices, and motion practice through which these issues are resolved.

II. COURSE MATERIALS

A. Required Texts

1. S. YEAZELL, CIVIL PROCEDURE (8th ed. 2012);
2. Student Packet, available on TWEN.

B. Optional But Strongly Recommended

1. S. YEAZELL, FEDERAL RULES OF CIVIL PROCEDURE WITH SELECTED STATUTES (2013);

The rules and statutes contained in the above volumes are available online from various sources. You are not required to purchase them for that reason. I do, however, strongly recommend that you purchase these
statutory supplements. This is a course about rules—learning them and applying them. You will have a much easier time doing so with a physical copy of the rules that you can read through, mark-up, and place in context. Whether you read the rules online, print them out from an online resource, or purchase these texts, it is your responsibility, both in this class and for the bar exam, to learn and apply them.

C. Recommended Secondary Reading


Professor Glannon’s work provides a helpful series of problems to work through, along with answers. Professor Shreve’s work is a concise treatise that provides further explanation of basic concepts.

D. TWEN

The TWEN site for this course contains required reading, including a copy of the syllabus and Student Packet for this course. PowerPoint slides used or prepared in class will also be posted on TWEN sometime during the semester after we cover the material in class.

III. GRADES

Grades are based on a final exam (60%); other written work product (30%); and classroom attendance and participation (10%).

A. Attendance & Participation (10%)

It is incumbent upon you to read the material, come to class well prepared, and participate. Every student who does so will receive ten (10) attendance & participation points; those who do not will receive fewer or no points.

For the purposes of the participation grade, I will take other work commitments and any health issues explained in advance into consideration in evaluating lack of preparation.
Students who attend but are not prepared for class and have not provided a valid reason in advance will be counted absent. Similarly, students who attend, but come in late will be counted absent.

With regard to absences, this course adheres to SIU Law’s attendance policy: attendance is required in all classes. As this class is a required first-year course, in this class, if you accumulate more than six (6) class absences, you will be subject to the sanctions set out in the law school rules.

Those sanctions include mandatory withdrawal from the course. There are no “excused absences” for the purposes of SIU’s rule, or the ABA’s attendance requirement.

Attendance is required, and emphasized here, for two reasons: (1) the ABA requires attendance; and (2) empirical studies show those who prepare for and attend class learn more of the material and get better grades.

B. Written Work Product (30%)

1. The writing-across-the-curriculum component of your grade will be based on a midterm exam, worth twenty-five percent (25%) of your grade.

   It will take place during regularly scheduled class on Friday, March 7, 2014. The exam will likely consist of one (1) issue-spotting essay question.

   The goal of the midterm is to encourage you to outline and review the material as we progress—not wait until the end of the semester. It is also an opportunity to practice writing an exam. That practice has broader application: the practice of law depends, in large part, on the ability to produce persuasive written work product under a deadline.

2. The second component of the writing portion of your grade will be based on concept-mapping exercises assigned periodically throughout the semester. Your concept maps will be worth five percent (5%) of your grade.

   Additional instructions for your concept maps will be posted to TWEN.
C. The Exam (60%)

The exam will be an in-class, closed-book, final exam, in which you will be permitted to use a Federal and Illinois Rules excerpt provided to you by the exam proctor. Use of any other materials during the exam will be prohibited.

The exam itself will likely consist of some combination of multiple choice, short answer, and essay questions. The subject matter will include both material from the assigned readings and material discussed in class. If you have to miss a class for whatever reason, get notes from a friend or acquaintance.

D. Grading

This course follows SIU Law’s grading policy. It will be graded on a curve, and, of necessity, subject to mandatory medians.

IV. CONTACT INFORMATION

I encourage you to contact me with any questions you might have. After class, rather than before, is usually a good time. Feel free to drop by my office, Room 214, or email to set up a time.

I will check email sent to apardieck@siu.edu and respond as soon as I can. My response may not come immediately and it may be brief. The ulnar nerve in my left hand periodically objects to typing.

V. COURSE ASSIGNMENTS

Please note:

- The assignment for the first class is to read and be prepared to discuss Unit 1, text pp. 1-12 and 28 U.S.C. 1331, 1332.
- The readings for the topics vary in length, and we will not always cover one unit per class.
- Understanding the material will require reading through the assignment more than once.
- If you have questions about what to read for the next class, don’t hesitate to ask.

V. COURSE OUTLINE
A. An Overview of Procedure (Chapter 1)

1. Introduction, Jurisdiction & Service of Process
   - Text 1-12
     a. Hawkins
     b. 28 USC 1331, 1332

2. Introduction to Pleading
   - Text 12-26
     a. Bridges
     b. Bell

3. Introduction to Parties, Discovery & Summary Judgment
   - Text 26-41
     a. Larson
     b. Butler
     c. Houchens

4. Introduction to Trial, Former Adjudication & Appeals
   - Text 41-58
     a. Norton
     b. Rush
     c. Apex

B. Pleading (Chapter 6)

1. The Story of Pleading
   - Fed. R. Civ. P. 7, 8(a)(e), 9, 10, 12(b)(6)
   - Text 365-384
     a. Haddle

2. Illinois Fact Pleading
   - Il. S. Ct. R. 131-134 & 137
   - 735 ILCS 5/2-601-606, 612, 613, 622
   - Supp. 1-11
     a. Knox College

3. Federal Notice Pleading I
   - Text 384-401
     a. Iqbal
4. Federal Notice Pleading II
   - Text 401-413
     a. Stradford
     b. Jones
   - Supp. 11-22
     a. Swanson

5. Legal Ethics of Pleading
   - Fed. R. Civ. P. 11
   - Ill. S. Ct. R. 137
   - Text 413-426
     a. Walker
     b. Christian
   - Supp. 22

6. Federal and Illinois Motion Practice
   - Fed. R. Civ. P. 12
   - 735 ILCS 5/2-615, 619, 619.1
   - Text 426-432
   - Supp. 22-33
     a. Barber-Coleman
     b. Delgatto

7. The Answer & Reply
   - Fed. R. Civ. P. 8(b)-(d)
   - Ill. S. Ct. R. 136
   - 735 ILCS 5/2-610, 613
   - Text 432-442
     a. Zielinski
   - Supp. 33-36

8. Amendment of Pleadings
   - Fed. R. Civ. P. 15(a)-(b)
   - 735 ILCS 5/2-616(a) & (c)
   - Text 443-450
     a. Beeck
   - Supp. 36-49
     a. Gray
     b. Herztog
     c. Zawadzka

9. Statutes of Limitations and Repose
   - Supp. 49-59
10. Relation Back of New Claims
   - Fed. R. Civ. P. 15(c)
   - 735 ILCS 5/2-616(b)
   - Text 450-456
     a. Moore
     b. Bonerb
   - Supp. 59-68
     a. Weidner
     b. Porter

11. Relation Back with Re-designated or New Parties
   - Fed. R. Civ. P. 15(c)
   - 735 ILCS 5/2-401(b), 616(d)
   - Text 455-456
   - Supp. 68-93
     a. Borg
     b. Fasero
     c. Krupski
     d. Borchers

C. Discovery (Chapter 7)

1. Relevance; and the Duty to Preserve
   - Fed. R. Civ. P. 26 (a) & (b), & 29
   - Ill. S. Ct. R. 201(b), 224
   - Text 457-469
     a. Davis v. Precoat Metals
     b. Steffan v. Cheney
     c. Silvestri v. General Motors
   - Supp. 95-97

2. Required Disclosures & Requests for Production
   - Fed. R. Civ. P. 16, 26(a)(e)(f), 34, 35
   - Ill. S. Ct. R. 214, 215, 222, 224, 735 ILCS 5/2-402
   - Text 469-477
   - Supp. 98-100

3. Interrogatories; Requests for Admission; and Expert Reports
   - Fed. R. Civ. P. 26(e), 33, 36
   - Ill. S. Ct. R. 213, 216
   - Text 477-480
4. Depositions; Pretrial Lists & Orders; and Ensuring Compliance (I)
   • Fed. R. Civ. P. 16(e), 26(d), 27-32, 37, 45
   • Il. S. Ct. R. 201, 202-212
   • Text 480-487
   • Supp. 110-111
     a. Campen

5. Privileges & Trial Preparation Material I
   • Fed. R. Civ. P. 26(b)(1) & (b)(3)
   • Il. S. Ct. R. 201(b)(2)
   • Text 487-497
     a. Hickman v. Taylor

6. Privileges & Trial Preparation Material II
   • Supp. 118-136
     a. Monier
     b. Upjohn
     c. Consolidation Coal

7. Expert Information
   • Fed. R. Civ. P. 26(a)(2) & 26(b)(4)
   • Il. S. Ct. R. 201(b)(3), 204(c), 213(f)(g)
   • Text 497-503
     a. Thompson v. The Haskell Co.
     b. Chiquita International Ltd. V. M/V Bolero Reefer
   • Supp. 135-139

8. Privacy
   • Fed. R. Civ. P. 26(c), Il. S. Ct. R. 201(c)(1)
   • 735 ILCS 5/2-1003
   • Text 503-508
     a. Stalnaker v. Kmart Corp.
   • Supp. 139-148

9. Ensuring Compliance (II) & Controlling Abuse
   • Fed. R. Civ. P. 37
   • Il. S. Ct. R. 201(k), 219
   • Text 508-522
     a. Zubulake v. UBS Warburg, LLP
C. **Resolution without Trial (Chapter 8)**

1. **Default Judgment; Voluntary & Involuntary Dismissal**
   - Fed. R. Civ. P. 41(a)(b), 54(c) & 55
   - Ill. S. Ct. R. 103(b), 105, 273
   - 735 ILCS 5/2-1009, 2-1206, 2-1301, 2-1302, 5/13-217
   - Text 523-531
     - Supp. 155-163
       - a. **Peralta**
   - Supp. 155-163
     - a. **Gibellina**

2. **Settlement; Mediation; and Confidentiality Agreements**
   - Text 531-555
     - a. **Matsushita Elec. Indus. Co.**
     - b. **Kalinauskas**

3. **Arbitration**
   - Text 555-580
     - a. **Ferguson v. Countrywide Credit Indus. Inc.**
     - b. **AT & T Mobility LLC v. Concepcion**
     - c. **Ferguson v. Writers Guild of America**
   - Ill. S. Ct. R. 86-95, 99
   - Supp. 163-164

4. **Summary Judgment**
   - Fed. R. Civ. P. 56
   - Ill. S. Ct. R. 191-192
   - 735 ILCS 5/2-1005
   - Text 581-596
     - a. **Celotex Corp. v. Catrett**
     - b. **Bias v. Advantage International, Inc.**
   - Supp. 164-167

D. **The Trier and the Trial (Chapter 9)**

1. **Pretrial Orders & Divided Authority**
   - Fed. R. Civ. P. 16
   - Ill. S. Ct. R. 218
   - Text 597-607
     - a. **McKey**
b. Reid
- Supp. 167

2. Bench Trials & the Right To Trial by Jury
- U.S. Const. Amend. VII
- Fed. R. Civ. P. 38, 39
- Text 607-615
- Supp. 168-175
  a. Martin

3. Choosing a Jury
- 28 U.S.C. §§ 1861-70
- 735 ILCS 5/2-1105, 2-1105.1, 2-1106
- Ill. S. Ct. R. 234
- Text 616-625
  a. Thompson v. Altheimer & Gray
- Supp. 175-178

4. Challenging a Judge
- 28 U.S.C. §§ 144, 455
- 735 ILCS 5/2-1001,
- Ill. S. Ct. R. 63(c)
- Text 625-643
  a. Caperton
- Supp. 179

5. Judges Controlling Juries & Judgment as a Matter of Law
- Fed. R. Civ. P. 50, 52
- 735 ILCS 5/2-1202, 1203
- Text 643-656
  a. Penn. RR
- Supp. 179-190
  a. Pedrick

6. Post-Trial Motions & New Trial
- Fed. R. Civ. P. 59
- 735 ILCS 5/2-1205, 1205.1
- Text 656-671
  a. Lind
  b. Peterson

D. Appeal (Chapter 10)
1. Appeals: Who & When
   - 28 U.S.C. §§ 1291-1292
   - Ill. S. Ct. R. 301, 303-304, 306-308
   - Text 673-693
     a. Aetna Casualty & Surety Co.
     b. Liberty Mutual Insur. Co.

2. Appeals: When & How
   - Text 693-713
     a. Lauro Lines s.r.l.
     b. Anderson
     c. Harnden

E. Incentives to Litigate (Chapter 5)

1. Additional readings as time permits

FINAL EXAM, FRIDAY, MAY 9, 2013, 8:15 A.M. TO 11:15 A.M.

VI. FINAL NOTES

Make-Up Class:

Courses that meet on Monday must hold an additional class to make up for the class that will be missed in order to observe Martin Luther King Jr. Day. The “make-up” class for this course will be scheduled either as additional class to discuss the mid-term exam or as a review class. Specific time, date, and location to be announced.

Disability Disclosure Statement: Students with disabilities are entitled to reasonable accommodations and academic adjustments. See http://disabilityservices.siu.edu/. Any student requiring accommodation because of a disability should contact the Associate Dean’s Office at the law school.

Recording Classes: The Law School may record class sessions; however, absent a request in advance for accommodation, class recordings will not be provided to students. Audio or video recording by any student of any class sessions, absent advance approval of the instructor, is prohibited.

Emergency Procedures: Southern Illinois University Carbondale is committed to
providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.