

**SOUTHERN ILLINOIS UNIVERSITY
LAW SCHOOL
CIVIL PROCEDURE I
SPRING 2019**

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**Room 204
W & F 11:00-12:15am**

SYLLABUS

COURSE DESCRIPTION & LEARNING OUTCOMES:

This semester you will learn and master core concepts of civil procedure, including an understanding of the process of litigation. You will also develop competency in a fundamental legal skill: the reading and analysis of a rule. Rules are structured differently than cases. Being able to read and understand rules (beyond the Federal Rules of Civil Procedure) is essential to the practice of law.

As a student in this class, you should expect to achieve the following learning outcomes throughout the semester:

- Using a relevant fact pattern, students will be able to identify legal issues related to the pleading rules of the Federal Rules of Civil Procedure (FRCP), making critical and effective arguments regarding the application of these rules to the fact pattern and determining the proper resolution of the identified legal issues.
- Using a relevant fact pattern, students will be able to identify legal issues related to motion practice and pre-trial disposition of cases under the Federal Rules of Civil Procedure (FRCP), making critical and effective arguments regarding the application of these rules to the fact pattern and determining the proper resolution of the identified legal issues.
- Using a relevant fact pattern, students will be able to identify legal issues related to the discovery rules of the Federal Rules of Civil Procedure (FRCP), making critical and effective arguments regarding the application of these rules to the fact pattern and determining the proper resolution of the identified legal issues.
- Students will be able to draft portions of Complaints and Answers that comply with the Federal Rules of Civil Procedure (FRCP). Using sample pleadings, they will be able to evaluate whether a pleading complies with the FRCP and offer suggested revisions on drafted pleadings.
- Using a sample court filing, students will be able to apply Rule 11 to determine whether a violation has occurred and, if so, whether sanctions are warranted.
- Using a hypothetical case, students will be able to use a variety of discovery tools to construct a discovery plan.

REQUIRED TEXTS:

- ***Click & Learn: A Guide to Civil Procedure***¹ by Upchurch, Gilles and Ho (forthcoming through Carolina Press). This interactive guide is not yet published, so I will be using a series of

¹ This book has been previously named *Civil Procedure: An Interactive Guide*. The booklist for this course used the prior book title.

worksheets/exercises that I will post on TWEN. (For you it's free, but I will be seeking your feedback throughout the class!). When published, this book will be entirely online and will be interactive. This year, I have included the questions on class worksheets that can be accessed from the "Course Materials" link on TWEN. Additionally, I have uploaded the questions with explanations on TWEN in the "Assignment and Quiz Dropbox." By taking the quiz questions on TWEN while you are studying, you will receive instant feedback on your performance. Because this material is copyrighted, you **may not distribute** any of it to any other person without my written permission.

- You will need a ***copy of the Federal Rules of Civil Procedure*** (hereinafter *Rules*). I don't require that you purchase any particular version (and there are free online versions that you can access at <http://www.law.cornell.edu/rules/frcp> and there are FRCP Apps available for Apple or Android devices available on iTunes and Google Play). **However, you MUST have a copy of the Rules** (either in hard copy or electronic) **at all times in the classroom** -- the "internet is down" or "I forgot my laptop" are not acceptable excuses. Make sure that whatever version of the Rules you use, that they include amendments that went into effect on December 1, 2018.

RECOMMENDED TEXT:

- ***Inside Civil Procedure: What Matters & Why***, by Howard M. Erichson (2nd Edition, 2012 Aspen Publishers—***do not get the first edition***) ISBN: 9781454810971. This is a short summary which will assist you in seeing a big-picture view of each topic.

CLASS ATTENDANCE:

Active class participation is essential to success in this course. You should not plan on taking **any** absences in this class unless you have an unforeseen or unavoidable conflict. As such, attendance is mandatory (including any make-up classes) and you may miss no more than four (4) classes during the semester. An absence may be excused (or made up through a separate assignment) only in extraordinary situations, which will be addressed at my sole discretion on a case-by-case basis. I would advise that you not use up all of your absences early in the semester. Those exceeding the maximum number of absences will be subject to the ramifications described in the Law School's attendance policy. *See* School of Law Rules III.5 (f)-(g).

This semester we will make up a class session which will be missed due to the midterm week. Our make-up class assignment will be distributed later this semester. Failure to complete the assignment associated with the make-up class will count as an absence.

An attendance sheet will be distributed at the beginning of each class. Please sign the attendance sheet acknowledging that you (1) are present, (2) are prepared to participate in the class discussion, and (3) have completed any assigned video, quiz or writing assignment. You may not sign for anyone but yourself. **If you miss more than five minutes of class for any reason, you may not sign the attendance sheet and you will be counted as absent.** Repeated tardiness will also result in being marked absent. If you must miss more than five minutes of class, you may still come to class provided that you do not cause an interruption.

COURSE WORK LOAD:

In this class you will be learning new substance and mastering new skills, such as Rule reading and analysis. Rules are structured differently than cases. Moreover, students often find reading Rules

(and the Supreme Court cases which interpret them) difficult. These skills, however, are essential to the practice of law.

Because you are working on both goals—mastering the substantive knowledge of litigation AND mastering the skill of reading rules—you should expect to devote a significant amount of time to this course this semester. When you first started law school and were beginning to develop the skill of reading cases, your class preparation took you more time and attention. **The same thing will happen in this course—you are starting from the beginning again.**

- **Set aside a regular time to spend studying Civil Procedure.** Plan to dedicate the majority of your preparation time to completing the worksheets for this class. These worksheets need to be completed in advance of class so that you will be able to apply your understanding of the Rule to the class hypotheticals.
- **Come to class ready to apply the Rules assigned for the day.** The worksheets are designed to provide you with a basic working knowledge of the assigned Rules. We will use our class time to see how the Rules operate in simulations that mimic real-world litigation.
- **Expect to work with others.** In legal practice, you will work in groups in a variety of settings. You will be working in a group in class this semester during in-class activities. Develop a relationship with the members of your class group and work with each other to prepare for class. We will be working on developing good group dynamics throughout the course.
- **Seek out help early on.** I am always available to meet with you. If you find that you are not getting the questions on the worksheets correct or that you are having difficulty reading, interpreting, or applying the rules, please come see me.

You might be interested to know that the ABA standards incorporate out of class work in the calculation of credit hours. Under the ABA standards, **you should expect to spend 150 minutes per week in class (2.5 hours), plus (a minimum of) six hours of study a week, for a total of 8.5 hours per week.**

REQUIRED CLASS TECHNOLOGY:

TWEN

To supplement class, I will be using TWEN, a web-based platform hosted by Westlaw. This syllabus is posted on TWEN. Moreover, I will use TWEN to post other class materials. In addition to these posted materials, there is a Class Discussion page where you can post questions at any hour of the day (or night) and where others, including myself, can respond. **You must sign-up for the class TWEN page by the start of class. You are responsible for familiarizing yourself with the information posted and discussed on TWEN prior to the midterm and final examinations. Additionally, the worksheet quizzes and class assignments must be completed through TWEN.**

You must register on TWEN to be able to access it, using your Westlaw password. To do so, go to: <http://lawschool.westlaw.com>. At the top of the page, there should be a blue bar, with “TWEN” as one of the options you can click on; click on TWEN. There should be further directions that can guide you through registration process. When you register, be sure to use whatever e-mail address you wish to be contacted at (you do not need to use your Southern Illinois University Law School account) because this is the address that I will use for any announcements.

Class online videos

To assist you in your class preparation and to enhance your learning, I will be posting supplemental online videos for a few of our assignments. These videos will be linked to our TWEN page. These videos are created by me or my casebook co-authors. They are designed to provide you with some additional assistance on either the substance in the reading assignment or on law school study skills.

PROFESOR AND STUDENT EXPECTATIONS:

As a law student, I expect that you will treat your time spent in class and preparing for class as a professional. You can expect the same from me. While the following list is not exhaustive, these guidelines will assist in the creation of a comfortable and productive learning environment throughout the semester.

You can expect me:

- To start and end class on time.
- To reply to e-mails within 24 hours on weekdays and 48 hours on weekends.
- To be available during my posted office hours (and to provide alternative office hours should any require rescheduling).
- To assign out of class work that adequately covers the material and meets the learning objectives of the course while adhering to the time expectations for a 3 credit course.
- To give exams that accurately reflect the material covered in class and assigned in our readings.

I can expect you:

- To come to every class and to be on time.
- To be attentive and engaged in class.
- To refrain from using laptops, cell phones and other electronic devices during class for anything other than class work.
- To spend an adequate amount of time on the assigned readings for each week, making an effort to understand the legal principles covered, and carefully completing class worksheets, quizzes and assignments.
- To seek help when appropriate.

CLASS PREPARATION:

A. Reading Assignments

The assignments for class will be regularly posted on TWEN in the form of Worksheets developed from *Click & Learn: A Guide to Civil Procedure*. As discussed above, each student must complete any worksheet posted on TWEN, including reading all assigned Rules several times with care and completing the assigned quizzes. It is insufficient to “skim” over a rule **because the Rules are very important in this course**. If a student is not prepared to discuss the assignment when called upon, I may mark the student as absent.

B. Class Preparation Assignments

1. Worksheets and Quizzes

Most Worksheets will have a quiz (or quizzes) that you must complete individually on TWEN (in the Assignment and Quiz Dropbox tab on the left) **by 9am on the day for which they are assigned.** These quizzes are designed to be interactive teaching tools and to provide you with formative assessment (basically, they give you instant feedback while you learn). **This means, you should work through the quiz while you are still learning about the concept.** You should expect to **use the explanation** to each quiz question to check your understanding and to revisit the material with new insights. These questions are not summative. (In other words, they are not a review quiz to test what you have already learned.) Rather, they are **designed to teach you** the material as you go. Therefore, **you should not wait until you have finished the worksheet to visit the TWEN explanations for the first time.**

You may work on the worksheets and TWEN quizzes with **your classmates who are registered for this class**, discussing the questions and the possible answers. **Ultimately, each student must decide on and submit his or her own answers to the quiz questions on TWEN, logged in under his or her own NAME.** For example, it would be appropriate to discuss a question with a classmate and then subsequently change your original answer choice after consideration of your classmate's observations. Simply copying another's answers or having one person take the quiz and report the answers back to the group, is impermissible behavior and would lead to an honor code violation.

Because the quizzes are designed to help you work through the material at the earliest phases of your learning, the TWEN page will record your last answer. In other words, you can take and retake the quiz questions as much as you would like to. **If you initially get a question wrong, but later understand it after reading the explanation, simply go in and select the correct answer.** This will communicate to me that you do not need me to cover that question in class. If you are still confused after reading an explanation, simply leave the answer you originally selected. I will use the results from the quizzes to tailor our class discussion. **Therefore, all quizzes must be submitted by 9am on the day of class for which the material is assigned.**

Finally, you can print off OR save the TWEN quiz and explanations as a PDF for use in class or when you are constructing your class outline.

2. Parson v. Deckler Mock Lawsuit:

This semester, we will be working with **a mock lawsuit: *Parson v. Deckler***. The lawsuit arises from a collision in New York City between plaintiff Chris Parson and defendant Fred Deckler. You should anticipate some in-class assignments in the context of the mock lawsuit. These assignments will be completed and submitted **as a group (in your selected law firm).** **You must complete each assignment in a timely and professional manner to be marked present for the class for which it was assigned.** Please note, professionalism requires you to take an **active role** in your group's work.

3. Writing Across the Curriculum Assignments:

In this class, you will receive substantial training on writing bar-exam-style essay answers. You will also receive training in basic drafting of litigation documents. As such, you should anticipate several smaller writing assignments throughout the course. **You must complete each assignment in a timely and professional manner to be marked present for the class for which it was assigned.** Further instructions (including whether collaboration is permitted or not on any particular assignment) will be provided later in the semester with each assignment.

GRADING

The course will be graded as follows:

- 70% of your grade will be based on a **closed-book final examination**
- 15% of your grade will be based on a **closed-book midterm examination**
- 15% of your grade will be based on **the Quizzes.**

A. Examinations

1. Midterm Exam

The midterm exam is a **closed-book examination**. It will take place during Midterm Week, March 4th – 8th. Details regarding Midterm Week (including the exact date and time of our midterm) will be posted on the SIU Law school webpage. You will not be permitted to bring in **any material** (i.e., you will NOT be permitted to bring in a copy of the Rules to the exam).

2. Final Exam

The final exam is a **closed-book examination**. It will take place on **Tuesday, April 30th at 8:15am**. You will not be permitted to bring in **any material** (i.e., you will NOT be permitted to bring in a copy of the Rules to the exam). The final exam will be **comprehensive** and will include material covered before and after the midterm exam.

B. Quizzes

I will provide periodic assessment of the daily quizzes you submit on TWEN from the assigned Worksheets. **You will be assessed on whether your assignments were completed in a timely and professional manner, not on the number of correct answers to the quiz questions.** If you cannot complete a quiz in a timely manner due to an emergency, personal crisis, computer malfunction or other similar reason, you must let me know about it, at the latest, within the 24 hours of the assignment deadline. I may be willing to allow late completion of a quiz, but only on a timely and valid explanation. Please email me with the subject stated as, “Explanation of failure to timely complete quiz #___.”

If you have any questions or concerns about your assessments from the quizzes, please feel free to contact me.

OFFICE HOURS: Monday and Wednesday from 3-4pm

I am also available by email, phone and for meeting by appointment. Also, you should always feel free to post any question you might have on TWEN.

PLAGIARISM:

Plagiarizing another's work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. The Honor Code defines plagiarism as:

passing off another's ideas, words, or work as one's own, including written, oral,

multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author's work with quotation marks, footnotes, or other appropriate designation in such a way as to make clear the true author of the work.

DISABILITY ACCOMMODATION POLICY:

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

SALUKI CARES:

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

NOTICE OF RECORDING POLICIES:

For the benefit of students who are unable to attend a particular class due to an unavoidable circumstance, and for students who wish to review a particular class to better facilitate learning objectives, class sessions will be audio recorded by Professor Upchurch and made available through a link on the class TWEN page. The audio recorder will be kept at the front of the room at Professor Upchurch's podium. Because of the possibility of a technical malfunction, Professor Upchurch cannot guarantee the successful recording of every class. Students are free to record class lectures for their own purposes, but are not permitted to distribute that recording to other individuals inside or outside of class.

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 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.

FIRST ASSIGNMENT:

The first assignment will be available on the course TWEN page. Please sign up for the TWEN page at your earliest convenience.