I. COURSE INTRODUCTION

This three-hour course continues the first semester’s introduction to civil litigation. After discussing the basics of pleadings, discovery, and dispute resolution in Civil Procedure I, we turn here to topics including jurisdiction, venue, joinder, and preclusion. Where can you file a lawsuit? What claims can or must you join in the suit? What parties can or must you join? When is a claim or issue precluded because it was or could have been raised earlier? The goals for this course are that all leave with a basic conceptual understanding of how the federal courts answer these questions. We’ll look at other jurisdictions, primarily Illinois, to provide a point of comparison. We’ll also look at the tools used, e.g. pleadings and motion practice, in resolving these issues.

II. COURSE MATERIALS

A. Required Texts

1. S. YEAZELL, CIVIL PROCEDURE (8th ed. 2012);
2. Supplementary Materials posted to TWEN.

B. Optional But Strongly Recommended

1. S. YEAZELL, FEDERAL RULES OF CIVIL PROCEDURE WITH SELECTED STATUTES (2013 or 2014);

The rules and statutes contained in the above volumes are available online from various sources. You are not required to purchase statutory supplements for that reason. I do, however, strongly recommend that you use a printed compilation of the rules and statutes that we will study this semester. 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


D. TWEN

The TWEN site for this course contains required reading, including a current copy of the syllabus, additional writing instructions, and supplementary materials for this course. The PowerPoint slides used in class will also be posted periodically throughout the semester.

III. GRADES

Grades are based on a final exam, worth up to 65 points; other written work product, worth up to 25 points; and classroom attendance and participation, worth up to 10 points. In addition, you may complete an optional, extra-credit project worth up to five (5) points.

A. Attendance & Participation (10 points)

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 illness or other work commitments 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. If you accumulate more than
nine (9) class absences, you will be subject to the sanctions set out in the law school rules. Those sanctions include mandatory withdrawal from the course.

Note there are no “excused absences” for the purposes of SIU Law’s attendance rule or the ABA’s attendance requirement. Save your absences for sick days and work conflicts. If you have a disability requiring additional accommodation see the Associate Dean. See also Disability Statement infra Part VI.

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 (25 points)

There will be two different types of writing exercises this semester. The first, worth up to five (5) points, will include concept-mapping or briefing exercises assigned periodically throughout the semester.

The second requires you to prepare a legal brief, or memorandum of law, that is worth up to twenty (20) points. You will need to divide yourself up into two-person law firms to work on the assignment. You may not discuss your work with anyone other than co-counsel until after you file your brief.

Factual and procedural information for the brief will be distributed after we have covered the relevant legal material in the text. Additional research will also be required in order to properly complete the assignment.

Additional instructions for both writing exercises will be posted to TWEN and provided in class.

C. The Exam (65 points)

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. Extra Credit Project

You may complete an optional, extra credit project worth up to five (5) bonus points. For this project you may work in groups of up to four (4) students. The object is to develop and present a creative or artistic means of understanding a difficult concept covered in this course.

You may explain these concepts using whatever medium you want—bounded only by your creativity and common courtesy. The due date for your final project will be the end of the semester.

You colleagues will assist in anonymously scoring the creative value of the presentations. I will consider this class input in conjunction with evaluating the substantive merit in assigning a grade to the project.

Additional instructions for the project will be posted to TWEN and provided in class.

E. 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 & OFFICE HOURS

If I’m in my office and the door is open, you and your questions are welcome. After class is usually a good time to catch me. Or you can email apardieck@law.siu.edu to set up a time. I will also have regular office hours on Wednesday from 2 p.m. to 4 p.m.

For those emailing, please note my response may not come immediately and it may be brief. The ulnar nerve in my left hand periodically objects to typing. Email aside, you have options. If you have questions, by all means ask.

V. COURSE ASSIGNMENTS
• 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 assignments more than once.
• If you have questions about what to read for the next class, don’t hesitate to ask.
• The assignment for the first class is to read and be prepared to discuss pp. 59-76.

VI. COURSE OUTLINE

A. OVERVIEW

1. Approaching Civil Procedure & Constitutional Limits in Litigation
   Text, pp. 59-64

B. PERSONAL JURISDICTION (CHAPTER 2)

1. The History & Origins of the Personal Jurisdiction Doctrine
   14th Amendment
   Text, 65-76
   Pennoyer v. Neff
   Supp. 1-2

2. The Mechanics of Jurisdiction: Challenge and Waiver
   Fed.R.Civ.P. 12(b),(g),(h); 735 ILCS 5/2-301
   Text, 76-79
   Supp. 2-5

3. The Modern Constitutional Formulation of Power
   Fed. R. 4(k); 735 ILCS 5/2-209
   Text, 79-89
   International Shoe Co. v. Washington
   Supp. 5

4. Jurisdiction Based On Property (In Rem Jurisdiction)
   Text, 91-103
   Shaffer v. Heitner
   Supp. 5-6
   Problem Set #2

5. Specific Jurisdiction (I)
6. **Specific Jurisdiction (II)**  
Text, 112-18  
* Burger King Corp. v. Rudzewicz  
Supp. 6-7  
Problem Set #4

7. **Specific Jurisdiction In Tort Cases (I)**  
Text, 124-131  
* J. McIntyre, Ltd. v. Nicastro  
Supp. 7-28  
Russell v. SNFA

8. **Specific Jurisdiction In Tort Cases (II)**  
* Walden v. Fiore on TWEN  
Supp. 28-35  
* Saia v. Scripto-Tokai Corp.  
* Sabados v. Planned Parenthood (Specific Jurisdiction Discussion Only)  
* Hendry v. Ornda Health Corp. (Specific Jurisdiction Discussion)  
* Adams v. Harrah’s Maryland Heights Corp.  
* Zazove v. Pelikan, Inc.

9. **Specific Jurisdiction In Contract Cases**  
Supp. 35-41  
* Bolger v. Nautica Int’l, Inc.  
* Madison Miracle Productions LLC v. MGM Distribution Co.  
* Empress Int’l, Ltd. v. Riverside Seafoods, Inc.  
* Chalek v. Klein

10. **The Reasonableness Requirement**  
Text, 105  
* Asahi Excerpt on TWEN  
Supp. 47-51  
* Rollins v. Ellwood  
Problem Set #5

11. **Outer Limits of General Jurisdiction**  
735 ILCS 5/§2-209(b)
12. Personal Jurisdiction in Cyberspace

Text, 118-124
Pavlovich v. Superior Court
Supp. 51-62
Forrester v. Seven Seventeen HB
Bombliss v. Cornelsen
Howard v. Missouri Bone & Joint Center
Illinois v. Hemi Group LLC

13. The Service of Process Rule

735 ILCS 5/2-201 & 2-301
Text, 139-147
Burnham v. Superior Court
Supp. 62

14. Waiver By Contract (Consent)

Text, 148-154
Carnival Cruise Lines
Supp. 62-76
Williams v. Ill. State Scholarship Comm.
Dace Intern., Inc. v. Apple Computer, Inc.
Illinois Choice of Law & Forum Act

15. The Constitutional Requirement of Notice

Text, 154-64
Mullane v. Central Hanover Bank & Trust Co.
Supp. 76-77
Problem Set #6

16. Service of Process & Self Imposed Restraints

Fed. R. Civ. P. 4
735 ILCS 5/§2-201 thru 2-213
Il. S. Ct. R. 101-04 & 283-84
Text, 164-174
  *Gibbons v. Brown*
Supp. 77-81
  Problem Set #7
  *Muscavero v. Kenzler*

17. Venue
  28 U.S.C. § 1390-1;
  735 ILCS 5/ § 2-101 through 108
  Text 174-180
  *Dee-K Enterprises, Inc. v. Hevafil SDN. BHD.*
Supp. 81-86
  Problem Set #8
  *Stambaugh v. International Harvester Co.*

18. Forum Non Conveniens
  28 U.S.C. §1404(a)
  Il. S.Ct. R. 187
  Text, 180-189
  *Piper Aircraft v. Reyno*
  *Atlantic Marine Constr. v. US syllabus on TWEN*
  Supp. 86-93
  *Fennel v. Illinois Cent. R. Co.*

C. SUBJECT MATTER JURISDICTION (CHAPTER 3)

1. Federal Question Jurisdiction
  28 USC § 1331
  U.S. Const. Art. III, sec. 1 & 2
  Text 191-206
  *Louisville & Nashville RR v. Mottley*
  Supp. 96

2. Diversity Jurisdiction
  28 USC § 1332(a)-(c)
  Text, 207-221
  *Redner v. Sanders*
  *Hertz Corp. v. Friend*

3. Supplemental Jurisdiction
  28 U.S.C. § 1367
  Text, 221-229
  *In re Ameriquest Mortgage Co.*
4. Removal
   28 U.S.C. § 1441(a)-(c), 1446, 1447
   U.S. Const. Art. III, sec. 1 & 2

   Text, 229-238
   *Caterpillar, Inc. v. Lewis*

D. STATE LAW IN FEDERAL COURTS (CHAPTER 4)

1. The Erie Problem
   28 U.S.C. § 1652
   Text, 239-250

   *Erie Railroad v. Tompkins*

2. The Limits of State Power in Federal Courts/The Outcome Determination & Balancing Tests
   Text, pp. 251-257
   *Guaranty Trust Co. v. York*
   *Byrd v. Blue Ridge Rural Electric Coop.*

3. De-Constitutionalizing Erie/The Hanna Limitation on Erie
   28 U.S.C. §§ 2071-77
   Text, pp. 258-66

   *Hanna v. Plumer*
   Supp. 97

4. Determining the scope of Federal Law: Recent Erie Problems
   Text, pp. 266-274

   *Semtek Intl. Inc. v. Lockheed Martin Corp.*
   Supp. 97-101

   Problem Set #9

E. RESPECT FOR JUDGMENTS (CHAPTER 11)

1. Claim Preclusion: Same Cause of Action
   Text 47-52, 715-727

   *Rush v. City of Maple Heights* (in Ch. 1)
   *Frier v. City of Vandalia*

   Supp. 102-106

   *River Park, Inc. v. City of Highland Park*

2. Claim Preclusion: Consistency, the Parties & Finality
3. **Issue Preclusion: Same Issue; Litigated and Determined; Essential; Mutuality**
   Text 749-767
   Illinois Central Gulf RR v. Parks
   Parklane Hosiery Co. v. Shore
   Supp. 117-123
   Kessinger v. Grefco, Inc.

4. **Issue Preclusion: Non-Mutual Issue Preclusion & the Borderlands**
   Text 767-778
   State Farm Fire & Casualty Co. v. Century Home Components
   Kovach v. District of Columbia
   Supp. 12-3

5. **Collateral Attack & Reopened Judgments**
   U.S. Const. Art. IV
   28 USC 1738
   Fed. R. Civ. P. 60(b)
   Text 778-790
   Durfee v. Duke
   United States v. Beggerly
   Supp. 124

F. **JOINDER (CHAPTER 12)**

1. **Joinder of Claims: By Plaintiff & By Defendant.**
   Fed. R. Civ. P. 13, 17, 18(a) & 42(b)
   28 USC 1367
   735 ILCS 5/2-204, 2-405, 2-407, 2-608, 2-613, 2-614
   Text 791-806
   Plant v. Blazer Fin. Services
   Supp. 125-7
2. **Joinder of Parties by Plaintiff**  
Fed. R. Civ. P. 20, 21  
735 ILCS 5/2-404, 2-405, 2-407  
Text 806-812  
   *Mosely v. General Motors Corp.*  
Supp. 127-129  
   *Sommers v. Korona*  
   *Schwartz v. Swan*  

3. **Third-Party Claims**  
Fed. R. Civ. P. 14  
735 ILCS 5/2-406(b) & (c)  
Text 812-818  
   *Price v. CTB, Inc.*  
Supp. 129-132  
   *Laue v. Leifheit*  

4. **More Complex Litigation**  
Fed. R. Civ. P. 13(g)-(h), 19, 20  
735 ILCS 5/2-608  
Text 818-829  
   *Kroger v. Omaha Public Power District*  
   *Owen Equipment & Erection Co. v. Kroger*  
Supp. 132-133  

5. **Compulsory Joinder**  
Fed. R. Civ. P. 19  
735 ILCS 5/2-404, 2-406  
Text 829-839  
   *Temple v. Synthes Corp.*  
   *Helzberg’s Diamond Shops v. Valley West Des Moines Shopping Center*  
Supp. 133-135  
   *Consolidated Cable Utilities v. City of Aurora*  

6. **Intervention**  
Fed. R. Civ. P. 24  
735 ILCS 5/2-408  
Text 839-852  
   *Natural Resources Defense Council v. United States Nuclear Regulatory Commission*  
   *Martin v. Wilks*  
Supp. 135-137
7. **Interpleader**  
Fed. R. Civ. P. 22  
28 U.S.C. 1335, 1397, 2361  
735 ILCS 5/2-409  
Text 852-859  

*Paragon Molding Ltd. v. Safeco Insurance Co.*  
Supp. 137-138

8. **Class Actions & the Constitution: Representative Adequacy & Jurisdiction**  
28 U.S.C. 1332(d), 1453  
Text 859-877  

*Hansberry v. Lee*  
*Phillips Petroleum v. Shutts*

9. **Class Actions: Statutory Requirements & Recent Case Law**  
Fed. R. Civ. P. 23  
735 ILCS 5/2-801 thru 2-806  
Text 877-893  

*Wal-Mart Stores, Inc. v. Dukes*  
Supp. 138-146  

*Miner v. Gillette Co.*

10. **Settlement of Class Actions**  
Fed. R. Civ. P. 23(e)  
735 ILCS 5/2-806  
Text 894-909  

*Amchem Products Inc. v. Windsor*

**FINAL EXAM, DECEMBER 9, 2014, 1:15 P.M. - 4:15 P.M.**

VI. **FINAL NOTES**

**Make-Up Classes:** Classes that meet on Mondays must hold a make-up class for due to the Labor Day holiday. Time, place, and assignment for the make-up will be announced in class.

**Disability Disclosure Statement:** Students with disabilities are entitled to reasonable accommodations and academic adjustments. See [http://disabilityservices.siu.edu/](http://disabilityservices.siu.edu/). Any student requiring accommodation because of a disability should contact the Associate Dean’s Office at the law school.
Class Recordings: The Law School will record class sessions. However, absent an accommodation for a disability authorized by the Associate Dean or a request made in advance to the instructor documenting a work or illness related absence, links to class recordings will not be generated or provided to students. No audio or video recording of any class or portion thereof may be taken or used without advance approval of the instructor.

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.