

**SOUTHERN ILLINOIS UNIVERSITY
LAW SCHOOL
CIVIL PROCEDURE II
FALL 2019**

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**Room 204
T, Th 11:00am – 12:15pm**

SYLLABUS

COURSE DESCRIPTION:

This semester you will learn and master core concepts of civil procedure, including claim and party joinder, jurisdiction, preclusion and the *Erie* doctrine. You will also develop competency in several key fundamental legal skills, including the reading and analysis of rules, statutory interpretation and Constitutional analysis.

STUDENT LEARNING OUTCOMES:

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 claim and party joinder 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 the jurisdictional limitations of federal court. Students will be able to make critical and effective arguments regarding the application of these jurisdictional principles to the fact pattern, and they will determine the proper resolution of the identified legal issues. Students will be able to confidently predict whether a case is filed in a court with proper jurisdiction over the dispute and parties.
- Students will be able to articulate the distinctions between the jurisdictional limitations of federal court and state court.
- Using a relevant fact pattern, students will be able to identify legal issues related to the federal venue statutes, making critical and effective arguments regarding the application of these statutes and determining the proper resolution of the identified legal issues.
- Students will be able to identify Choice of Forum (Forum Selection) and Choice of Law provisions in private agreements. They will be able to make critical arguments regarding the impact of such agreements on the court's jurisdiction in a given fact pattern and predict their enforceability.
- Using a relevant fact pattern, students will be able to identify legal issues related to notice and the federal service of process rules, making critical and effective arguments regarding the application of Constitutional principles and the federal service rules 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 claim and issue preclusion, making critical and effective arguments regarding the application of

preclusion doctrines 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 *Erie* doctrine, making critical and effective arguments regarding the application of the *Erie* doctrine and determining the proper resolution of the identified legal issues.

REQUIRED TEXTS:

- ***Click & Learn: Civil Procedure (C&L:CP)*** by Upchurch, Gilles & Ho (forthcoming Carolina Press). This interactive online guide is available to you in its beta format. Access to the beta site is free to you this semester and can be obtained through the course TWEN page. Please log on to TWEN for more information about how to use C&L:CP. **Because this material is copyrighted, you may not distribute any of it to any other person without my written permission.** Occasionally, I will supplement the beta version with written materials and quizzes available through the TWEN page. These are also required course materials.
- You will need a ***copy of the Federal Rules of Civil Procedure*** (hereinafter *Rules*) ***which contains a copy of the Federal Jurisdiction Statutes*** (28 U.S.C. xxxx). 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 the FRCP Apps are available for Apple or Android devices). **However, you MUST have a copy of the Rules and Federal Jurisdiction Statutes** (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.

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).

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 all assigned readings, quizzes or exercises. 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 statutory interpretation, Constitutional analysis, and Rule reading and analysis. Statutes and rules are structured differently than cases. Moreover, students often find Constitutional cases on jurisdictional concepts

difficult to read. These skills, however, are essential to the practice of law.

Because you are working on both goals, 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 — in many ways 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 and TWEN quizzes. These worksheets need to be completed far enough in advance of class so that you will be able to apply your understanding to the class hypotheticals.
- Come to class ready to apply the rules, statutes and jurisdictional concepts assigned for the day. The worksheets are designed to provide you with a basic working knowledge of the assigned materials. We will use our class time to see how the Rules, statutes and jurisdictional principles 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 and on some out-of-class projects related to a mock lawsuit. 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 course materials, 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.**

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 an exam that accurately reflects 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 all assignments.
- To seek help when appropriate.

CLASS PREPARATION:

A. Reading Assignments

The assignments for class will be regularly posted on TWEN and will refer to assigned portions of **Click & Learn: Civil Procedure**. As discussed above, each student must complete all assigned readings, including a careful read of assigned Rules, statutes and Supreme Court cases. It is insufficient to “skim” over these materials as they are **very important to 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. Quizzes

Most assignments will have a quiz (or quizzes) that you must complete on Click & Learn: Civil Procedure (or occasionally on TWEN) by 9am on the day for which they are assigned. More information about how to work through the materials on C&L:CP is available in the form of a handout called, “Student Guide to Click & Learn: Civil Procedure,” posted on TWEN.

You may work on the C&L:CP and TWEN quizzes in a group, discussing the questions and possible answers. **However, each student must decide on and submit his or her own answers to the quiz questions on C&L:CP (or on TWEN, if specifically directed to do so), under the student’s own personal account.**

To be given full credit under the Class Participation Grade, you must submit your quizzes **by 9am on the day for which they are assigned**. (See *GRADING* and see *FAILURE TO COMPLETE CLASS PREPARATION ASSIGNMENT ON TIME* for information on how to ask for an extension). Additionally, **failure to complete a quiz by the start of class** will result in you being **marked absent** for the day on which the quiz was due. (See *CLASS ATTENDANCE*).

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. The lawsuit will give you an opportunity to learn to apply the concepts we learn in class. You should anticipate some in-class assignments in the context of the mock lawsuit. These assignments will be completed and submitted **as a group**. A summary of the key facts associated with the mock lawsuit are available on C&L:CP.

3. Writing Across the Curriculum Assignments:

You should anticipate some Writing Across the Curriculum assignments that will reinforce your understanding of the course material. **While these assignments are ungraded, you must complete each assignment in a timely and professional manner to receive credit for this course.** You will be required to re-write any assignment that does not meet a minimum level of competency. Further details regarding the writing exercises will be provided later in the semester.

FAILURE TO COMPLETE CLASS PREPARATION ASSIGNMENT ON TIME:

If you cannot complete an assignment in a timely manner due to an emergency, personal crisis or other unexpected event (including computer problems), you must let me know about it, at the latest, within the 48 hours of the assignment deadline. I may be willing to allow late completion of an assignment, but only on a timely and valid explanation. Please email me with the subject stated as, "Explanation of failure to timely complete assignment X."

BAN ON COLLABORATION ON WRITING ACROSS THE CURRICULUM ASSIGNMENTS:

You are not allowed to obtain help from any other person (including any other student) on the Writing Across the Curriculum Assignments in this course. This ban on collaboration includes obtaining written materials from any other person or communicating with any other person about an assignment. If you violate the ban on collaboration policy, you can be found in violation of the Honor Code, which 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. When in doubt about how to proceed, ask your professor.

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.

REQUIRED CLASS TECHNOLOGY:

Click & Learn: Civil Procedure (C&L:CP)

Access to the beta platform is required in this class. More information about the terms of use and opting out of beta testing is available on the C&L:CP platform and in the *Student Guide to Click & Learn: Civil Procedure* handout on TWEN.

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 Continuing 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 examination. Additionally, the worksheet quizzes and class assignments related to the mock lawsuit 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 available through TWEN; they are created by me or my co-authors on C&L:CP. They are designed to provide you with some additional assistance on either the substance in the reading assignment or on law school study skills.

GRADING:

The course will be graded as follows:

- 80% of your grade will be based on a **closed-book final examination** at the end of the term;
- 20% of your grade will be based on a **class participation grade**.

A. Examination

The final exam is a **closed-book examination**. It will take place on **Tuesday, December 3rd at 1:15pm**. 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 or Statutes used in class), and no outside materials will be provided for your reference. This replicates the bar exam.

B. Class Participation Grade

The class participation grade will be based on your performance on **the Quizzes associated with Click & Learn: Civil Procedure (and additional supplemental TWEN quizzes)** (see **Class Preparation, Part B.1.**) I will provide periodic assessment quizzes which I will post on TWEN. **For the Quizzes, you will be assessed on whether your quizzes were completed in a timely and professional manner, not on the number of correct answers to the quiz questions.**

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

OFFICE HOURS:

My scheduled office hours are on Fridays from 2:00 – 3:00pm (unless there is a scheduling conflict). 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.

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. Because of the possibility of a technical malfunction, Professor Upchurch cannot guarantee the successful recording of every class. Students are free to make audio (not video) recording of 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.

ATTACHMENTS:

This Syllabus incorporates by reference the Law School Syllabus Attachment and the Provost Syllabus Attachment posted on the course TWEN page.

FIRST ASSIGNMENT:

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