

**CIVIL PROCEDURE I  
REQ7102 J2 ~ OHJD Fall 2023**

**Professor Stephanie Clark**

**SYLLABUS**

**CONTACT INFORMATION AND OFFICE HOURS**

- Professor Clark:
  - Email (preferred): [sclark@vermontlaw.edu](mailto:sclark@vermontlaw.edu)
  - Office phone: (802) 831-1315
- Teaching Assistants:
  - Katharine “Kat” Alvarez Rios: <mailto:katharinealvarezrios@vermontlaw.edu>
  - TBD

**Office Hours:**

- Professor Clark – TBD [Also by appointment, please email to set up a time].
- TAs: TBD

**COURSE OVERVIEW**

This course, along with Civil Procedure II, will generally cover the process of civil litigation in our U.S. federal courts. We will survey questions that face attorneys and clients who seek to initiate and defend against a federal lawsuit. We will examine the Federal Rules of Civil Procedure (the “Fed. R. Civ. P.”), Title 28 of the United States Code, the Constitution, and Supreme Court opinions construing this law. Beyond learning procedural law, will examine strategic, ethical, professional, and economic considerations that arise in civil litigation. Specifically, this semester, we will cover what I call the big three: Subject Matter Jurisdiction, Personal Jurisdiction, and Venue, as well as Pleading. This call will also provide practice in answering essay and multiple-choice questions for the bar exam.

This Syllabus, and other important documents and information, are posted on **Canvas** (the course web site). Enrolled students must either check Canvas on a regular basis, or sign up for Canvas updates to be sent via email.

**REQUIRED MATERIALS**

The required text for this course is:

Glannon, Joseph, et al., Civil Procedure: A Coursebook. Fourth Edition. (Wolters Kluwer 2021) ISBN 978-1-5438-2625-8. CAUTION: Glannon recently released the Fourth Edition (last

several years); if you are attempting to buy this book used, the Third Edition is NOT identical to the Fourth Edition and all page number assignments will be for the Fourth Edition.

Glannon Supplement (2021). You may use the 2020 or the 2021 supplement if you can find one used.

## **SUPPLEMENTAL MATERIALS**

A number of commercial treatises and study aids for Civil Procedure are available. Professor Arthur Miller's Civil Procedure audio lectures are very helpful. I also recommend the below three publications, though none are required. You may want to consult with our TAs or ASP mentors on what supplementary materials they found most helpful.

Glannon, CIVIL PROCEDURE: EXAMPLES & EXPLANATIONS (Wolters Kluwer)

Glannon, THE GLANNON GUIDE TO CIVIL PROCEDURE (Wolters Kluwer)

Spencer, ACING CIVIL PROCEDURE (Thomson West)

## **USEFUL WEBSITES**

<https://www.uscourts.gov/>

<https://www.supremecourt.gov/>

<https://www.scotusblog.com/>

<https://www.vermontjudiciary.org/>

Additional resources, materials, and assignments will be posted in our Canvas site under "Files" from time to time. Any time I add materials or assignments, I will send an announcement to the class.

## **GRADING**

The grade in this course will be based on the following components: a closed book midterm worth 25 percent, and a closed book final exam worth 75 percent. Instructions and additional information will be posted at a later date.

The final course grade may be adjusted up for outstanding class preparation and participation that demonstrates a level of engagement above and beyond that which is expected at the professional graduate school level. Class participation is measured primarily by its meaningfulness and utility to the discussion. While frequency matters, it is the substance of your contribution that matters more.

The final course grade may also be adjusted down for lack of professionalism, violations of VLGS policies and procedures, multiple unexcused class absences, and otherwise in the discretion of the professor, if a deduction is merited due to disruptive, disrespectful, or offensive conduct in class. Professionalism includes attendance, punctuality, class preparation and participation, responsibility, respect, and civility. Each is explained below.

## **COURSE EXPECTATIONS**

### Attendance

**Class attendance is mandatory, including the classes that will occur during the September 2023 residency.** The attendance policy is explained in more detail in the Vermont Law and Graduate School Student Handbook II.A., which provides that a student will receive a grade of F-Wd (failure withdrawal) if they are absent from 20% of regularly scheduled classes. Please read the full attendance policy posted in the Handbook before the beginning of the term. **The Academic Regulations permit individual professors to set a higher requirement (but not a lower requirement) and for this class you will receive a grade of F-Wd if you are absent from more than two regularly scheduled classes.** You are required to monitor your own compliance with this policy. Two tardies equals one absence under this policy and I consider 6:31 p.m. as a tardy.

If additional absences are due to a health issue or other extraordinary circumstance beyond your control, contact Vice Dean for Students, Joseph Brennan as a withdrawal or medical leave may be appropriate. You may also contact Associate Dean of Diversity, Equity, and Inclusion, Lisa Ryan for any accommodation request for additional absences. You can review our accommodations policy, and all policies and procedures, in the Student Handbook.

In order to be counted as present, you must have your video on. If you need to excuse yourself during class, please send me a private message so I can count you as present. Please make every effort to attend class in a distraction free space with minimal interruptions and consistent and reliable internet.

### Class Preparation and Participation

You are expected to be prepared for class and to participate regularly. This class, as with most first-year law classes, uses the Socratic method, and I will call on you at random. Students should expect to be called upon to answer questions about the reading materials, or questions based on the reading materials. If you are not prepared on a particular day, you may “pass.” If you pass, however, you must select whom I will call on instead of you and your participation grade may suffer. Class discussion, including responding to questions and comments from me and your classmates, is an essential component of our class. Please do not use the chat function on Teams to communicate during class unless I ask you to. Instead, please use the “raise hand” function if you would like to say something or ask a question.

### Email and Canvas

Canvas is a learning management system (LMS). Many faculty create a Canvas course web page for documents, quizzes, and discussion forums. You will be automatically enrolled in the course Canvas site, but it is your responsibility to verify that the email address registered with Canvas is one that you can access and check frequently for course updates. You can access your Canvas settings by clicking “Account” on the top left side of the Dashboard screen, beneath the VLGS logo.

You should check Canvas periodically for updates that are posted under [Announcements](#). This syllabus and related materials are posted there as well, under correspondingly named tabs. Other resources are also posted there. You are responsible for the materials posted under the tabs: [Announcements](#), [Syllabus](#), and Required Course Materials (in [Files](#)). The Syllabus will indicate when there is assigned reading or videos outside of the Casebook and Supplement. Recordings and a copy of any PowerPoint slides I use will be available after class on our Canvas site.

I use the Announcements function on Canvas to communicate with the class. You should check your VLGS email regularly to ensure that you do not miss any important Announcements. The VLGS email system is an official method of communication at VLGS and for this course. It is the primary way that I communicate with you outside class. You are expected to check your VLGS email on a regular basis. This means at least once a day and probably more often on class days.

I encourage you to take notes by hand, even if you typically use a laptop. Handwriting slows down your thought process and forces you to develop your critical listening skills. The use of the internet or email during class is forbidden, unless I indicate otherwise. Texting during class is also prohibited.

### Respect and Civility

You are expected to show respect for the Professor and your classmates. Please arrive before the time for class to start. Do not leave during class except for emergencies, as this causes a great deal of distraction and disruption.

Students must raise their hands and wait to be called on in class before speaking. If you are not speaking, please listen to the contributions of your classmates. Please also respect the various contributions of other students, even if you disagree with the statement(s) offered by your classmates. If you are a frequent contributor to class discussion, you might not always be called on to speak.

### **OFFICE HOURS:**

Regular office hours will be set after our first class and will be announced in Canvas. Appointments can also be made on Teams and are generally scheduled in 30-minute blocks. Email Professor Clark (or the Teaching Assistants once assigned) to schedule an office hours appointment.

### **COPYRIGHT**

All materials (written and recorded) in this course, including those on the course web site, are copyrighted. This also includes any recording of the class by the professor, any student, or any other person. These materials are only for the use of the individual student enrolled in this course and may not be reproduced or distributed without the express written consent of the professor.

## ASSIGNMENTS

I will cover about 40 pages of material per week. ***You should read the text of any Rule or Statute cited in the casebook as you do your reading.*** I encourage you to write out your answers to questions posed in the text. This is the best way to consolidate materials and to give you a sense of whether you are understanding the readings. The broad schedule of assignments is below and will be posted in the Required Course Materials folder in [Files](#). The schedule will be updated and adjusted periodically. Updates will appear in our Canvas Files and will be noted in our [Announcements](#).

## LEARNING OUTCOMES

At the end of this course, students will be able to:

1. Demonstrate knowledge of substantive legal doctrine fundamental to civil litigation in federal trial courts;
2. Apply legal analysis skills to hypothetical act patterns involving issues related to federal civil litigation;
3. Employ critical reading techniques to extract relevant facts, law, and policy from cases and other materials related to the procedures of civil litigation;
4. Practice learning independently and as part of a group; and
5. Recognize ethical issues that may arise when representing a client in the course of civil litigation.

These outcomes will be achieved through careful reading, discussion, responding to objective questions without study aids, and the completion of problems that require you to spot and analyze civil procedure issues in a fact pattern.

## AMENDMENTS TO THE SYLLABUS

Any amendments to the Syllabus will be made in writing and the updated version will be posted in Canvas (replacing the previous version).

## OUR “ROADMAP” FOR CIVIL PROCEDURE I

- I. Subject Matter Jurisdiction
  - A. Federal Question Jurisdiction (1331)
  - B. Diversity Jurisdiction (1332)
    1. Citizenship of Persons
    2. Complete Diversity Rule
    3. Citizenship of Corporations and Other Entities

- 4. Amount in Controversy Requirement; Aggregating Claims
- C. Removal (1441)
  - 1. Standard
  - 2. Procedure
- II. Personal Jurisdiction
  - A. Introduction and Evolution
  - B. Specific Jurisdiction
  - C. General Jurisdiction
- III. Venue
  - A. Generally (1391)
  - B. Transfer and Dismissal (1404 and 1406)
  - C. Forum Non Conveniens
- IV. Pleading
  - A. Complaints
    - 1. History of Pleading
    - 2. Current Standard of Pleading: Plausible Pleading
    - 3. Care and Candor in Pleading (Rule 11)
  - B. Responding to the Complaint
    - 1. Default
    - 2. Rule 12 Motions
      - a. Omnibus Motion Rule
      - b. Rule 12 Waiver Trap
    - 3. Answering
  - C. Amending Pleadings

### READING AND ASSIGNMENT SCHEDULE

**Glannon Text = GT**

**Glannon Supplement = GS**

**All classes are 6:30 – 9:05 pm EST**

CLASS	ASSIGNMENT	AGENDA
WEEK 1		
Thursday, 8/31	<b>Read:</b> Course Syllabus & Schedule GT: pp 3-19; 91-108 GS: Article III; 28 USC 1331	Introductions and Overview Article II: Introduction to Subject Matter Jurisdiction & Federal Question Jurisdiction
WEEK 2		
Thursday, 9/7 <b>NO CLASS</b> <b>(See you soon in VT!)</b>	<b>Friday reading:</b> 28 U.S.C. sec. 1332(a)-(c); GT: 43-61	<b>Friday:</b>

Friday, 9/8 – (In person) 2:10 – 3:25		Diversity of Citizenship- Citizenship of Persons and the Complete Discovery Rule
Saturday, 9/10 – (In person) 1:40 – 2:55	<b>Saturday reading:</b> GT: 61-89	<b>Saturday:</b> Citizenship of Corporations and Amount in Controversy; Aggregating Claims
WEEK 3		
Thursday, 9/14	<b>Watch:</b> Panopto Lecture I  <b>Read:</b> 28 U.S.C. 1441(a)-(b), 1446, 1447 GT: 127-144	Removal
WEEK 4		
Thursday, 9/21		Subject Matter Jurisdiction and Removal Practice; Timed Essay Practice
WEEK 5		
Thursday, 9/28	<b>Read:</b> U.S. Const. Amend. XIV GT: 147-178; 185-200	Intro. to Personal Jurisdiction; Personal Jurisdiction: The Modern Approach & Specific Jurisdiction
WEEK 6		
Thursday, 10/5	<b>Read:</b> TBD	Personal Jurisdiction Review
WEEK 7		
Thursday, 10/12	<b>Review!</b>	<b>In Class Midterm</b> (SMJ & Removal only)
WEEK 8		
	<b>Watch:</b>	

Thursday, 10/19	Panopto Video on Midterm  <b>Read:</b> GT: 218-234, 251-270	Personal Jurisdiction: Stream of Commerce; General Jurisdiction and PJ Review
		<b>VENUE</b>
WEEK 9		
Thursday, 10/26	<b>Watch:</b> Panopto Lectures 2 & 3: U.S.C. sec. 1391, 1404, 1406  <b>Read:</b> GT: 369-398	Introduction to Venue and Transfer and Dismissal of Venue
WEEK 10		
Thursday, 11/2	<b>BEFORE CLASS:</b> Venue Practice Quiz (will be posted on Canvas)  <b>Read:</b> GT: 398-415	Forum Non Conveniens; Venue Review
		<b>PLEADING</b>
WEEK 11		
Thursday, 11/9	<b>Watch:</b> Panopto Lecture 4  <b>Read:</b> GT: 429-449, 459-475	Introduction to Pleading; Heightened Pleading and Plausible Pleading
WEEK 12		
Thursday, 11/16	<b>Read:</b> GT: 529-552 GS: Fed. R. Civ. P. 11	Rule 11 and Sanctions
WEEK 13		
Thursday, 11/23	<b>THANKSGIVING NO CLASS</b>	



		<b>RESPONDING TO THE COMPLAINT</b>
WEEK 14		
<p>Make Up Class: TBD</p> <p>Thursday, 11/30</p>	<p><b>Make Up Class Reading:</b>  GT: 447-479, 489-505  GS: Fed. R. Civ. P. 12</p> <p><b>Class 11/30:</b>  <b>Watch:</b>  <b>Lectures 5 &amp; 6</b></p> <p><b>Read:</b>  GT: 505-519, 553-567  GS: Fed. R. Civ. P. 8(b)-(c)  and Fed. R. Civ. P. 15</p>	<p>Make Up Class: Default Motions to Dismiss; Waiver Trap and Omnibus Motion Rule Review and Practice</p> <p>Class 11/30: Answering the Complaint and Amending Pleadings</p>
WEEK 15		
Thursday, 12/7	<b>Review!</b>	<b>In-Class Final Review, Practice, &amp; Course Evaluations</b>
FINAL EXAM – TBD (Scheduled by Registrar)		

*See you soon!*