

**WESTERN STATE COLLEGE OF LAW
AT WESTCLIFF UNIVERSITY**

CALIFORNIA CIVIL PROCEDURE: Section 255A – Fall 2020

SYLLABUS

Professor Glenn S. Koppel
Office: Bldg. 9 – Office 513
Phone: 714-459-1143
Email: gkoppel@wsulaw.edu

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 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 and Online links:

- California Civil Procedure, Fourth Edition, Walter W. Heiser; Carolina Academic Press
- Civil Procedure in California – State and Federal – 2020 Edition – Supplemental Materials for use with all Civil Procedure Casebooks, David I. Levine and Mary Kay Kane (West).
- Here is the link to the *Rutter Group California Practice Guide: Civil Procedure Before Trial* on Westlaw - [https://www.westlaw.com/Browse/Home/SecondarySources/CaliforniaSecondarySources/RutterGroupPracticeGuidesOtherPublications/CivilProcedureBeforeTrialTheRutterGroupCaliforniaPracticeGuide?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Browse/Home/SecondarySources/CaliforniaSecondarySources/RutterGroupPracticeGuidesOtherPublications/CivilProcedureBeforeTrialTheRutterGroupCaliforniaPracticeGuide?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

If you have not yet registered for Westlaw, please see Sarah Eggleston in the Library.

3. Exams and Grading

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

4. Class Participation and Preparation

Legal education is a cooperative 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. If you have not (a) read each week's assigned materials and (b) briefed all assigned cases, you will be unprepared. I will call on students to answer questions concerning that week's assigned cases and Notes and Questions in the casebook.

It is estimated that, on average, the assigned reading and other classroom preparation should require six or more hours outside of class for each class session. Please be aware that coverage of some topics might continue over the subsequent class sessions.

5. 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 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.**

Requirements for Students in Zoom Sessions: My Personal Meeting Id is 805 074 9594. The Zoom link:

<https://zoom.us/j/98023215995?pwd=SXVmY1pqU3RXZGF5VIM3Z3hoS1ZCUT09>

- **Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.**
- **Arrive to class early and dressed as you would to attend an in-person class.**
- **Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.**
- **Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.**
- **Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.**
- **If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.**
- **If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.**

- **Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.**
- **Sign into Zoom with the name under which you are registered for class. If you prefer to be called by a different name or nickname, please notify your professor in advance so you are not marked absent.**
- **Unless your professor instructs you otherwise, mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions.**
- **Zoom classes are not YouTube or Netflix. You should be actively engaged in answering questions, taking notes, writing down questions you wish to ask later during class or during office hours, etc. This will not only help you stay engaged and participating in class, it will also help your learning in the online format.**
- **If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you will resolve that technological issue before your first class session and consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.**
- **Zoom has a number of tools available to you as a student: yes/no symbols, raise hand and thumb icons, share screen (with permission of the professor), chat windows, etc. Please familiarize yourself with those tools before class so that you can use them as requested by the professor. Your professor will inform you about the ways in which you should use these tools in that particular class.**

6. Virtual Office Hours:

I will hold Virtual Office Hours online on Zoom. The Zoom ID is **805 074 9594**. I will be available for Virtual Office Hours by appointment. To schedule an appointment, log on to LexisClassroom and click on Scheduler. The Zoom link is <https://zoom.us/j/8050749594>

7. 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.

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 Students Services suite #111. 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 Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

9. 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.

5	<u>Judgments:</u> <ul style="list-style-type: none"> • Res Judicata 	CB: 449 - 503
6	<ul style="list-style-type: none"> • Collateral Estoppel • Privity • Law of the Case; Judicial Estoppel 	CB: 503 – 538 CB: 538 – 551 CB: 551 - 559
7	<u>Pleadings:</u> <ul style="list-style-type: none"> • The Complaint • Amendments • “Doe” Defendant Practice 	CB: 561 – 574 SUPP: CCP §§ 411.10, 422.10-425.13, 446-452; pp. 555-559 (form complaint) CB: 574 – 585 SUPP: CCP §§ 472, 473(a), 474 CB: 585 – 619 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: 619 – 633 SUPP: CCP §§ 430.10-430.80, 472a(a)-(c); CRC 3.1320 CB: 633 – 636 SUPP: CCP §§ 425.16-425.18, 435-437, 438, 472a(d) CB: 636 – 644 SUPP: CCP §§ 431.10-431.30; pp. 563-564 (form answer) CB: 644 – 653 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: 655– 659 SUPP: CCP §§ 378, 379</p> <p>CB: 659 – 665 SUPP: CCP § 389</p> <p>CB: 665– 667 SUPP: CCP § 386</p> <p>CB: 667 – 776 SUPP: CCP §§ 428.10-428.20</p> <p>CB: 708 - 717 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: 733 – 767 SUPP: CCP § 382; CRC 3.760-3.771 Add: Cal. Civil Code § 1781</p>
11	<p><u>Discovery</u></p>	<p>CB: 769 – 807 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 (cont'd)</u></p>	<p>CB: 807 - 860 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: 861 – 881 SUPP: CCP §437c; CRC 3.1350</p> <p>CB: 908 – 916 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: 998 – 1010; 1012 – 1014 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: 1026 – 1028 SUPP: CCP §§ 662, 631.8(a); CRC 3.1590(a), (d), (h) and (n)</p> <p>CB: 1028 – 1076 SUPP: CCP §§ 581c, 629, 630, 657 – 663, 662.5; CRC 3.1600</p>
15	Reading Week	

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

