

**SOUTHERN ILLINOIS UNIVERSITY  
LAW SCHOOL  
CIVIL PROCEDURE II  
FALL 2020**

**Professor Angela Upchurch  
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**Room: Auditorium/Zoom  
T, Th 10:30 – 11:45am (CST)**

**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 and Ho** (ISBN: 9781611633849). **To purchase a copy**, visit <https://clickandlearnguide.com> and create a Student Account. **Register Your Account** by completing the Log In Information and User Information, and agree to the Terms of Use. (Remember to save your Password). On the right, under Class Information, enter the Class Code **320-89-777**. **If you currently own a copy of Click & Learn, you can log on and link your account to my class by going to “My Account” and changing the code to 320-89-777**
- You will need a current *copy of the Federal Rules of Civil Procedure* (hereinafter *Rules*) **which contains a copy of the Federal Jurisdiction Statutes** (28 U.S.C. xxxx). While you may use any current version of the FRCP and jurisdictional statutes, I recommend the Federal Rules of Civil Procedure supplement available through Carolina Academic Press.

## CLASS ATTENDANCE:

**This semester there are two ways to participate in class: a face-to-face option at the law school and a remote option via Zoom. If plan to attend this class via Zoom, you must read and abide by the Online Class Policies posted on TWEN.**

Due to the challenges related to COVID-19, you may elect to attend via Zoom **at any point this semester**. If you suspect you might be ill or that you have been exposed to COVID-19, please attend via Zoom. **Please email me as soon as practicable if you plan to attend any part of this class via Zoom**. You do not need to explain your reason for attending via Zoom, simply inform me of your plan so that I can appropriately account for your attendance.

Regardless of how you plan to attend our class, **active class participation is essential to your success**. You should not plan on taking **any** absences in this class unless you have an unforeseen or unavoidable conflict, such as illness. As such, attendance is mandatory (including any make-up classes related to recognized school holidays) and you may miss no more than four (4) classes during the semester. In extraordinary situations, a student may make-up a missed class, so that the absence will not be counted against the total absences permitted; this determination will be addressed at my sole discretion on a case-by-case basis. 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).

If you become ill, or need to care for someone who is ill, or do not have childcare because of COVID-19, please contact Assistant Dean Judi Ray for assistance with appropriate accommodations.

To be marked present for class, you must (1) complete the assigned readings, quizzes and exercises for that day by 9am (CST); (2) attend in person or on Zoom as specified in the Online Class Policies posted on TWEN; (3) participate in the class discussion, break-out rooms or live discussion boards,

**and (3) participate in any in-class polls. If you miss more than five minutes of class for any reason (other than an approved accommodation), 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.

### **POSSIBLE CHANGE IN DELIVERY OF IN-CLASS SESSIONS:**

Due to the changing circumstances related to COVID-19, we may need to move to an entirely online format this semester (either temporarily or permanently). If my personal circumstances necessitate a change in our class, I will email you through TWEN and will post updates on the TWEN page. Please regularly check your email, the course TWEN page, and the law school and University COVID-19 informational webpages.

### **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 for meetings by appointment via phone or Zoom.
- 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 & CLASS EXERCISES:**

### **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**

Most assignments will have a quiz (or quizzes) that you must complete on Click & Learn: Civil Procedure (or occasionally on TWEN) by 9am (CST) 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 (CST) on the day for which they are assigned.** (See *GRADING* for more information on how grades will be determined 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*).

### **C. Class Exercises: Writing Across the Curriculum Assignments & Academic Support Skills**

You should anticipate some assignments that will reinforce your understanding of the course material and important academic skills. You will be required to re-write/re-submit any assignment that does not meet a minimum level of competency. Further details regarding these 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 or user error), 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."

Again, if you become ill, or need to care for someone who is ill, or do not have childcare because of COVID-19, please contact Assistant Dean Judi Ray for assistance with appropriate accommodations.

#### **BAN ON COLLABORATION ON CLASS EXERCISES (WRITING ACROSS THE CURRICULUM ASSIGNMENTS & ACADEMIC SUPPORT SKILLS EXERCISES):**

You are not allowed to obtain help from any other person (including any other student) on the Class Exercises (see above) 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)*

While you will need access to Click & Learn outside of class, you will not be required to access this platform during our class sessions.

### *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 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, assignments that are not available on Click & Learn will be collected through TWEN. Finally, **we will be accessing TWEN to assist in group discussions for BOTH the face-to-face and Zoom participants, so you will need to be able to log on to TWEN during class when instructed to do so.**

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.

### *Socrative*

We will be using online polling during our class via [www.socrative.com](http://www.socrative.com). **You should make sure that you are able to log on to socrative from a computer or other smart device during class for BOTH the face-to-face and Zoom participants.**

### *You-Tube Channel*

I will be posting some optional videos for you during the semester on my You-Tube Channel ([www.youtube.com/professorupchurch](http://www.youtube.com/professorupchurch)). You may view these to assist you with our semester information.

## GRADING:

The course will be graded as follows:

- 60% of your grade will be based on a comprehensive **Final Examination** at the end of the term;
- 15% of your grade will be based on **Click & Learn Assignments**
- 15% of your grade will be based on a **Midterm Examination on September 29th**
- 10% of your grade will be based on **Class Exercises**

### A. Examinations

The midterm exam will occur on Tuesday, September 29<sup>th</sup>. The final exam will occur at the end of the term as indicated in the School of Law Final Exam Schedule posted on the law school webpage. More information about the midterm and final exams will be distributed in class. You should prepare for the midterm and final exams as if they will be closed book exams.

### D. Click & Learn Assignments

I will provide periodic assessment on TWEN of the submitted C&L:CP assignments. Typically, these assessments will be posted after we have completed a topic. It is your responsibility to contact me if you believe any score is incorrect.

To earn the full class participation credit, your assignments must be submitted **on time and completed to a minimally acceptable level.**

- **On Time:** To get class participation credit you must submit any assignment before its deadline (for C&L:CP assignments the deadline is **9:00 a.m. on the day of the class**). **NOTE:** C&L:CP allows you to submit answers after this deadline, so you can benefit from re-doing questions and re-reading the explanations. As long as you **complete and submit** the assignment by the deadline, I will have a record of your timely submission. Retaking a section after the deadline to review is encouraged and will not negatively impact your grade (nor will it appear as a late submission).
- **Minimally Acceptable Level:** To get class participation credit, **every part of that day's C&L:CP assignment** must be completed to a **minimally acceptable level - any text is read ("Complete") and any section with questions scores at 50% or above** by the time it is due. C&L:CP displays your % score for each section with questions and **you can click on "Revisit" and re-take any section to improve your score.** I will count the **highest score** you obtain **at any time prior to the submission deadline.**

Note that the "50% or above" level reflects the minimal level of understanding you need to achieve to be ready for class. By the time you are preparing for exams you should be scoring in the 80-100% range.

### C. Class Exercises

We will have occasional exercises to reinforce concepts or law school academic skills. More information about grading will be distributed with the individual assignment.

**OFFICE HOURS:**

I will be available throughout the semester via email or by appointment via Zoom or phone. If you would like to schedule a Zoom or phone appointment with me, please email me with some proposed dates and times.

**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 recorded via Zoom 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) recordings of class lectures for their own purposes, but are not permitted to distribute that recording to other individuals inside or outside of class.

**ATTACHMENTS:**

This Syllabus incorporates by reference the Law School Syllabus Attachment, the Provost Syllabus Attachment, and the Online Class Policies 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.