

WESTERN STATE COLLEGE OF LAW

CALIFORNIA CIVIL PROCEDURE: Section 416A -- Spring 2015

SYLLABUS

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A. Objectives:

This three (3) credit, semester long, elective course will cover the major areas of Civil Procedure in California. To the extent we touch on Civil Procedure in the federal courts it will be for the purpose of comparison and contrast. While many of the topics will be the same (such as pleadings, joinder, class actions, summary judgment, dismissal, subject matter jurisdiction, personal jurisdiction, venue, service of process, discovery and preclusion), many will be new (such as statutes of limitation, conflict of laws, “Doe” defendants and judgments and enforcement of judgments) and many of the procedural rules for familiar topics will be different from the federal rules.

California Civil Procedure is fair game for the California Bar Examination. So one goal of this course will be to introduce you to a bar-tested subject. Another goal, however, is a practical one. We will try to make you more comfortable with civil practice in the California courts. In addition to a study of the rules there will be (as described below in E.) a skills component to the course.

B. Required Text:

1. Heiser, California Civil Procedure, 3rd ed. LexisNexis (2012)(“Heiser”). There is no supplement to the book.

In addition to the required text you will need to have some access to the Federal Rules of Civil Procedure as well as certain California Code sections, primarily from the California Code of Civil Procedure and the California Civil Code. Computer access should be sufficient.

C. Suggested Supplemental Reading (you may, but I would not, purchase this book, it may be available in the library or it may be available on short term loan from me).

1. Slomanson, California Civil Procedure, 5th ed. West (2014)(“Slomanson”)(I have at least one copy of this in my office)

D. Preparing for the Classroom:

I will not belabor the importance of reading the assigned materials and being prepared for classroom discussion. My habit of being prepared for my law school classes carried over

throughout my career. I can never recall being unprepared. You should be developing the habit of always being prepared now. I have a few suggestions in terms of preparation:

1. Brief the cases. You're not too senior to do that. I briefed every case for every class during my law school career. That practice served me well in terms of what I learned and how I did.
2. Read the notes in the book carefully. From the notes you will continue to learn the importance of in depth analysis and nuance.
3. If at first you don't understand something you've read in the book, find a way to understand it. Read it again; read about the subject in the supplemental materials or in materials available in the library; or talk to me (see below). One thing that helps me to understand a complicated area is to make a diagram or a chart or an outline.
4. Talk with your classmates about the materials. Don't underestimate the value of teaching one another.

E. **Skills Exercise and Grading**

My plan at this time is to have a final examination that will count as 75% of the final grade. I am not planning to have a midterm examination but instead to have a skills exercise that will involve drafting a complaint or an answer (or demurrer), discovery requests and responses and perhaps a motion for summary judgment. You will see from the syllabus that I have rearranged the casebook so that we will cover pleadings, dismissal, joinder, discovery and summary judgment first rather than in the middle of the semester.

I believe that imagination, judgment and communication are the most important things for which an effective lawyer is paid. Therefore, we will begin to exercise ours the first week of class. **We will choose the topic for the skills exercise together.** I am going to ask you to come to the first week of class prepared to suggest current topics that would be suitable for a **California state court** complaint. We will want to choose something that is interesting but that preferably has not already been the subject of a lawsuit (much less a decision from the California courts). So, be on the lookout for a suitable topic – the newspapers are a good place to begin. When I last taught this course, for example, our hypothetical lawsuit was by the University of Southern California against the Seattle Seahawks for stealing football coach Pete Carroll

I am open to suggestions for the structure and timing of this exercise but we will do this in **randomly assigned** teams of two and it will count about 25% of the final grade.

F. **Class schedule**

The class is scheduled to meet from 4:15 to 5:45 on Tuesdays and Thursdays in Room 216. I am going to be out of town on Thursday, January 22. So we will not meet that day. To make up for that class, I would like to add ½ hour to the classes on January 15, January 20 and January 27. We can add that half hour to the beginning of the class or to the end of the class or we could add 15 minutes to each end. I have arranged the reading assignments accordingly. However, I don't want to interfere with other parts of your schedule. We will discuss this at our first class.

G. **Classroom Participation**

Legal education is a cooperative, participatory venture and oral communication skills will be important throughout your life. Each of you must be prepared to participate in class on a regular basis. This is especially important in a small class.

Among other reasons for you to be prepared is that it is fairly inconsiderate of the time and efforts of your fellow students to come to class unprepared.

Please note, however, that there is a significant difference between being unprepared and being unable to answer a particular answer. No one knows the answer to every law-related question. You should be sufficiently familiar with the cases, notes, questions and examples to discuss them when called upon to do so.

As you probably know by this time, classroom participation has several benefits. First, if well done, it helps the class. Second, it enables you to test your knowledge and understanding “free.” Except for the skill exercise described above, I don’t grade classroom participation. The more you test your knowledge, the better you will understand the material. Finally, clear oral communication is one of the essentials of a high quality work life.

H. **Attendance and Decorum**

I will take attendance at the beginning of each class by asking you to sign in for the class on a roll sheet. If you are not signed in, you are absent. **In accordance with school rules, if you miss more than four (4), 1 ½ hour classes you will be dismissed from the class.**

It should go without saying but I do not expect that cell phones, i-pods, head phones, blackberries or pagers and the like will be seen, heard or used in the classroom. You may, of course, use your computer but it should be open to course related materials and not to your email, eBay etc. However, the use of computers in the classroom should not interfere with your ability to pay attention to what is going on.

I. **Seating Chart**

We’re not going to have one unless my memory gets so bad that I am unable to remember the names of the relatively small number of students in the class. For convenience purposes you should plan to sit with your skills exercise partner.

J. **Office Hours:**

I am delighted to talk with a student or students almost any time. I will remain after class for questions when that is possible. I will be available by appointment almost every weekday and some weekends. Please make appointments through the Appointment Book located at the faculty reception desk on the third floor. If you cannot make a scheduled appointment, please notify the faculty secretary as soon as possible so that another student can see me during that time slot. If you do not have an appointment and want to “take your chances”, you are welcome to just drop by my office or to call my extension, 1142. If none of this works for you, let me know and we will work something out.

K. Web Course

I have set up a LexisNexis Web Course for this class and I have enrolled you in the course. **Please check the web course by at least January 7.** If you are unable to access it, send me an email or, better yet, see Scott in the library. During the semester I will use the web course to send you emails, make class announcements and post course documents such as this syllabus, practice questions, practice exams and charts and outlines relating to the topics we will study. **You should check the web course regularly during the semester.**

The web course will be important to your success in this class. It would be a very bad idea to dither about making sure you have access to this site. There are computers in the library if you need one.

L. Disability Services Statement

Western State College of Law provides accommodations to qualified students with disabilities. The Disability Services Offices 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 Student 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 then be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but 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."

M. Reading Assignments (subject to modification):

The reading assignment schedule set forth below is arranged by "week." Please note that there are two "weeks" when we meet only once. The first of those is described above in section F; the second is the week of February 16 during which, on account of the school's calendar, we will not meet on Tuesday, February 17. That class will be "made up" on Tuesday, April 28, the last day of classes for the semester.

Week	Subject(s)	Required Reading	Suggested Reading
1 1/13, 1/15	Imagination assignment – see paragraph E. above Introduction Sources of Procedural Law Pleadings The Complaint Amendments	 Heiser, 1-3 Heiser, 5-32 Heiser, 581-594 Heiser, 595-642	 Slomanson, 93-117 <i>Iqbal</i> , 129 S. Ct. 1937 (2009) Slomanson, 142-146
2 1/20	Pleadings (cont'd) The Demurrer/Motions The Answer Cross-Complaints	Heiser, 642-677 Heiser, 642-661 Heiser, 661-669 Heiser, 669-677	Slomanson, 118-141 153-160
3-4 1/28, 1/29, 2/3, 2/5	Joinder of Parties and Claims Permissive Joinder Compulsory Joinder of Parties Interpleader New Party Cross-Complaints and Equitable Indemnity Intervention Capacity, Real Party In Interest and Standing Class Actions	Heiser, 679-791 Heiser, 679-683 Heiser, 683-689 Heiser, 689-691 Heiser, 691-732 Heiser, 733-745 Heiser, 745-76- and Standing Heiser, 760-791	Slomanson, 161-171
5-6 2/10, 2/12, 2/19	Discovery Principles Devices Enforcement	Heiser, 793-885 Heiser, 793-835 Heiser, 836-875 Heiser, 875-885	Slomanson, 231-295

7 7/24, 7/26	Resolution of Cases Before Trial Summary Judgment Default Judgment Involuntary Dismissals Voluntary Dismissal Settlement Arbitration	Heiser, 887-1028 Heiser, 887-908 Heiser, 908-947 Heiser, 947-972 Heiser, 972-977 Heiser, 977-983 Heiser, 983-1028	Slomanson, 297-370
8-9 3/3, 3/5, 3/17, 3/19	Statutes of Limitations and Laches Applicable Time Periods Accrual of a Cause of Action Tolling the Statute of Limitations Commencement of An Action Exhaustion Laches	Heiser, 57-211 Heiser, 57-67 Heiser, 67-118 Heiser, 118-166 Heiser, 167-194 Heiser, 194-205 Heiser, 205-211	
10 3/24, 3/26	California Conflict of Laws Doctrine Historical Evolution Gov't Interest and Tort Cases Contract Cases Statute of Limitations/Choice Miscellaneous Applications	Heiser, 213-332 Heiser, 213-227 Heiser, 227-278 Heiser, 278-314 Heiser, 315-328 Heiser, 328-332	Slomanson, 81-92
11 3/31, 4/2	The Proper Court Subject Matter Jurisdiction Personal Jurisdiction Venue Service of Process Forum Non-Conveniens	Heiser, 333-427 Heiser, 333-339 Heiser, 339-361 Heiser, 361-379 Heiser, 379-404 Heiser, 404-427	Slomanson, 27-80

<p>12 4/7, 4/9</p>	<p>Preclusion Claim Preclusion (Res Judicata) Issue Preclusion (Collateral Estoppel) Privity Judicial Estoppel (Law of the Case)</p>	<p>Heiser, 465-579 Heiser, 465-520 Heiser, 521-556 Heiser, 556-571 Heiser, 571-579</p>	<p>Slomanson, 487-506</p>
<p>13 4/14, 4/16</p>	<p>Trial Proceedings and Post Trial Motions Trial By Jury Trial Without A Jury Judicial Oversight of Juries</p>	<p>Heiser, 1029-1128 Heiser, 1029-1070 Heiser, 1070-1072 Heiser, 1072-1128</p>	<p>Slomanson, 371-414</p>
<p>14- 15 4/21, 4/23, 4/28</p>	<p>Judgments Interest Recovery of Attorneys Fees Recovery of Costs Relief from Judgment Enforcement of Judgments</p>	<p>Heiser, 1127-1257 Heiser, 1127-1139 Heiser, 1139-1182 Heiser, 1182-1214 Heiser, 1214-1224 Heiser, 1224-1257</p>	<p>Slomanson, 415-458</p>

