

# WESTERN STATE COLLEGE OF LAW

## CALIFORNIA CIVIL PROCEDURE: Section 255A – Spring 2013

### 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 – 2012 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 California Practice Guide: 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)

#### Westlaw Classic:

[http://web2.westlaw.com/search/default.wl?DB=TRG-CACIVP&AP=&vr=2.0&fn=\\_top&rs=WEBL12.04&sp=SEARCHIDEN-001](http://web2.westlaw.com/search/default.wl?DB=TRG-CACIVP&AP=&vr=2.0&fn=_top&rs=WEBL12.04&sp=SEARCHIDEN-001).

#### 5. Exams and Grading

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

## 6. 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.*

## 7. Attendance & Decorum

Successful completion of this course is dependent upon satisfaction of the W.S.U. 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.U.'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

## 8. 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.

## 9. 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 my secretary 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.

**11. 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	<p><b><u>Preclusive Effects of Prior Judgments:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Res Judicata</b></li> </ul>	<p><b>CB:</b> 465 - 520</p>
6	<ul style="list-style-type: none"> <li>• <b>Collateral Estoppel</b></li> <li>• <b>Privity</b></li> <li>• <b>Law of the Case</b></li> </ul>	<p><b>CB:</b> 521 – 556</p> <p><b>CB:</b> 556 – 571</p> <p><b>CB:</b> 571 - 579</p>
7	<p><b><u>Pleadings:</u></b></p> <ul style="list-style-type: none"> <li>• <b>The Complaint</b></li> <li>• <b>Amendments</b></li> <li>• <b>“Doe” Defendant Practice</b></li> </ul>	<p><b>CB:</b> 581 – 595  <b>SUPP:</b> CCP §§ 411.10, 422.10-425.13, 446-452; pp. 555-559 (form complaint)</p> <p><b>CB:</b> 595 – 606  <b>SUPP:</b> CCP §§ 472, 473(a), 474</p> <p><b>CB:</b> 607 – 642  <b>SUPP:</b> CCP §§ 350, 474, 583.210, 583.250, 583.420(a)(1)</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 – 824; <i>Coito v. Superior Court</i>, 54 Cal. 4<sup>th</sup> 480; 278 P.3d 860 (2012); 827 - 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	<p><b><u>Discovery (cont'd)</u></b></p>	<p><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)</p>
13	<p><b><u>Resolution of Cases Before Trial</u></b></p> <ul style="list-style-type: none"> <li>• <b>Summary Judgment</b></li>   <li>• <b>Default Judgment</b></li> </ul>	<p><b>CB:</b> 887 – 908 <b>SUPP:</b> CCP §437c; CRC 3.1350</p> <p><b>CB:</b> 908 – 947 <b>SUPP:</b> CCP §§ 473(b), 473.5, 580, 585-</p>

		586; pp. 565-566 (request for entry of default form)
14	<p><b><u>Trial Proceedings and Motions</u></b></p> <ul style="list-style-type: none"> <li><b>Trial by Jury</b></li> <li><b>Trial Without a Jury</b></li> <li><b>Directed Verdict, JNOV and New Trial Motions</b></li> </ul>	<p><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,</p> <p><b>CB:</b> 1070 – 1072  <b>SUPP:</b> CCP §§ 662, 631.8(a); CRC 3.1590(a), (d), (h) and (n)</p> <p><b>CB:</b> 1073 – 1125  <b>SUPP:</b> CCP §§ 581c, 629, 630, 657 – 663, 662.5; CRC 3.1600</p>
15	Reading Week	

<b>Links to State and Federal Courts in California</b>		
<a href="#">California state-federal district chart</a>		
<b>California State Courts</b>		
<b>California Supreme Court &amp; Cases accepted for review</b> (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>		
<b>US SCt website / .edu / .com</b>	<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><a href="#">Daily Case Reporters for California</a></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><a href="#">Links to Other Jurisdictions</a></b>		<b>Generic California Motion Forms</b> <a href="#">click here</a>  <a href="#">How to present a case</a>
<a href="#">State Court Structure Charts</a> (all states)	<a href="#">Administrative Office of the</a> <a href="#">United States Courts</a> (Newsroom, Library, Links)	

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