

Civil Procedure
Syllabus Fall 2026 Version 1.1
Prof. H. Tomás Gómez-Arostegui

Section:	Time:	Room:
BLUE	Mondays & Wednesdays 10:05 am – 12:00 pm	2

Contact Info and Office Hours: My office is on the middle floor of the Legal Research Center (same floor as the Cafeteria), at the very end of the hall. My phone number is 503-768-6816, and my e-mail is tomas @ lclark.edu. I have drop-in, in-person office hours for Civ Pro and am also available to meet with students on Zoom for office hours. I have an electronic whiteboard that I can use, which works well on Zoom. I am also open of course to setting up other times for in-person meetings.

Civ Pro	Mondays: 12:00 - 1:20 pm	Online via Zoom: I'm generally available
In-Person:	Wednesdays: 12:00 – 1:20 pm	on Fridays and most weekends too. Just reach out to set up a time to Zoom with me.

Required Materials: (1) **Casebook:** A. BENJAMIN SPENCER, CIVIL PROCEDURE: A CONTEMPORARY APPROACH (7th ed. 2025); (2) **Rules and Statutes:** The casebook does a good job of reproducing the Federal Rules of Civil Procedure and relevant statutes as we study them. Nevertheless, I will provide you a PDF where I have highlighted the FRCPs (and relevant statutes) that I believe are fair game for the exam. And (3) **Supplementary Material and Handouts:** I will also post material on our course website: https://law.lclark.edu/faculty/h_tomas_gomez_arostegui/civil-procedure/ [WEB]. Some are part of your assigned reading. Others are more or less optional handouts. All will remain available for download during the semester. Easiest thing for you is to simply bookmark the WEB page in your web browser application. I generally assume that students will bring their laptops to class and will download the WEB materials ahead of time, but I will also project them on the screen during class sessions.

Scope and Purpose of Course: Civil Procedure covers the procedural rules governing civil litigation in federal court. You will study personal jurisdiction, subject-matter jurisdiction, venue, vertical choice of law (*Erie* doctrine), pleading, joinder, discovery, summary judgment, trials, and post-trial motions. You should also distinguish this class from your other first-year substantive law classes in that Civil Procedure is derived mostly from rules, statutes, the Constitution, and interpretations thereof. Courses like Torts, Property, and Contracts are common-law courses, where the relevant legal principles find their source and development primarily in the decisions of judges, not statutory codifications or rules. As a result, although you will consider many cases in Civil Procedure, most of those cases will be interpreting and applying formally adopted procedural rules, statutes, or constitutional provisions.

Uniform Learning Objectives Across All Civ Pro Sections:

Explain the general structure of state and federal judicial systems, including the hierarchy of judicial authority and the relationship between state and federal courts in a federal system;

Articulate the difference between common law, statutes, and civil rules of procedure; apply this understanding to specific fact situations.

Demonstrate ability to use core statutory and rule interpretation tools to analyze and apply statutes and rules.

Seating: Sit wherever you like on the first day of class. I will circulate a seating chart after everyone has taken their seats. You will then have to sit in the same seat for the remainder of the semester. After the first class, I'll take an image of the seating chart and email it to everyone so you can refer to it as needed.

Class Breaks: I ordinarily take a 10-minute break in the middle of class. Please avoid taking breaks at other times to use the bathroom or for other business. Leaving during class for long stretches could lead to me marking you absent (see below on **Attendance**).

Reading Assignments: You are responsible for all the assigned materials, whether discussed or not, but I consider the material we discuss in class to be the most important (see below under **Final Exam**).

Other Materials: You do not need to consult other materials to do well in this class. Nevertheless, students often ask for my thoughts on additional materials. For one, do not use Quimbee. And I would not buy any commercial outlines or case briefs of Civil Procedure. The following are not required, and you should feel comfortable to come see me first with questions, but they are useful as alternative sources should you want to review information on your own on *material we are covering in class*.

First, included with your casebook (if purchased new) or if purchased separately as the CasebookPlus Learning Library, are study guides and many review problems. These guides and quizzes are available as an online, password-protected resource. You can use the multiple-choice questions in particular to review the material we cover. I will provide you, in a separate document, with a list of questions that you can review from this online book companion; the list will save you time because we do not cover everything in the casebook, and so there are some quiz problems online that you will want to skip.

Second, there are other study aids available in or through the library in print and online. I have found that in the first half of the semester it is a better use of your time to re-read an assignment rather than going to a secondary source for help. You can still “crush” my exam without picking up any secondary materials. But if you must, I recommend these (in addition to the online multiple-choice question database mentioned above):

Traditional Hornbook:

RICHARD D. FREER, CIVIL PROCEDURE (5th ed. 2021 or 4th ed. 2017)

“Mini”-Hornbook:

GENE R. SHREVE ET AL., UNDERSTANDING CIVIL PROCEDURE (7th ed. 2024 or 6th ed. 2018)

Study Guide with Questions and Answers:

JOSEPH W. GLANNON, EXAMPLES & EXPLANATIONS: CIVIL PROCEDURE (9th ed. 2023 or 8th ed. 2018) [This *might* be available online for free through our law library, I am not sure, so check before buying. In any case, a physical copy will be on reserve in the library.]

Outlines from Former Students: In preparing for the exam, students will sometimes use outlines written by my former students. I urge you **not** to use them. These outlines often misstate the law, may cover material that we did not cover, omit material that we did cover, or rely on older handouts that I have since updated in a material way. Besides, it is important for you to do your own work. In my experience, students who crib in whole or in part from prior outlines tend to do poorly on the exam. A few weeks into the semester, I will hold a special bonus Zoom session on how to outline a course.

Attendance: Students are expected to attend all class sessions. The school has a uniform attendance policy for all 1L doctrinal courses. The administration will provide you with a copy, and here is a link: https://law.lclark.edu/academics/whats_what/registration_and_policies/attendance_policy.php. Like many of your professors, I will be using the smart phone app EZCheck.me to take attendance, which is described in a separate document. Each class session, I will project the EZCheck check-in window on the overhead screen about 5-10 minutes before class begins, and I will close it right when class starts at 10:05 am. So you must check in before I close the window or you are technically late. It is your obligation to ensure you have actually checked in and that your attendance record in EZCheck reflects that. If you realize you were unable to check in due to a technological issue or you missed the check-in because you were late, you must come see me during the break so that I can manually check you in. If you wait until a day or more afterward I am unlikely to check you in and it will count as an absence. And do **not** use the late-check-in request function in the EZCheck app. I never read those messages.

If you plan to leave class early for some reason, you should not mark yourself as present unless you have consulted with me first. Marking yourself as present is a representation that you plan to attend the entire session.

Tardiness: Unfortunately, tardiness has been a problem in 1L courses the last few years, even with courses starting at 10:05 am, like ours. As you can imagine, having many students arrive late, often, each a few minutes apart, can be very disruptive to your classmates and to me. So please arrive on time. I wish stating that alone would be enough, but it hasn't been in the past. So for every three class sessions you are late, even if only late by a few seconds, I will lower your course grade one step (e.g., A to A-).

Cold Calling and Class Participation: I will call on people without prior notice of any kind. If you feel uncomfortable with public speaking, please reach out to me and we can chat about ways to ease you into this necessary exercise. If someone else has been called on and is answering a question, please keep your hands down. If you are unprepared on a particular day, please let me know **before** class begins—via email or by telling me right before class—and I will not call on you. But you get only one cold-calling pass. If I call on you and it is clear to me that you did not do the reading, that will, of course, count as being unprepared. It also eliminates any cold-calling pass you had not used. Importantly, if I call on you and you are unprepared twice, I will lower your course grade one step (e.g., from A to A-). But apart from that, strong or weak class participation does **not** affect your grade.

Note that you have the right to have all your questions answered, but not always during our class sessions. Sometimes time constraints or questions from other students (particularly those I may not have heard from as much) may take precedence. Office hours are always available for follow up.

Recordings: Recording of class sessions or of office hours, by any means, is prohibited. That includes using a listening device, whether AI-driven or not, to transcribe or synthesize the material. The law

school records all of our classes for students who have an accommodation from the Office of Student Accessibility necessitating that they access recordings or transcripts. I do not freely distribute recordings or transcripts to other students, as they are for students with a disability. Nor will Dean Sullivan share them. Making recordings and transcripts widely available can actually stifle conversations in class. So if you missed a class, you will need to get notes from a classmate.

Technology Use: Unless you obtain permission from me beforehand, use of the Internet on any device during class (e.g., web surfing, AI-apps, email, Reddit, Slack, Twitter, texting, or otherwise PM'ing each other) is prohibited. The same goes for gaming during class, whether using the Internet or not and whether on a device or not. All of the above distracts you and your classmates, and we demand your undivided attention. You are permitted during class to use the Internet to access class notes on the cloud, use EZCheck.me, your e-casebook, our Civ Pro webpage (see above), and Westlaw/Lexis to look up opinions or terms in legal dictionaries that relate to what we are discussing during class. Lastly, due to privacy concerns, smart glasses are banned from my classroom and office hours.

Student Privacy: Because the school records our sessions, conversations you have with me (and your classmates) just before classes start, during breaks, or just after class ends, are likely to be picked up and recorded. So it is best to discuss matters of a personal nature outside of those time periods.

Final Exam: Your grade for the course will be based on an examination at the end of the semester. The exam will be closed book—no materials whatsoever. The exam will be partly multiple choice, and partly true/false. No long or short-essay questions. The subjects I will test you on include only: (1) material that I assigned for reading *that we discussed in class*; (2) any material that I assigned for reading that we did not discuss in class, but that I *expressly stated was fair game on the exam nonetheless*; and (3) material that was not part of the assigned reading but *that I discussed in class and expressly stated is fair game on the exam*.

Accommodations—Disability and Religious Practices: Students who have a disability, as defined by the Americans with Disabilities Act, may seek an accommodation through the Office of Student Accessibility (access@lclark.edu), which is located on the undergraduate campus. Students whose religious practices may impact their academic schedule, may seek accommodation through Associate Dean for Student Affairs Tracy Sullivan (tracys@lclark.edu). For questions regarding any type of accommodation, please contact Dean Sullivan.

Class & Day	Topics [Approx. Total Pages for Class Session]	Notes
[01] 8/31 Mon	I. Background Reading [SKIM 7–18] [20pp + 11pp to skim] II. Personal Jurisdiction A. Background and Traditional Bases of Personal Jurisdiction [19–20; <u>WEB</u>: Personal Jurisdiction before <i>International Shoe</i> (1945)] B. Modern Personal Jurisdiction Doctrine [35–44]	SKIP: § c. on p 43

[02] 9/2 Weds	C. Specific Personal Jurisdiction [25pp] 1. Long-Arm Statutes [44–47] 2. Applying Minimum Contacts [58–63; 74–80; 103–112 (stop before “C”); 121(a.)–122(a.)]	SKIP: Brennan dissent on p 63
[03] 9/9 Weds	D. General Personal Jurisdiction [134–144; 147–149] E. Power Over Property [160(b.)] F. Tag/Transient Jurisdiction [162; <u>WEB</u> Excerpt of <i>Burnham v. Superior Court</i> (1990)]	SKIP: hypo on p 160
[04] 9/14 Mon	G. Consent [163–172; <u>WEB</u> : Excerpt of <i>Mallory v. Norfolk Southern Railway</i> (2023)] H. Rule 4 [173–177]	SKIP: ¶ “Consent by Estoppel” on pp 171–172; § c. on pp 175–176; § e. on p 177
[05] 9/16 Weds	III. Subject Matter Jurisdiction [23pp] A. Introduction [221–223] B. Diversity [223–233, 239(3.)–250]	SKIP: Take Note boxes on pp 228 & 229; ¶ “Class Actions” on pp 230–231; § e. on p 233; ¶ “As the court in <i>Del Vecchio</i> ” and Food for Thought box on p 249
[06] 9/21 Mon	C. Federal Question [251(B.); 254–269] D. Supplemental Jurisdiction [269–270; 278(3.)–280; 301(e.)–302(e.)]	SKIP: ¶ “Is the well-pleaded” on p 257; ¶ “The Declaratory Judgment Act” on pp 258–259; FYI box on p 264; § b. on p 268
[07] 9/23 Weds	E. Removal to Federal Court [302–314] IV. Venue [26pp]	SKIP: ¶ “Finally, plaintiffs” on p 308; Take Note box on p 314; ¶ “If the federal

	A. Venue [319–334]	court” on p 314; § e. on p 332
[08] 9/28 Mon	B. Pendent Venue & Subseq. Joined [340(a.) (first paragraph only); 341(b.)–342(b.)] C. Change of Venue [342(B.)–363]	SKIP: § c. on p 342; § d. on pp 356–357
[09] 9/30 Weds	V. <i>Erie</i> Doctrine—Vertical Choice of Law A. Pre- <i>Erie</i> [379–385] B. <i>Erie</i> [385–399]	SKIP: Perspective & Analysis box on pp 396–397
[10] 10/5 Mon	C. Development of <i>Erie</i> [399(C.)–400(C.), 412(f.)–418] D. The Two Modern Approaches to Vertical Choice of Law [418–426, 427(a.)–431, 444 (first paragraph only); <u>WEB</u> : Excerpt of <i>Albright v. Christensen</i> (2022)] E. Horizontal Choice of Law [458(c.)–459(c.)] F. Synthesis [<u>WEB</u> : <i>Erie</i> and <i>Hanna</i> Framework + 2 Choice of Law Graphics]	SKIP: Harlan concurrence on p 426; § c. on p 429
[11] 10/7 Weds	VI. Pleading and Responses A. Historical Background [463–466] B. The Complaint [466–487]	
[12] 10/12 Mon	_. The Complaint (cont.) [487–509]	
[13] 10/14 Weds	C. Service of Process [202–213, 214(b.)–217, 218(f.)] D. Responding to the Complaint [509–521, 525(b.)–526(b.), 527(d.)–528(d.), 529(e.) (first paragraph only)]	SKIP: § a. on pp 213–214; § e. on p 217

[14] 10/19 Mon	E. Amending the Pleadings [530–559; 559(e.) (first paragraph only)] [28pp]	SKIP: Practice Pointer on p 536; § d. on p 537
[15] 10/21 Weds	F. Truthful Allegations [560–581] [20pp]	
[16] 10/26 Mon	G. Joinder of Claims [583–586, 592(a.)–595; 597(3.)–598] [15pp] H. Joinder of Parties 1. Permissive Party Joinder [598(B.)–599] 2. Third-Party Practice [607(2.)–613, 615(c.)–616(c.)] 3. Compulsory Joinder [WEB: Compulsory Joinder Analysis—not tested on greyed out text]	SKIP: Food for Thought on p 594; § c. on p 595; Food for Thought box on p 598; §§ a. and b. on p 613
[17] 10/28 Weds	VII. Discovery [19pp] A. Relevance [701–703] B. Discovery Devices [774–792]	I only expect you to know the basics (“what is a _____”) of discovery devices; so this should be a laid-back read
[18] 11/2 Mon	C. Discovery Disputes [792–821] [27pp]	
[19] 11/4 Weds	VIII. Disposition without Trial [18pp] A. Default Judgment [825–838] B. Involuntary & Voluntary Dismissals [839–842]	SKIP: Take Note box on p 835; ¶ “Should plaintiffs” on p 842
[20] 11/9 Mon	C. Summary Judgment [877–887; 892(a.)–902] [20pp]	SKIP: Take Note box on p 895
[21] 11/11 Weds	IX. Trials [30pp] A. Trial by Jury [WEB: Historical Perspective on the Law / Equity Divide; 905–919, 922(2.)–928; 933(a.)–936]	SKIP: Brennan dissent on p 928

[22] 11/16 Mon	B. Role of the Jury [936(3.)–943] C. Selecting the Jury [945–954] D. Phases of a Trial [954(5.)–955]	[18pp]	
[23] 11/18 Weds	E. Judicial Control of the Verdict [956–977]	[18pp]	
[24] 11/23 Mon	F. Instructions and Verdicts [985(2.)–989] G. New Trials [990–1000] H. Relief from Judgment [1009(4.)–1014]	[17pp]	SKIP: Food for Thought on p 996
[25] 11/25 Weds	X. Judgments and Appeals A. Enforcing Judgments [1034(3.)–1036] B. Appellate Review [1037–1053]	[16pp]	SKIP: Take Note on p 1043; § f. on pp 1047–1048
[26] 11/30 Mon	REVIEW SESSION AND EXAM TIPS		