A. Objectives:

This three (3) credit, semester-long course is the first half of the required six (6) credit courses which will explore the procedural rules which govern civil (as opposed to criminal) disputes. During the fourteen weeks of this course you will:

1. Explore some of the basic issues of Civil Procedure including personal and in rem jurisdiction, subject matter jurisdiction, choosing the forum for litigation, pleadings (how the dispute is framed), and the sometimes complex rules that help to determine whether a federal court hearing a dispute will apply federal or state law (and if state law, which state's law);

2. Come to appreciate the procedural structure of the overall litigation system by gaining an understanding of the policies and goals that underlie the structure;

3. Learn something about the complexities of “our federalism,” a phrase which refers to our system of government, composed of fifty semi-sovereign states under the umbrella of our national (federal) government. This means not only learning about the framework of the civil dispute resolution process, but also examining a host of complex issues that arise involving where disputes get resolved (state or federal court, or which state among the fifty states that are part of our national union);

4. Observe, in the context of procedural law, how and why law changes over time; and

5. Begin to develop the analytic and strategic skills necessary for success in law school and in the practice of law. In other words, you will begin to “think like a lawyer.”

B. Required Texts:


2. Freer & Perdue, 2015 Update Memorandum (“Update”) (available to download from Web Course)

C. Suggested Supplemental Reading:

I do not necessarily recommend that you buy both of the books listed below. I do recommend that you consider buying at least one of them. Look them over (you may find them in the library). I think you will find these two Glannon resources to be very helpful supplemental resources that, in conjunction with your assigned readings, will give you a clearer sense of the lay of the land. Pick the one that seems more helpful to you. There are earlier editions to each of these supplements that you may be able to find on the used book market. However, these earlier editions were published in 2008 and 2009. While much of the law of Civil Procedure has not changed significantly in the intervening years, there are some important areas where significant changes have occurred.


D. Preparing for the Classroom:

A centerpiece of this course will be the Federal Rules of Civil Procedure (“FRCP”) which are the rules applicable in civil litigation in federal court. Many states have modeled their own procedural rules after the FRCP, but not California. Nevertheless there are many similarities between “California procedure” and “federal procedure.” Over the course of the year, we will note some of the key similarities and differences, but our focus will be on federal procedure. Once you learn that system of procedure well, learning about differences in procedural rules in California and other states will be much easier.

It is important to understand, however, that the law of Civil Procedure is derived from a wide variety of primary legal authorities besides the FRCP. So you will be looking not just at “rules” (drafted by the Advisory Committee on Rules of Civil Procedure and adopted by the Supreme Court), but also at statutes (enacted by Congress), the Constitution, and case law interpreting the rules, statutes and constitutional provisions. For example, the law of personal jurisdiction is largely constitutional case law (interpreting the due process clause of the 14th Amendment). By comparison, the subject matter jurisdiction of federal courts is defined by Article III of the United States Constitution and federal statutes enacted by congress under authority given to congress by Article III. And to take one more example, the FRCP set out the “pleading” rules that establish the requirements the parties must adhere to in setting forth their claims and defenses in a lawsuit filed in the federal courts. But even where a rule, statute, or constitutional provision (or some combination of the three) seems to govern a particular procedural issue, courts are called on to interpret these various written laws. Not surprisingly, these interpretations by different courts, reflected in judicial opinions, are sometimes conflicting.
Therefore, although this course deals with written procedural rules, statutes, and constitutional provisions, we will read judicial opinions too, much as you do in your other classes. But unlike some of your other classes, where almost all of the primary legal authority you study is case law, in Civil Procedure you must learn to read cases in the context of the rules, statutes and constitutional provisions they interpret and apply. Therefore, to adequately prepare for class, you must read all the assigned materials carefully, including assigned cases from the “casebook” and the listed rules, statutes, and constitutional provisions that can all be found in the “rules supplement” (see class by class reading assignments listed below).

Also, the casebook authors will often pose questions and problems at the end of a segment of reading. It is important that you apply what you have read to answer their questions/problems as part of your class preparation. This “application” work will help you get more out of the reading assignment, gain a deeper understanding of class discussion, and in the long run, help you learn the material in a deeper way that will “stick” for a longer period of time.

The Glannon recommended reading texts are particularly helpful in giving you additional opportunities to “apply” what you are learning to other factual scenarios. They are relatively easy to read; the Glannon Guide text contains multiple choice questions followed by the answers and the Glannon Examples text contains short hypotheticals followed by narrative answers. Both books give you immediate feedback on your thinking and they are a very good check during the semester to make sure you are understanding the materials we are studying. They are also very good practice for your exams.

In addition to the required and recommended texts, there is another learning resource available to you at your option. This resource is a set of computer-aided exercises known as “CALI” exercises. You can access these CALI exercises on computers in the computer lab in the Library, or online from your own computer through the library portal (http://westl.iii.com/screens/databases.html), or the CALI website (www.cali.org). The CALI exercises cover a variety of civil procedure topics and can be a valuable way to strengthen your ability to deal intelligently and creatively with the issues and concepts explored in class. Maximum benefit can be derived by performing these exercises in teams of two or more students.

E. Practice Questions, Exams and Grading:

Throughout the semester, I will be happy to review with students answers to practice exams and practice questions that I will distribute from time to time. We will review some of these in class and you may choose to review some with me in my office. Do not wait until the end of the semester to begin taking practice exams and answering practice questions.

There will be a graded mid-term exam and a final exam. The mid-term exam will consist of one essay question and several multiple-choice questions. The final exam will likely contain one or two essay questions, multiple-choice and perhaps some short-answer questions. The final course grade will be based on a 10% weighting of the mid-term exam and an 85-90% weighting of the final examination.
I may administer announced or unannounced quizzes during class or online. The scores on any such quizzes will be weighted no more than 5% of in determining the final grade.

F. Classroom Participation:

Legal education is a cooperative venture and oral communication skills will be important throughout your professional life. Each of you must be prepared to participate in class on a regular basis. If you have not read the materials you are unprepared. I will periodically call on students in class at random to describe cases or rules and to answer questions. Even though some students find this method unattractive or intimidating, overcoming intimidating circumstances is an important and time tested part of the legal education process. And the single most effective way to overcome the intimidation is to be prepared.

Among other reasons for you to be prepared is that it is fairly inconsiderate of the time and efforts or 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 QUESTION CORRECTLY. No one knows the answer to every law-related question. An important part of the learning experience is testing your own opinions and conclusions. You will not be penalized for venturing an incorrect answer as long as it is a thoughtful answer based on preparation. An important part of the learning process involves thinking out loud and making mistakes. Just make sure you are sufficiently familiar with the cases, statutes, rules, questions and problems that you are able to discuss them when called upon to do so.

G. 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 ACADEMICALLY DISMISSED FROM THE COURSE.

You should be in your seat at the commencement of class to be counted as present for the class. Once again it is fairly inconsiderate of the other students and of the professor to walk in late. Similarly, you should not leave until the end of class. If you have an emergency that causes you to have to leave during the class, please do so unobtrusively. If you have a disability which prevents you from remaining in your seat during the class, please contact the Registrar or the Academic Dean.

I expect that cell phones, iPods, head phones and the like will be not be seen, heard or used in the classroom. You may use your laptop computer but it should be open to course related materials. With respect to note taking and laptops, studies have shown that students do better on exams when they take notes by hand (the old fashioned way). See http://www.theatlantic.com/technology/print/2014/05/to-remember-a-lecture-better-take-notes-by-hand/361478/. The theory behind this finding is that students who take notes by hand are forced to listen more and write down what is important, because they can’t write fast enough to
take down everything. Notetakers who use laptops are more likely to subconsciously turn into scribes, simply transcribing things verbatim. As they shift into scribe-mode they stop actively listening. As a result they retain less and understand less. The above study found that even when laptop note-takers were told in advance not to be a scribe, but to listen and take notes in your own words, it still didn’t make a difference. Laptop notetakers performed worse on tests. So please remember that technology is a tool. It cannot replace the wonderful learning tool that is your mind. Do everything you can to make sure that your mind is fully engaged during class, and that even when you are not directly participating in class discussion that you are actively listening and thinking.

H. Seating Chart:

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

I. Office Hours:

I am delighted to talk with a student or students almost any time. Often the best time to ask questions is right after class when your questions are fresh, and I am happy to remain after class to discuss any questions that come up. I will also have office hours on Mondays and Wednesdays from 3:00 to 5:00pm. You may drop in any time during those hours. Or you may schedule an appointment in advance, either during those office hours or at any other time that is mutually convenient. Please contact my assistant, Christy Alvarez, to schedule appointments. You can reach her in person (her desk is right outside my office), by phone (714-459-1168), or by email (calvarez@wsulaw.edu). If you cannot make a scheduled appointment, please notify Christy as soon as possible so that time can be freed up for another student. You can also reach me directly by email (aeasley@wsulaw.edu) with any questions you might have.

J. Web Course:

Sometime before the first day of class I will set up a LexisNexis Web Course for this class. DURING ORIENTATION YOU WILL BE TOLD HOW TO REGISTER WITH LEXISNEXIS. YOU WILL THEN BE ENROLLED IN THE WEB COURSE FOR MY CLASS AND WILL BE ABLE TO ACCESS MATERIALS POSTED TO THE WEB COURSE SITE. During the semester I will use this web course to send you emails, make class announcements and post course documents such as this syllabus and charts, questions, outlines and other documents that pertain to the topics we will study. I will not bring “handouts” to class – they will always be posted on the web course for you to download on your own. I may also use the web course to post practice exams. Finally the web course can be used to hold out-of-class discussions.

The web course will be important to your success in this class. Please make sure you have access to the site. You should test your access BEFORE the first day of class. There are computers in the library if you need one.
### K. Reading Assignments (subject to modification):

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<th>Recommended Supplemental Reading and CALI Exercises</th>
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<td>Introduction</td>
<td>Check your access to web course&lt;br&gt;Check your access to web course&lt;br&gt;Rules Supplement, pages XIII-XXV (“An Outline of the Procedure in a Civil Action”)&lt;br&gt;Freer &amp; Perdue 1-19</td>
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<td>Long-Arm Statutes</td>
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<td>Update 9-18 <em>(Daimler)</em>&lt;br&gt;Freer &amp; Perdue 100-106 (notes after Goodyear)</td>
<td>Examples 3-25 (covers the gamut from <em>I. Shoe to Goodyear</em>)&lt;br&gt;Guide 97-105&lt;br&gt;CALI Exercise: Jurisdiction over the Person (CIV19)&lt;br&gt;(consider whether the answer to Q23 should change after <em>Goodyear</em>)</td>
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<td>8</td>
<td>In rem Jurisdiction</td>
<td>Freer &amp; Perdue 106-120 (<em>Shaffer</em>)</td>
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<td>9 &amp; 10</td>
<td>Transient presence; doing business; jurisdiction &amp; the internet</td>
<td>Freer &amp; Perdue 121-127; 135-137; “handout” (<em>Burnham; Music Millenium</em>)</td>
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| 11 | Notice | Freer & Perdue 143-176 (*Mullan; Triad; Doehr*)
FRCP 4 | Examples 347-367
Guide 157-177 |
| 12 & 13 | Subject Matter Jurisdiction: Diversity | Freer & Perdue 177-214
(*Strawbridge; Mas; Randazzo; Hertz; Belleville*)
US Constitution, Article III
28 USC §1332 | Examples 89-107
Guide 3-25 |
| 14 | Subject Matter Jurisdiction: Federal Question | Freer & Perdue 214-233 (*Mottley; Grable*)
US Constitution, Article III
28 USC §1331 | Examples 63-87; 109-121
(the latter clarifies the difference between personal jurisdiction and subject matter jurisdiction)
Guide 27-40 |
| 15 | Midterm Exam (approximate date) |  |  |
| 16 | Subject Matter Jurisdiction: Removal | Freer & Perdue 233-239
28 USC §§1441 and 1446-1448 | Examples 123-139
Guide 53-70 |
| 17 | Venue, Transfer and Forum Non Conveniens | Freer & Perdue 241-242; 245-271
(*Bates; Piper*)
28 USC §§1391, 1404 and 1406 | Examples 141-158; 238-240; 247-249
Guide 179-199
CALI Exercise: Jurisdiction and Venue (CIV03) |
| 19 & 20 | Pleadings: Complaint; Voluntary and Involuntary Dismissal | Freer & Perdue 283-328 (*Dioguardi; Twombly; Iqbal; Swanson; Leatherman*) FRCP 7, 8, 9, 10, 41(a) and (b) | Guide 285-297 |
| 22 | Pleadings: Amendments; Rule 11 | Freer & Perdue 337-359 (*Marsh; Rector*) FRCP 11 and 15 | Examples 385-408 Guide 307-336 |
| 23 & 24 | The *Erie* Doctrine: When must a federal court apply state law | Freer & Perdue 535-555 (*Erie; York; Ragan; Byrd*) U.S. Constitution, Article VI, cl. 2 28 USC §1652 | Examples 177-205 Guide 201-228 CALI Exercise: *Erie* Doctrine 1: *Erie* Basics (CIV22) |
| 25 | *Erie*: *Hanna* and the FRCP | Freer & Perdue 555-570 (*Hanna*) 28 USC §2072 | Examples 205-228 Guide 228-240 |
| 26 & 27 | *Erie* Refinements | Freer & Perdue 570-605 (*Gasperini; Shady Grove*) |
| 28 | Finish | | |
Getting started with LexisNexis Webcourses

Student Instructions

Enrolling in your Web Course

Your professor will let you know if you need to self enroll or if he or she has already enrolled you. If your professor has enrolled you, skip to the next section below. Otherwise, follow these simple instructions to enroll for the first time:

1. Go to http://webcourses.lexisnexis.com/
2. Click on the Login button
3. Enter your LexisNexis ID and click the Login button
   Note: If you get an error message "Invalid ID: If you have not registered your LexisNexis ID, please use the registration links below.", then you must first register your LexisNexis ID. Choose the "Law School Student Registration" link to register your LexisNexis ID, then repeat steps 1, 2 and 3.
4. Click on Browse Course Catalog
5. Click on the link for your school
6. Select your course and click Enroll

To access your LexisNexis Web Course once you have been enrolled:

1. Go to http://webcourses.lexisnexis.com/
2. Click on the Login button
3. Enter your LexisNexis ID and click the Login button
4. From the Course List, select the specific course you would like to access (this will only show the Web Courses for which you have enrolled)

Using your LexisNexis Web Course

Once you log into a Web Course, you will immediately see:

- the main course window in which Announcements will be posted
- Navigation buttons on the left for accessing different types of information and documents posted by your professor

Communicating with classmates and your professor through LexisNexis Web Courses

- Send an e-mail to your classmates, groups of classmates, or your professor – Click on the Communication button from the Navigation area; click Send E-mail; select the recipients to which you wish to send your e-mail
- Participate in a discussion forum with your classmates – Click on Communication from the Navigation area; click Discussion Board (or your professor may have selected Discussion Board as one of the navigation buttons); you may Reply to an existing message or Start a New Thread

Manage your course with Student Tools

- Send documents to your professor or classmates – click Student Tools from the Navigation area; click Dropbox; click Browse and select the file you wish to send
- Check grades – if your professor has created on-line quizzes, you may be able to check your grades by clicking Student Tools from Navigation area; click Check Your Grade; select the specific Quiz/Exam
- jot down notes regarding your course – click Student Tools, click Electronic Blackboard; type notes in the text box; click Save.