

# WESTERN STATE COLLEGE OF LAW

## CALIFORNIA CIVIL PROCEDURE: Section 255A – Fall 2016

### SYLLABUS

Professor Glenn S. Koppel  
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#### 1. Course Objectives:

- **Doctrinal Knowledge:** Litigators who practice in California need to be at home in both federal and California state courts. Therefore, one course objective is to introduce you to basic aspects of California civil procedure. Since the California bar exam tests on California, as well as federal, civil procedure, a second objective is to compare and contrast these two procedural codes. This comparison will also achieve the third objective of reinforcing your understanding of federal civil procedure that you acquired in your first-year of law study.
- **Legal Analysis:** Another course objective is to hone your the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.
- **Legal Research:** In addition to the cases and rules assigned for reading in the Heiser case book, you will develop the practical skill of locating relevant legal authority using the California Code of Civil Procedure and the Rutter Group's Weil & Brown, Civil Procedure Before Trial, a secondary legal source widely used by civil litigators in California superior court.

#### 2. Required Texts:

- California Civil Procedure, Third Edition, Walter W. Heiser (LexisNexis).
- Civil Procedure in California – State and Federal – 2016 Edition – Supplemental Materials for use with all Civil Procedure Casebooks, David I. Levine and Mary Kay Kane (West)

- Here are Westlaw links to the Rutter Group - Civil Procedure Before Trial – **IF YOU ARE NOT YET REGISTERED FOR WESTLAW, DO SO ASAP:**

**WestlawNext:**

[https://a.next.westlaw.com/Browse/Home/SecondarySources/CaliforniaSecondarySources/RutterGroupPracticeGuidesOtherPublications/RutterGroupCaliforniaPracticeGuideCivilProcedureBeforeTrial?originationContext=AutoComplete&contextData=\(sc.Default\)&transitionType=CategoryPageItem](https://a.next.westlaw.com/Browse/Home/SecondarySources/CaliforniaSecondarySources/RutterGroupPracticeGuidesOtherPublications/RutterGroupCaliforniaPracticeGuideCivilProcedureBeforeTrial?originationContext=AutoComplete&contextData=(sc.Default)&transitionType=CategoryPageItem) or

**Westlaw Classic:**

<http://web2.westlaw.com/search/default.wl?DB=TRG-CACIVP&AP=&vr=2.0&fn=top&rs=WEBL12.04&sp=SEARCHIDEN-001>.

**3. Exams and Grading:**

There will be a final examination in essay format and no mid-term.

**4. Classroom Participation**

Legal education is a cooperative venture and this is especially critical in a small class such as ours. Therefore, each of you should be prepared to participate in class on a regular basis. If you are unprepared, *you will be deemed “absent” for that class session.*

In addition to reading and briefing the cases in the assigned reading in the Heiser casebook, you are expected to look up, and read carefully, the California procedural rule(s) referred to in that week’s assigned reading and, in addition, to look up and read the applicable sections of the Weil & Brown Civil Procedure Before Trial.

***This weekly preparation should take you, on average, at least nine hours per week if not more.***

**5. Attendance & Decorum**

Successful completion of this course is dependent upon satisfaction of the W.S.C.L. Attendance Policy which is reprinted in the Student Handbook. I will take attendance at the beginning of each class. **If you arrive late or depart early you will be marked absent for that session. Late arrivals must not sign the sign-in sheet. IF YOU MISS MORE THAN FOUR (4) CLASSES DURING THE SEMESTER YOU WILL RECEIVE A GRADE OF "F" AND WILL NOT BE PERMITTED TO ATTEND SUBSEQUENT CLASSES.**

**ALSO BE AWARE THAT, PURSUANT TO W.S.C.L.'s ATTENDANCE POLICY, STUDENTS CANNOT MAKE UP AN ABSENCE BY ATTENDING ANOTHER PROFESSOR'S CLASS.**

Students' leaving and returning to their seats while class is in session is a major distraction for other students as well as for myself. Therefore, once class begins, students may not leave the classroom prior to the end of the class session unless you have notified the Dean of Students in advance that you have a particular physical condition that renders you unable to comply with this rule. Violation of this rule may be deemed an "early departure" for which a student may be marked absent.

## 6. Seating Chart

A seating chart will be distributed at the beginning of the second class session. Please print your name legibly in the seat you choose for your permanent seat. If you wish to change your seat, please notify me so that I can make the appropriate changes on the chart.

## 7. Office Hours:

Please make appointments through the Faculty Appointments Book located at the receptionist desk on the third floor. My office hours will be posted in this book. If you cannot make a scheduled appointment, please notify me or one of the faculty secretaries that you are canceling your appointment as soon as possible so that another student can see me during that time slot. I will also be available the rest of the week as time permits.

## 8. DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Second Floor Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; [despinoza@wsulaw.edu](mailto:despinoza@wsulaw.edu). When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at [csheppard@wsulaw.edu](mailto:csheppard@wsulaw.edu) or (714) 459-1152. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

**9. Abbreviations:** “CB” = casebook; “Supp” = Civil Procedure in California Supplement; “CCP” = California Code of Civil Procedure; “CRC” = California Rules of Court; “FRCP” = Federal Rules of Civil Procedure.

**10. Argosy University  
Institutional Learning Outcomes:**

**1. Analytical Reasoning**

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

**2. Effective Communication**

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

**3. Information Competency**

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

**4. Interpersonal Effectiveness**

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

**5. Personal and Professional Integrity and Ethical Behavior**

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

**6. Professional Competence**

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession

**11. Western State College of Law – Programmatic Learning Outcomes**

**Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:**

**(1) Doctrinal Knowledge**

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real

Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

**(2) Practice Skills**

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

**(3) Legal Analysis**

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

**(4) Legal Research**

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

**(5) Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

**(6) Advocacy of Legal Argument**

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

**(7) Client Sensitivity and Cultural Competency**

Students will demonstrate an awareness of clients’ needs and goals, including a sensitivity to clients’ background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

**(8) Legal Ethics**

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

**12. Reading Assignments**

Week	Subject	Assignment
1	<p><b><u>Introduction to California Civil Procedure; Sources of Procedural Law</u></b></p> <p><b><u>Statutes of Limitations:</u></b> Applicable Time Limitations Periods; Accrual and the California Discovery Rule</p>	<p><b>CB:</b> 5 – 32 <b>Supp:</b> CCP §§ 128, 177-187, <b>575 – 575.2</b>; CRC 2.30, 3.20, 8.1105-8.1115.</p> <p><b>CB:</b> 57 – 89 <b>Supp:</b> CCP §§ 335-340.6</p>
2	<p><b><u>Statutes of Limitations:</u></b> Tolling; Commencement of an Action</p> <p><b><u>The Proper Court:</u></b> • <b>Subject Matter Jurisdiction:</b></p>	<p><b>CB:</b>118 – 145; 146 [Estoppel and Other Equitable Tolling Doctrines]; 146 – 156; 161 [starting with “Relation Back Doctrine and Cross-Complaints”] – 166; 167 [§405[A] and [B]]; 192 – 194. <b>SUPP:</b> CCP §§ 350, 583.210(a)</p> <p><b>CB:</b> 333 – 339 <b>Supp:</b> CCP §§ 32.5, 85-116.221, 187, 396, 403.010-403.070, 580(b).</p>
3		

	<p><b><u>The Proper Court: (cont’d)</u></b></p> <ul style="list-style-type: none"> <li>• Personal Jurisdiction</li>   <li>• Venue</li> </ul>	<p><b>CB: 339 – 361</b>  <i>Daimler AG v. Bauman</i>, available at  <a href="http://www.supremecourt.gov/opinions/13pdf/11-965_1qm2.pdf">http://www.supremecourt.gov/opinions/13pdf/11-965_1qm2.pdf</a>  <b>Supp: CCP §§ 410.10, 410.50.</b></p> <p><b>CB: 361 – 379</b>  <b>Supp: CCP §§ 392-395.5, 396b-398</b></p>
4	<p><b><u>The Proper Court: (cont’d)</u></b></p> <ul style="list-style-type: none"> <li>• Service of Process</li>   <li>• Forum Non Conveniens</li> </ul>	<p><b>CB: 379 – 404</b>  <b>Supp: CCP §§ 412.20, 413.10-417.40, 473.5; pp. 552-554 (form summons)</b>  <b>CB: 404 – 427</b>  <b>Supp: CCP § 410.30, 418.10,904.1(a)(3)</b></p>
5	<p><b><u>Preclusive Effects of Prior Judgments:</u></b></p> <ul style="list-style-type: none"> <li>• Res Judicata</li> </ul>	<p><b>CB: 465 - 520</b></p>
6	<ul style="list-style-type: none"> <li>• Collateral Estoppel</li>   <li>• Privity</li>   <li>• Law of the Case</li> </ul>	<p><b>CB: 521 – 556</b></p> <p><b>CB: 556 – 571</b></p> <p><b>CB: 571 - 579</b></p>
7	<p><b><u>Pleadings:</u></b></p> <ul style="list-style-type: none"> <li>• The Complaint</li>   <li>• Amendments</li>   <li>• “Doe” Defendant Practice</li> </ul>	<p><b>CB: 581 – 595</b>  <b>SUPP: CCP §§ 411.10, 422.10-425.13, 446-452; pp. 555-559 (form complaint)</b></p> <p><b>CB: 595 – 606</b>  <b>SUPP: CCP §§ 472, 473(a), 474</b></p> <p><b>CB: 607 – 642</b>  <b>SUPP: CCP §§ 350, 474, 583.210, 583.250, 583.420(a)(1)</b></p>

8	<p><b><u>Pleadings:(cont'd)</u></b></p> <ul style="list-style-type: none"> <li>• <b>The Demurrer</b></li>   <li>• <b>Motions Related to Pleadings</b></li>   <li>• <b>The Answer</b></li>   <li>• <b>Cross-Complaints</b></li> </ul>	<p><b>CB:</b> 642 – 656  <b>SUPP:</b> CCP §§ 430.10-430.80, 472a(a)-(c); CRC 3.1320</p> <p><b>CB:</b> 656 – 661  <b>SUPP:</b> CCP §§ 425.16-425.18, 435-437, 438, 472a(d)</p> <p><b>CB:</b> 661 – 668  <b>SUPP:</b> CCP §§ 431.10-431.30; pp. 563-564 (form answer)</p> <p><b>CB:</b> 668 – 677  <b>SUPP:</b> CCP 426.10-428.80, 432.10; pp. 560-562 (form cross-complaint)</p>
9	<p><b><u>Joinder of Parties and Claims:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Permissive Joinder</b></li>   <li>• <b>Compulsory Joinder of Parties</b></li>   <li>• <b>Interpleader</b></li>   <li>• <b>New Party Cross-Complaints and Equitable Indemnity</b></li>   <li>• <b>Intervention</b></li> </ul>	<p><b>CB:</b> 679 – 683  <b>SUPP:</b> CCP §§ 378, 379</p> <p><b>CB:</b> 683 – 689  <b>SUPP:</b> CCP § 389</p> <p><b>CB:</b> 689 – 691  <b>SUPP:</b> CCP § 386</p> <p><b>CB:</b> 691 – 700  <b>SUPP:</b> CCP §§ 428.10-428.20</p> <p><b>CB:</b> 733 - 745  <b>SUPP:</b> CCP § 387</p>
10	<p><b><u>Joinder of Parties and Claims:</u></b>  (cont'd)</p> <ul style="list-style-type: none"> <li>• <b>Class Actions</b></li> </ul>	<p><b>CB:</b> 760 – 791  <b>SUPP:</b> CCP § 382; CRC 3.760-3.771  <b>Add:</b> Cal. Civil Code § 1781</p>
11	<p><b><u>Discovery</u></b></p>	<p><b>CB:</b> 793 - 835  <b>SUPP:</b> CCP §§ 94, 95, 2016.010-2017.010, 2017.210, 2018.010-2018.080, 2025.460(a), 2028.050(a), 2030.290(a); Cal. Const., Art. I § 1</p>



12	<b><u>Discovery (cont'd)</u></b>	<b>CB:</b> 836 - 885 <b>SUPP:</b> CCP §§ 1985.8, 2016.020, 2016.040, 2017.020, 2017.710-2017.740, 2019.030, 2023.020-2024.060, 2026.040, 2019.010-2034.730; CRC 3.1000, 3.1020, 3.1030; pp. 567-574 (form interrogatories)
13	<b><u>Resolution of Cases Before Trial</u></b> • <b>Summary Judgment</b>  • <b>Default Judgment</b>	<b>CB:</b> 887 – 908 <b>SUPP:</b> CCP §437c; CRC 3.1350  <b>CB:</b> 908 – 947 <b>SUPP:</b> CCP §§ 473(b), 473.5, 580, 585-586; pp. 565-566 (request for entry of default form)
14	<b><u>Trial Proceedings and Motions</u></b> • <b>Trial by Jury</b>  • <b>Trial Without a Jury</b>  • <b>Directed Verdict, JNOV and New Trial Motions</b>	<b>CB:</b> 1029 – 1053; 1068 – 1070 <b>SUPP:</b> Cal. Const., Art. I § 16; CCP §§ 191 – 231.5, 607 – 607a, 618, 624 - 625; CRC 2.1008, 2.1008, 2.1031-2.1035, 3.1540,  <b>CB:</b> 1070 – 1072 <b>SUPP:</b> CCP §§ 662, 631.8(a); CRC 3.1590(a), (d), (h) and (n)  <b>CB:</b> 1073 – 1125 <b>SUPP:</b> CCP §§ 581c, 629, 630, 657 – 663, 662.5; CRC 3.1600
15	Reading Week	

**Links to State and Federal Courts in California**  
[California state-federal district chart](#)

<b>California State Courts</b>		
<a href="#">California Supreme Court &amp; Cases accepted for review</a> (Weekly Case Summaries)	<b>Court of Appeal:</b> <a href="#">1st District</a> ; <a href="#">2nd District</a> ; <a href="#">3rd District</a> ; <a href="#">4th District</a> ; <a href="#">5th District</a> ; <a href="#">6th District</a>	<b>Superior Court by County</b> Local Rules: <a href="#">Superior Cts</a> <a href="#">Map</a> : California Counties by Appellate District
<b>California Federal Courts</b>		
<a href="#">US SCt website / .edu / .com</a>	<b>Fed Ct Appeals</b> <a href="#">9th Cir.</a>	<b>Fed Trial Ct:</b> <a href="#">So. Dist.</a> ; <a href="#">Cent. Dist.</a> ; <a href="#">East. Dist.</a> ; <a href="#">No. Dist.</a>
<a href="#">Other federal cts</a> (including Bankruptcy, click "9")	<a href="#">Electronic Access to Courts</a>	Federal District Court: <a href="#">filings and dockets</a> Local Rules: <a href="#">Fed Cts</a>
<b>Links to Codes, Constitutions, Forms, and Rules</b>		
<a href="#">United States Code</a> Constitutions: <a href="#">California</a> & <a href="#">US</a>	Federal Rules: <a href="#">Civil Procedure</a> ; <a href="#">Appellate Procedure</a> ; <a href="#">Evidence</a> <a href="#">Crim Pro</a> ;	California: <a href="#">Rules of Court</a> <a href="#">Judicial Council Forms</a> <a href="#">Evidence Code</a>
<b>Daily Case Reporters for California</b>		
<a href="#">California Daily Opinion Service</a> (The Recorder)	<a href="#">Daily Appellate Report</a> (L.A. & S.F. Daily Journal)	<a href="#">California Courts Official Webpage</a> Supreme Court & Court of Appeal
		<b>Generic California Motion Forms</b> <a href="#">click here</a>  <a href="#">How to present a case</a>

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