

WESTERN STATE COLLEGE OF LAW

CALIFORNIA CIVIL PROCEDURE: Section 255A – Fall 2015

SYLLABUS

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1. Objectives:

This course has three objectives. 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.

2. Required Texts:

- California Civil Procedure, Third Edition, Walter W. Heiser (LexisNexis).
- Civil Procedure in California – State and Federal – 2015 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.*

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. 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 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.

Reading Assignments on Page 4

5	<u>Preclusive Effects of Prior Judgments:</u> <ul style="list-style-type: none"> • Res Judicata 	CB: 465 - 520
6	<ul style="list-style-type: none"> • Collateral Estoppel • Privity • Law of the Case 	CB: 521 – 556 CB: 556 – 571 CB: 571 - 579
7	<u>Pleadings:</u> <ul style="list-style-type: none"> • The Complaint • Amendments • “Doe” Defendant Practice 	CB: 581 – 595 SUPP: CCP §§ 411.10, 422.10-425.13, 446-452; pp. 555-559 (form complaint) CB: 595 – 606 SUPP: CCP §§ 472, 473(a), 474 CB: 607 – 642 SUPP: CCP §§ 350, 474, 583.210, 583.250, 583.420(a)(1)
8	<u>Pleadings:(cont’d)</u> <ul style="list-style-type: none"> • The Demurrer • Motions Related to Pleadings • The Answer • Cross-Complaints 	CB: 642 – 656 SUPP: CCP §§ 430.10-430.80, 472a(a)-(c); CRC 3.1320 CB: 656 – 661 SUPP: CCP §§ 425.16-425.18, 435-437, 438, 472a(d) CB: 661 – 668 SUPP: CCP §§ 431.10-431.30; pp. 563-564 (form answer) CB: 668 – 677 SUPP: CCP 426.10-428.80, 432.10; pp. 560-562 (form cross-complaint)

9	<p><u>Joinder of Parties and Claims:</u></p> <ul style="list-style-type: none"> • Permissive Joinder • Compulsory Joinder of Parties • Interpleader • New Party Cross-Complaints and Equitable Indemnity • Intervention 	<p>CB: 679 – 683 SUPP: CCP §§ 378, 379</p> <p>CB: 683 – 689 SUPP: CCP § 389</p> <p>CB: 689 – 691 SUPP: CCP § 386</p> <p>CB: 691 – 700 SUPP: CCP §§ 428.10-428.20</p> <p>CB: 733 - 745 SUPP: CCP § 387</p>
10	<p><u>Joinder of Parties and Claims:</u> (cont'd)</p> <ul style="list-style-type: none"> • Class Actions 	<p>CB: 760 – 791 SUPP: CCP § 382; CRC 3.760-3.771 Add: Cal. Civil Code § 1781</p>
11	<p><u>Discovery</u></p>	<p>CB: 793 - 835 SUPP: 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	<p><u>Discovery</u> (cont'd)</p>	<p>CB: 836 - 885 SUPP: 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)</p>
13	<p><u>Resolution of Cases Before Trial</u></p> <ul style="list-style-type: none"> • Summary Judgment • Default Judgment 	<p>CB: 887 – 908 SUPP: CCP §437c; CRC 3.1350</p> <p>CB: 908 – 947 SUPP: CCP §§ 473(b), 473.5, 580, 585-586; pp. 565-566 (request for entry of default form)</p>

14	<p><u>Trial Proceedings and Motions</u></p> <ul style="list-style-type: none"> • Trial by Jury • Trial Without a Jury • Directed Verdict, JNOV and New Trial Motions 	<p>CB: 1029 – 1053; 1068 – 1070 SUPP: 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,</p> <p>CB: 1070 – 1072 SUPP: CCP §§ 662, 631.8(a); CRC 3.1590(a), (d), (h) and (n)</p> <p>CB: 1073 – 1125 SUPP: CCP §§ 581c, 629, 630, 657 – 663, 662.5; CRC 3.1600</p>
15	Reading Week	

Links to State and Federal Courts in California		
California state-federal district chart		
California State Courts		
California Supreme Court & Cases accepted for review (Weekly Case Summaries)	Court of Appeal: 1st District ; 2nd District ; 3rd District ; 4th District ; 5th District ; 6th District	Superior Court by County Local Rules: Superior Cts Map : California Counties by Appellate District
California Federal Courts		
US SCt website / .edu / .com	Fed Ct Appeals 9th Cir.	Fed Trial Ct: So. Dist. ; Cent. Dist. ; East. Dist. ; No. Dist.
Other federal cts (including Bankruptcy, click "9")	Electronic Access to Courts	Federal District Court: filings and dockets Local Rules: Fed Cts
Links to Codes, Constitutions, Forms, and Rules		

<p>United States Code Constitutions: California & US</p>	<p>Federal Rules: Civil Procedure; Appellate Procedure; Evidence Crim Pro;</p>	<p>California: Rules of Court Judicial Council Forms Evidence Code</p>
<p>Daily Case Reporters for California</p>		
<p>California Daily Opinion Service (The Recorder)</p>	<p>Daily Appellate Report (L.A. & S.F. Daily Journal)</p>	<p>California Courts Official Webpage Supreme Court & Court of Appeal</p>
		<p>Generic California Motion Forms</p>
		<p>click here How to present a case</p>

Last Home Page rev: 01/18/12