

SYLLABUS
CIVIL PROCEDURE (LAWS 544)
Prof. Lisa Eichhorn

Required Texts

- R. Freer, W. Perdue, & R. Effron, Civil Procedure: Cases, Materials and Questions (9th ed. 2024).
- Federal Rules of Civil Procedure: 2024-25 Edition (2024) (published by Carolina Academic Press).
- Joseph Glannon, Civil Procedure: Examples & Explanations (9th ed. 2023).

Another Source of Help

- R. Freer, Civil Procedure (5th ed. 2022). This book is a very clear treatise geared toward law students. The book's author is one of your casebook authors. Available on reserve.

Course Policies

1. **CONTACT INFORMATION:** My email address is **eichhorn@law.sc.edu**. If you have a quick question and want to talk face to face, feel free to find me at the end of class. For longer discussions, my **office hours are Mondays from 1:00 to 2:30 p.m. and Wednesdays from 3:30 to 5:00 p.m.**, but you may email me to make appointments at other times. My office is 324.
2. **COURSE STRUCTURE:** This is a four-credit course that meets in room 395 on Tuesdays, Wednesdays, and Thursdays from 1:30 to 2:30 p.m. and on Fridays from 10:45 to 11:45 a.m.
3. **TIME COMMITMENT:** The ABA, which accredits the Law School, expects students to spend two to three hours preparing outside of class for each hour the class meets. So do I.
4. **LAPTOPS AND OTHER ELECTRONIC DEVICES:** Please use your laptop and phone in class only for class-related activities. I reserve the right to ban laptops if they distract students from what's going on in class. You may use a laptop, if you wish, to take the final exam.
5. **ASSESSMENT & GRADE CALCULATION:** Your final course grade will be based on three components: best-two-out-of-three quizzes (with the two highest quizzes counting 15% each) and an open-book, timed final exam counting 70%. Although the exam is open-book, you will need to be very familiar with the course material to finish the exam on time.
6. **ATTENDANCE:** I will take attendance by passing a sheet to initial. If you do not initial it, you will be counted as absent. If you arrive more than 10 minutes late to class, you may not initial the sheet and will be counted as absent. Under the Law School's attendance policy, **if you miss more than five class meetings, you will need to get an attendance waiver from**

Dean Kuo during the last week of classes to be eligible to take the exam. If you miss a class, please watch the video and check on TWEN for handouts. After doing so, if you have questions about the material, please email me or drop by office hours to discuss them. FYI: A Law School policy states that **if you miss over 30%** of our class meetings (i.e., if you miss 16 classes), Dean Kuo cannot grant you a waiver **and you must instead petition a committee of faculty members** for permission to take the final exam.

7. TWEN COURSE SITE: I will post class handouts, assigned readings not in your books, and other material on our TWEN course site. You will also submit your quizzes via TWEN.
8. STUDENTS WITH DISABILITIES: If you have a disability and need accommodations in the classroom, please let me know immediately so that we can discuss your needs. In addition, please be sure to see the Registrar to document your disability. Documentation must be in place before the school can grant accommodations, including extra time on exams.
9. PROHIBITION ON SHARING VIDEOS, AUDIO, or SCREENSHOTS: This class is recorded, and recordings will be available to all students for the sole purpose of helping them study the material we cover. It is an **Honor Code violation** for you to share recordings of our class—including video, audio, or screenshots—with anyone for any purpose.
10. OBJECTIVES/LEARNING OUTCOMES: I have designed this course to help you (1) familiarize yourself with the doctrine of civil procedure by learning how to read a code of rules—specifically the FRCP; (2) refine your ability to read complex statutes and cases; (3) learn how to apply procedural rules—whether from the FRCP, statutes, cases, or some combination thereof—to factual scenarios; and (4) learn how to evaluate procedural rules in terms of fairness, efficiency, and ethics in an informed, intelligent manner.

READING ASSIGNMENTS

Tues., 1/14: Introduction

FP&E pp. 3-18.

Glannon pp. 611-21.

FRCP 1 and FRCP 2. (These Federal Rules of Civil Procedure are in your Federal Rules supplement on p. 7.)

Wed., 1/15: Overview of Jurisdictional Concepts

Glannon pp. 125-27.

U.S. Const. art. III, section 2 (first paragraph); 28 U.S.C. §§ 1331 & 1332(a). (These constitutional and statutory provisions are in your Federal Rules supplement. Statutes start on p. 203; the Constitution starts on p. 303.)

Thurs., 1/16: Complaints: General Standards

FRCP 8(a), FRCP 8(d), FRCP 10, FRCP 12(b)(6).

FP&E pp. 307-19, but skip the notes and questions on pp. 314-15.

Garcia v. Hilton Hotels (on TWEN). Be sure to consider the notes and questions at the end of the *Garcia* opinion. Then look at the complaint on Glannon pp. 628-31 to see the format in which parties state claims in pleadings.

Fri., 1/17: Complaints: Drafting the Document; Pleading Special Matters in Fed. Court

Review the sample complaint and summons, including the annotations, on pp. 628-40 in Glannon's ch. 32. Make a note of any questions you have about these documents.

FRCP 9. Focus on 9(b) & (g).

Leatherman v. Tarrant County (on TWEN).

Tues., 1/21: Recent Supreme Court Pleadings Decisions

FP&E pp. 320-28 (*Twombly*); pp. 330-33 (*Iqbal*). Whenever you see a Roman numeral heading or a letter subheading, such as the "II" and "A" and "B" on p. 322, draft your own short heading or subheading to describe the text in that section or subsection. Also consider the Thought Questions on TWEN as you read these two cases.

Wed., 1/22: Rule 12(b)(6) Motions: Issues of Law and Issues of Fact

Read Glannon pp. 471-73 and consider questions 1-4 on pp. 473-74. Then study Glannon's explanations on pp. 480-82.

Thurs., 1/23: 12(b)(6) Motions; Service of Motions

Review FP&E p. 313 ("Legal Sufficiency"). Prepare to discuss Notes & Questions 1(a)-(c) and 2 on pp. 314-15.

FRCP 5(a),(b) & (d).

Fri., 1/24: Responding to the Complaint: Other Rule 12 Motions

All of FRCP 12, but focus on 12(a)(1)(A)(i) & (a)(4)(A) and 12(b), (g), and (h).

Glannon pp. 375-78. Consider questions 1, 2, and 4. In doing so, you'll need to read FRCP 12(g)-(h) extremely carefully. Then study Glannon's explanation of these questions on pp. 382-86.

Tues., 1/28: Answers and Default Judgments

FRCP 7; FRCP 8(b)-(d).

Glannon pp. 655-65 (sample Answer with commentary).

FP&E pp. 351-54 (starting with "The Answer" & ending with question 1 on p. 354).

FRCP 55, FRCP 54(c) & FRCP 60(b).

FP&E pp. 355-57 (beginning with "Failure to Respond"). Study all questions and notes and be ready to answer the questions, with Rule citations, in class.

Wed., 1/29: Amendments to Pleadings

FRCP 15 (You may skip 15(c)(1)(C) and 15(c)(2).)

Read Glannon pp. 391-99 (through q. 2). Study questions 1-5 & 10 and Glannon's explanations of these questions, beginning on page 406.

Thurs., 1/30: Certifications Regarding Pleadings, Motions & Other Papers; Quiz

Distribution

Note: You will receive the first quiz in class. It is due on Fri., Feb. 7th.

Study the language of FRCP 11 as you read the “Rule 11 Explanation” handout on TWEN.

Study “Questions and Notes on Rule 11,” also on TWEN, and take notes of your answer to each question. Be ready to discuss your answers in class.

Reread note 11 on Glannon pp. 638-40, which discusses the implications of the attorney’s signature on the last page of the complaint shown on pp. 628-31.

Fri., 1/31: Overview of Discovery; Mandatory Disclosure; Pre-Trial Conferences

Read the quiz and bring your questions to class today.

FRCP 16(a)-(b); FRCP 26(a)(1) & (4) & 26(f).

FP&E pp. 383-87; then use FRCP 26(a)(1)(A) to answer the questions on p. 388.

Glannon p. 447 (“Automatic Disclosure”).

FP&E pp. 436-39.

Tues., 2/4: Scope of Discoverable Information: Relevance, Privilege & Protective Orders

FRCP 26(b)(1)-(2) & (5); FRCP 26(c).

Glannon pp. 415-19 (through “Privilege Objections to Discovery”). Consider questions 2, 4, 5, and 8-11, starting on p. 422, and then study Glannon’s explanations of these questions beginning on p. 427.

FP&E pp. 402-05 (“b. Nonprivileged” & “c. Proportional”).

Wed., 2/5: Scope of Discoverable Information: Work Product

FRCP 26(b)(3)(A)-(B).

Glannon pp. 419-22. Consider questions 1 & 12-15 and study Glannon’s explanations of those questions.

Study notes 6-8 on FP&E pp. 421-22.

Thurs., 2/6: Discovery Devices: Interrogatories & Requests for Production of Documents

Note: Today’s class is your last chance to ask questions about the quiz.

FRCP 33.

Glannon pp. 437-38. Consider questions 1(a) & (b), 2-4, and 6-7 at the end of ch. 23 and study Glannon’s explanations of those questions.

FYI: For examples of a set of interrogatories and interrogatory answers (with comments) see Glannon pp. 462-69.

FRCP 34.

Study Glannon pp. 439-43 and questions 8-10 and Glannon’s explanations.

Fri., 2/7: E-Discovery

Note: Your quiz is due today.

No assigned reading.

Tues., 2/11: Discovery Devices: Depositions, Mental & Physical Exams & Admissions
FRCP 30 (with a focus on 30(a)-(d)), 35 & 36.

Glannon pp. 443-47. Consider questions 1(c) and 11-15 at the end of ch. 23 and study Glannon's explanations of those questions.

FYI: For an example of a notice of deposition, see Glannon p. 458. For a short excerpt of a deposition transcript, see my posting on TWEN.

Wed., 2/12: Discovery: Duty to Supplement; Sanctions

FRCP 26(e) & (g).

FRCP 37.

Study the Rule 37 Roadmap & Hypos on TWEN and prepare answers to the hypos.

Thurs. 2/13: Right to Jury Trial; Intro to Summary Judgment

U.S. Const. amend. VII (in your Supplement).

FRCP 38(a)-(d).

FRCP 56(a)-(c).

FP&E pp. 484-88; stop when you get to the "*Celotex*" heading.

FYI: An SJ motion & supporting docs are under the "Sample Docs" tab on TWEN.

Fri., 2/14: Summary Judgment

Review FRCP 56(a)-(c) and read the rest of the Rule.

FP&E pp. 488-89 (summary of *Celotex*) and notes 3-4 on p. 491.

FP&E pp. 492-500 (*Coble* & "Notes & Questions").

Tues., 2/18: Summary Judgment (cont'd)

Glannon ch. 24. Study questions 7-8 & 12-13 and Glannon's explanations. (The facts and law regarding hypos 7 & 8 (*Berlin v. Porter*) appear in the last paragraph on p. 472. The facts and law regarding hypos 12 & 13 (*Kern v. Broadway*) appear in hypo 5 on p. 474.)

Wed., 2/19: Judgment as a Matter of Law (a.k.a. Directed Verdict)

FRCP 50(a).

Glannon ch. 25. Study question 3 and Glannon's explanation.

Thurs., 2/20: Renewed JMOL (a.k.a. JNOV); New Trials

FRCP 50(b) & FRCP 59(a), (b), and (d).

Glannon pp. 515-23. Study questions 1, 2, 6, and 9 and Glannon's explanations.

Fri., 2/21: New Trials (cont'd); Relief from Judgment

FP&E pp. 509-16 (including notes 1-4). Please take notes in response to the "Thought Questions re *Dadurian Case*" handout on TWEN and have your responses ready in class. Study FRCP 60(a)-(c) as you read FP&E pp 526-28.

Tues., 2/25: Basic Joinder

FRCP 18(a), FRCP 13 (but skip 13(a)(1)(B) & 13(a)(2)(B)), FRCP 20(a), FRCP 21, & FRCP 42(b).

Read Glannon ch. 14 and study questions 1, 2 & 3(a)-(e) and Glannon's explanations.

Wed., 2/26: Applying Basic Joinder Rules

Review the provisions of Rules 13, 18, and 20 from our last class and Glannon's chapter 14. Then study hypos 7-15 and Glannon's explanations of them.

Thurs., 2/27: Impleader

Note: You will receive the second quiz today. It is due on Thursday, March 6th.

FRCP 14(a)(1)-(5) & (b).

Glannon ch. 15. Study questions 1-13 & 15 and Glannon's answers. **Note:** Question 13 on p. 286 has a typo; it should read "If Said is impleaded by DeLesseps, may France, the plaintiff, assert"

Study the third-party complaint (and the annotations) on Glannon pp. 672-78.

Fri., 2/28: Subject Matter Jurisdiction: Federal Question

Const. art. III, sections 1 & 2.

28 U.S.C. § 1331.

Glannon pp. 81-91; study hypos 3-5, 7-8, 11 & 13 and Glannon's explanations. Assume all the cases in these hypos are in federal courts.

Tues., 3/4: Subject Matter Jurisdiction: Diversity

28 U.S.C. § 1332(a) & (c).

Glannon pp. 105-10. Study questions 1-6 and 10 and Glannon's explanations.

FP&E pp. 33-35 (*Mas*) and notes 1 & 3-6 on pp. 35-38.

Wed., 3/5: Subject Matter Jurisdiction: Amount in Controversy for Diversity Cases

Reminder: Today's class is your last chance to ask questions about the quiz.

Review 28 U.S.C. § 1332(a) & (c).

Glannon pp. 112-15. Study questions 12(a), 12(b), 12(e) & 13 and Glannon's explanations.

Thurs., 3/6: Researching Civ Pro Issues

Note: Your quiz is due today.

No assigned reading

Fri., 3/7: Subject Matter Jurisdiction: Supplemental Jurisdiction

28 U.S.C. § 1367.

Study the "Supplemental Jurisdiction: Jurisdictional Fellow Travelers" handout (on TWEN).

Study questions 1-8 in Glannon ch. 17 and Glannon's explanations.

Week of March 10th: SPRING BREAK—NO CLASS

Tues., 3/18: Removal

28 U.S.C. §§ 1441(a)-(b); 1446(a)-(d); 1447(a)-(c).

Glannon ch. 8, including p. 146. Study hypos 1-8 & 10-13 and their explanations.

FYI: Glannon shows you a Notice of Removal & Notification on pp. 645-47.

Wed., 3/19: Removal (cont'd)

Review the statutory provisions assigned for our previous class. Then study hypos 15, 17, 18, 20 & 21 and their explanations in Glannon ch. 8.

Thurs., 3/20: Review of Subject Matter Jurisdiction & Removal

No new reading, but review your readings and notes on diversity, federal question, and supplemental jurisdiction and removal.

Fri., 3/21: Intro to Personal Jurisdiction: Minimum Contacts Analysis

FP&E pp. 91-92 and 101-09. (Use Thought Qs on TWEN.) Skip notes 4 & 5 on p. 107. Glannon pp. 3-7.

Tues., 3/25: Personal Jurisdiction: Minimum Contacts Analysis

FP&E pp. 109-18 and 120-26.
FRCP 4(k)(1)(A) and FP&E p. 212—the first two ¶¶ under “Pers. Jur. in Fed. Cts.”

Wed., 3/26: Personal Jurisdiction: Minimum Contacts in Stream of Commerce Cases

Study FP&E pp. 126-28 to understand *Asahi*. Then read FP&E pp. 128-44 (*McIntyre* and notes 2-5).

Thurs., 3/27: Personal Jurisdiction: Review of Specific Jur. Cases; Longarm Statutes

Note: You will receive the last quiz today. It is due on Thursday, April 3rd.
Draft brief answers to “Thought Questions to Get You to Synthesize Supreme Court Personal Jurisdiction Cases,” on TWEN.
Glannon pp. 7-11 & 45-52. Study hypos 1 & 2 on p. 48 and Glannon’s explanations.

Fri., 3/28: Personal Jurisdiction Cases: General Jurisdiction

FP&E pp. 144-53 (starting with “4. General Jurisdiction” and ending with the *Daimler* opinion).
FP&E pp. 155-64 (*Bristol-Myers Squibb*).

Tues., 4/1: Personal Jurisdiction: Min. Contacts After *Ford*; Tagging & Consent

FP&E pp. 166-76 (*Ford Motor* through Alito’s concurrence).
FP&E pp. 188-91 and 193-94 (through “a. Express Consent”).

Wed., 4/2: Challenging Personal Jurisdiction

Note: Today’s class is your last chance to ask questions about the quiz.
Glannon ch. 4. Study questions 1-4 and 7-8 and Glannon’s explanations.

Thurs., 4/3: Personal Versus Subject Matter Jurisdiction

Note: Your quiz is due today.
Glannon pp. 125-30. Study questions 1 & 2 and Glannon’s explanations.

Fri., 4/4: Basic Venue Issues

28 U.S.C. § 1391(a)-(c).
Glannon ch. 9. Study hypos 1-5 and Glannon’s explanations.

Tues., 4/8: Venue in General (cont'd); Transfer of Venue

Review the parts of the venue statute you read for our previous class and review Glannon pp. 163-66.

Read § 1391(d) and §§ 1404 & 1406 as you study hypos 6-10 in Glannon's ch. 9 and Glannon's explanations of those hypos.

FP&E pp. 257-64 (from "E. Change of Venue" through "e. The Effect of a Forum Selection Clause"). **Note:** The first sentence of subpart "b" on p. 259 has a typo: "transferee" should be "transferor."

Wed., 4/9: A Day to Talk About Exams

No assigned reading.

Thurs., 4/10: *Forum Non Conveniens*

FP&E pp. 265-74 and notes 1, 4, 5 & 7 on pp. 274-77.

Fri., 4/11: Provisional Injunctive Relief

FRCP 65.

Freer treatise (5th ed. 2022) pp. 197-202 (on TWEN).

Tues., 4/15: *Erie* Doctrine

FP&E pp. 532-37 (*Erie*).

Glannon ch. 11, including pp. 200-02. Study questions 5-10 and Glannon's answers.

Wed., 4/16: Res Judicata

Glannon ch. 27. Study questions 1-5 and 15 and Glannon's answers.

Thurs., 4/17: Collateral Estoppel (last class meeting)

Glannon ch. 29. Study questions 1-4 and Glannon's answers.

Fri., 4/18 through Tues., 4/22: Virtual (and in-person) appointment times will be available during this period so that I can help answer questions that arise as you review the material we covered. Stay tuned for details.

Your exam is on Friday, April 25th.

Good luck!