

**SOUTHERN ILLINOIS UNIVERSITY
LAW SCHOOL
CIVIL PROCEDURE I
SPRING 2023**

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**Room 102
M & W 1:30 – 2:45pm**

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.
- Using sample pleadings, students 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.
- Students will be able to identify how the Federal Rules of Civil Procedure and the implementation of these rules impact access to justice.
- Students will be able to critique the adversarial system for its ability to provide equitable access to justice.
- Students will be able to effectively employ strategies of active listening, empathy and effective allyship during classroom discussions and group work.

REQUIRED TEXTS:

- **Click & Learn: Civil Procedure (C&L:CP) by Upchurch, Gilles and Ho.** Also make sure to join the correct class - see below - or you will not get class participation credit.
 - To purchase C&L:CP, visit www.clickandlearnguide.com.
 - Under **Sign Up Here**, click on **Create Student Account**.
 - Complete the form and be sure to select "IL" for your state and "Southern Illinois Univ School of Law" for your school.
 - Enter your credit card information below, verify the purchase, and continue on to create your **Click & Learn: Civil Procedure** account.
 - You will be able to start using CL:CP immediately.
 - **Once in, you should ENTER YOUR CLASS CODE for my classes: 123-89-8953**
- **If you already purchased 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 123-89-8953**
- You will also need a *copy of the Federal Rules of Civil Procedure* (hereinafter *Rules*). I recommend the print version from Carolina Academic Press: *Federal Rules of Civil Procedure, 2022-2023 Edition*, ISBN 9781531024123. There are links to the relevant Rules, Statutes and assigned case excerpts in Click & Learn: Civil Procedure. These can direct you to the relevant provisions as you study. However, during our class sessions, you need to have a copy of the Rules at the ready to reference.

RECOMMENDED TEXT:

- *Inside Civil Procedure: What Matters & Why*, by Howard M. Erichson (3rd Edition, 2017 Aspen Publishers) ISBN: 978-1454892526. 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 through a make-up 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 observance of Dr. Martin Luther King, Jr. Day and due to the midterm week. Our make-up class assignments will be distributed later this semester. Failure to complete the assignments associated with the make-up classes 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 quiz or writing assignment. You may not sign for anyone but yourself. **If you miss more than five minutes of class for any non-excused 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 C&L:CP quizzes (and retaking quizzes) for this class. The quizzes 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.** C&L:CP is 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 quizzes 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.**

CLASS TECHNOLOGY:

Click & Learn: Civil Procedure

As noted above, the majority of class preparation will be completed through the taking of quizzes in Click & Learn: Civil Procedure (*See Required Texts*)

D2L

To supplement class, I will be using Desire2Learn (D2L). You may log into D2L through your SIU account. **You must visit for the class D2L page by the start of class. You are responsible for familiarizing yourself with the information posted and discussed on D2L prior to the midterm and final examinations.**

Socrative

We will be using online polling during our class via 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.**

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 quizzes and assignments.
- To seek help when appropriate.

GRADING

The course will be graded as follows:

- 70% of your grade will be based on a **closed-book final examination**
- 10% of your grade will be based on a **closed-book midterm examination**
- 20% of your grade will be based on **quizzes**.
- **You must also satisfactorily complete any required retake of the midterm and the writing across the curriculum assignment to receive a passing grade in this class.**

A. Examinations

1. Midterm Exam

The midterm exam is a **closed-book examination**. It will take place during the law school Midterm

Week. 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). More information about the midterm will be distributed in class.

2. Final Exam

The final exam is a **closed-book examination**. It will take place as indicated on the SIU Law School webpage exam schedule. 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 submitted C&L:CP assignments and other exercises. Typically, these assessments will be posted after we have completed a topic: for example, when we finish “Pleadings: Complaints and Answers.” 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.

For **written assignments** you will not receive credit if your work product that shows unprofessional preparation (e.g., the work is incomplete, shows lack of thoughtful deliberation or effort).

If you cannot complete any assignment in a timely manner due to an emergency, illness, personal crisis or other error, you must let me know about it, at the latest, within the 48 hours of the deadline. I may be willing to excuse late completion, but only on a timely and valid explanation. Please email me with the subject stated as, “Explanation of late assignment.”

COLLABORATION WITH OTHERS:

You may work on the C&L quizzes with **your classmates who are registered for this class this semester**, discussing the questions and the possible answers. **Ultimately, each student must decide on and submit his or her own answers to the quiz questions logged into C&L under his or her own account.** 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 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.

For writing assignments, follow the collaboration instructions listed in the assignment.

OFFICE HOURS:

- **Prof. Upchurch – Thursdays 10am-11am. Also, I am available by appointment. Please email me and we will set up a time to meet.**
- **Kameron Clay, TA – Wednesdays, 12:30pm – 1:30pm**
- **Alexis Hulfachor, TA – Thursdays, 12:15pm – 1:15pm**

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.

NOTICE OF RECORDING POLICIES:

For the benefit of students who are unable to attend a particular class due to an unavoidable circumstance or who would like to review a class session, class sessions will be recorded through Echo360 by Professor Upchurch and made available upon request. The audio recorder is located 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.

ATTACHMENTS:

This Syllabus incorporates by reference the Law School Syllabus Attachment, and the Provost Syllabus Attachment posted on the course D2L page.

FIRST ASSIGNMENT:

The first assignment will be available on the course D2L page.