

SOUTHERN ILLINOIS UNIVERSITY

SCHOOL OF LAW

Law 615: Illinois Civil Procedure
Spring 2019

Professor Beyler
Room 236

Syllabus

Contact Information: My e-mail address is kbeyler@siu.edu. My cell phone is 534-8962.

Office Hours: Drop in any time, but right after class is the best time. On Mondays, I usually will be in my office from 9:00-11:00. I encourage you to e-mail me to set up a specific meeting time. Questions by e-mail are always welcome.

Meeting Times & Place: We meet Monday and Wednesday from 3:00-4:15 p.m. in Room 251. I will announce makeup classes by e-mail through TWEN.

Learning Objectives: You will learn enough Illinois civil procedure to handle ordinary civil suits in the Illinois courts, provided you learn the local rules where you practice. You will also get substantial practice in answering bar exam questions.

Textbook: (1) Student Packet and (2) Bar Exam Questions, both downloadable from TWEN.

Other Books: You will need to refer to: (1) the Illinois Code of Civil Procedure & Illinois Supreme Court Rules, which are online in many places, including Westlaw and Lexis; (2) IICLE SmartBooks, which are available online via the SIU Law Library web page; and (3) the Federal Rules of Civil Procedure, which are also online.

TWEN: The TWEN page for this course will have the Student Packet, Bar Exam Questions, Syllabus, PowerPoint slides, the Complaint-Drafting Exercise, and announcements.

Final Exam: This will be three hours long, given on Tuesday, April 30, 2019 at 1:15 p.m. The exam will consist primarily of long and short essay questions. **THE EXAM WILL BE CLOSED BOOK, SO PREPARE ACCORDINGLY THROUGHOUT THE SEMESTER.**

Complaint-Drafting Exercise: You will draft a complaint for filing in an Illinois Circuit Court, based on materials posted on TWEN. You will consult no one in drafting your complaint. Talking with other students (or lawyers) about what cause(s) of action to plead, how to plead, or anything else about this assignment will violate the rule against consultation and will subject you to punishment under the Law School Ethics Code. You will begin work on this assignment immediately after the first class.

Bar Exam Question: Because the faculty is committed to preparing you to pass the bar exam on the first try, I will administer a practice bar exam question during class #22 (see tentative schedule).

Course Grading Scale: Your grade will be based on the total number of points you earn on the Final Exam, Complaint-Drafting Exercise, and Bar Exam Question. The relative weights for these will be 85% for the Final Exam, 10% for the Complaint-Drafting Exercise, and 5% for the Bar Exam Question. The course grades will comply with the Law School Grades and Grading rule, which specifies mandatory medians and expected grade distributions.

Late Work Policy: If you miss the deadline for the Complaint-Drafting Exercise, I will deduct: (1) 25% from your score if you are late by up to 24 hours; or (2) 50% from your score if you are late by more than 24 hours. I will extend the deadline only for an unexpected, extraordinary emergency. Like any good lawyer, you must continue work on the assumption that your request will be denied until the extension is actually granted.

Workload Expectations: The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week. The amount of assigned reading and out of class preparation should take you about 3 hours for each class session. All told, you should plan on spending 9 hours per week on course-related work.

Emergencies: 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.

Recording of Classes: All classes will be automatically recorded. If you have approved access as an accommodation for disability reasons, you do not need my permission to view the recordings. Otherwise, you do need my permission. I will gladly give it if you must miss a class due to illness, a moot court competition, or a job interview. Upon reporting to my secretary (Cynthia Heisner) that you have viewed the recording, she will refund the absence.

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.

Attendance: I follow the Law School's attendance policy. You can miss up to four classes. If you miss more than four, you will be sanctioned under the Law School rules.

Disability Services: 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.

Practice Questions: I enjoy fielding real-world questions. Don't hesitate to ask for help this year or in later years. All you owe me is an e-mail letting me know the final outcome.

Class Discussion: The enrollment in this course is small enough that you should expect to be called on every class.

Tentative Schedule: Attached is a tentative schedule of the topics we will cover in each class. Though not listed here, each assignment includes reading the Illinois statutes and rules cited in the Student Packet material and reviewing the corresponding Federal Rules, which you studied in Civil Procedure I & II.

<u>Class #</u>	<u>Topic & Material</u>
1	<p>Pleadings (I): The Fact Pleading Standard; Other Form and Content Rules; Special Pleading Requirements</p> <p>Student Packet: Chapter 1</p> <p>Bar Exam Questions: 1(a), 3(a), 5(a), 10(b)</p>
2	<p>Pleadings (II): Joinder of Causes of Action; Joinder of Legal and Equitable Matters; Responsive Pleadings; Rule 137 Duties</p> <p>Student Packet: Chapter 2</p> <p>Bar Exam Questions: 1(b), 4(b), 7(a)-(b), 21(a), 33(a)</p>
3	<p>Parties (I): Proper Parties; Permissive Joinder of Parties as Plaintiffs, Defendants or Third-Party Defendants; Misjoinder, Severance and Consolidation; Compulsory Joinder</p> <p>Student Packet: Chapter 3</p> <p>Bar Exam Questions: 2(a)-(b), 11(a), 24(a), 28(a)-(b), 29, 33(b), 37(b), 44(c)</p>
4	<p>Parties (II): Intervention; Interpleader; Parties for Special Purposes; Class Actions</p> <p>Student Packet: Chapter 4</p> <p>Bar Exam Questions: 4, 32, 37(a), 47(a)-(c), 48(a)-(c)</p>
5	<p>Jurisdiction: Subject Matter Jurisdiction; Personal Jurisdiction; Jurisdiction Agreements</p> <p>Student Packet: Chapter 5</p> <p>Bar Exam Questions: 8(a), 10(a), 15, 25, 26(a), 30(a), 31(a), 34(1)-(2), 38(a)-(b), 39(a), 40(a), 42</p>
6	<p>Service of Process: Process; Process Servers; Methods of Service</p> <p>Student Packet: Chapter 6</p> <p>Bar Exam Questions: 8(b), 16(a)-(b), 39(b), 40(b), 41</p>
7	<p>Challenging Jurisdiction or Service of Process: Procedure on Motions to Dismiss; Procedure on Motions to Quash</p> <p>Student Packet: Chapter 7</p> <p>Bar Exam Questions: 31(b), 40(c)</p>

- 8 **Default Judgment: Default Judgment Requirements; Setting Aside a Default Judgment**
Student Packet: Chapter 8
Problem: Default Judgment Problem
- 9 **Venue and Forum Non Conveniens: Venue; the *Forum Non Conveniens* Doctrine**
Student Packet: Chapter 9
Bar Exam Questions: 13, 16(c), 17(a), 22(a), 26(a), 27, 30(b), 37(a), 39(c), 44(a)-(b), 45(a)
- 10 **Amendment of Pleadings: Types of Changes; Discretionary Factors; Subsequent Proceedings**
Student Packet: Chapter 10
Bar Exam Questions: 9(a), 11(b), 12(a)
Problem: Amendment of Pleadings Problem
- 11 **Statutes of Limitation and Repose: When the Time Period Starts: Statutes of Limitation; When the Time Period Starts: Statutes of Repose; Tolling or Extension of the Time Period; When the Clock Stops; Equitable Actions: “Laches;” Contractual Modification of the Limitation Period; Borrowing Statute**
Student Packet: Chapter 11
Bar Exam Questions: 22(b)-(d), 24(b)
- 12 **Relation Back: Adding a New Claim; Adding a New Defendant; Converting a Respondent in Discovery**
Student Packet: Chapter 12
Bar Exam Questions: 8(c), 9(b), 12(b)
Problem: Changes in Parties Problem
- 13 **Motion Practice (I): Proper Type of Motion; Pleadings Motions; Summary Judgment Motions; Involuntary Dismissal Motions**
Student Packet: Chapter 13
Bar Exam Questions: 3(b), 5(b), 7(c), 13, 17(c)

- 14 **Motion Practice (II): Delay in Service; Striking a Jury Demand; Good Faith Settlement Finding; Adjudicating Subrogation Claims; Adjudicating Health Care Liens**
Student Packet: Chapter 14
Problems: Delay in Service Problem, Jury Trial Problem, Good Faith Settlement Problem
- 15 **Discovery (I)**
Scope of Discovery; Depositions; Interrogatories; Requests to Produce or Inspect; Physical and Mental Exams; Requests for Admission; Discovery and Health Care Privacy; Discovery Procedure
Student Packet: Chapter 15
Bar Exam Questions: 10(c), 14(c), 18(a)-(b), 23, 45(c)-(d), 46(b)
- 16 **Discovery (II)**
Attorney-Client Privilege and Work Product
Student Packet: Chapter 16
Bar Exam Questions: 14(a)-(b), 20(b)
Problem: Attorney-Client Privilege & Work Product Problem
- 17 **Discovery (III)**
Disclosure of Witnesses; Consultants; Sanctions; Pre-Suit Discovery; Limited and Simplified Discovery
Student Packet: Chapter 17
Bar Exam Questions: 6(b), 20(b)
Problem: Witness Disclosure Problem
- 18 **Pretrial Procedure**
Change of Judge by Recusal, Substitution of Right, or Substitution for Cause; Case Management Conferences; Voluntary Dismissal; Dismissal for Want of Prosecution
Student Packet: Chapter 18
Bar Exam Questions: 7(d), 15(b), 17(b), 19(a)-(b)
Problems: Substitution of Judge Problem, Dismissal for Want of Prosecution Problem

- 19 **Trial (I)**
Voir Dire; Challenges for Cause; Peremptory Challenges; Dismissal of Jurors for Misconduct; Opening Statements; Mistrial; Directed Verdict Motions; Closing Arguments
Student Packet: Chapter 19
Bar Exam Questions: 15(c)-(d)
Problems: Directed Verdict Problem, Closing Argument Problem
- 20 **Trial (II)**
Jury Instructions; Verdict Forms; Jury Deliberations; Return of Verdict; Entry of Judgment; Non-Jury Trial
Student Packet: Chapter 20
Bar Exam Question: 6(c)-(d)
Problems: Jury Instructions and Special Interrogatories Problem, Proposed Judgment Problem
- 21 **Post-Trial Motions**
Timing; Judgment NOV; New Trial; Conditional Rulings; Non-Jury Cases
Student Packet: Chapter 21
Bar Exam Question: 5(c)
Problems: Post-Trial Motion Timing Problem, New Trial Problem
- 22 **Enforcement of Judgments**
Enforcement Requirements; Exempt Property or Income; Citation to Discover Assets Proceedings; Other Types of Enforcement Proceedings
Student Packet: Chapter 22
Problem: Enforcement of Judgments Problem
- 23 **Appeal & Practice Bar Exam Question**
Avenues of Appeal & Requirements for Each
Student Packet: Chapter 23
Bar Exam Questions: 18(c)-(d), 20(d)
- 24 **Petitions for Relief from Judgment**
Timing; Requirements; Procedure
Student Packet: Chapter 24
Problems: Relief from Judgment Problems #1 & #2

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Res Judicata (I)

Claim Preclusion Requirements; Claim Preclusion Exceptions

Student Packet: Chapter 25

Bar Exam Questions: 35(a), 36(a), 33(a), 19(c)-(d)

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Res Judicata (II)

Issue Preclusion Requirements; Issue Preclusion Exceptions; Law of the Case;
Judicial Estoppel

Student Packet: Chapter 26

Bar Exam Questions: 35(b), 36(b)-(c), 43(a)-(b)

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Injunctions

Interlocutory Injunctions; Permanent Injunctions; Statutory Injunctions;
Enforcement of Injunctions; Damages for Wrongfully Entered Injunctions

Student Packet: Chapter 27

Bar Exam Questions: 49, 50, 51, 52

Problem: Interlocutory Injunction Problem

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Exam Review