

**WESTERN STATE UNIVERSITY COLLEGE OF LAW
At Westcliff University**

**CIVIL PROCEDURE I, Section 141 C
SYLLABUS AND COURSE POLICIES – Fall 2022**

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A. LEARNING OUTCOMES:

Program Level (JD Program):

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.

Course Level Learning Outcomes:

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. **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. 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."

C. **REQUIRED TEXTS:**

1. Freer, Perdue & Effron, Civil Procedure: Cases, Materials & Questions ("Freer"), 8th ed. Carolina Academic Press, 2020 (NOTE: the 7th edition is out of date)
 - In addition, the authors have provided a brief 2022 update to their book, free of charge, which will be available on our web course ("Freer 2022 Supplement")
2. Federal Rules of Civil Procedure, West Academic, 2022-23 Educational Edition (the "Rules Supplement") (NOTE: earlier editions are out of date)
3. Upchurch, Gilles & Ho, Click & Learn: Civil Procedure ("**Click & Learn**"), Carolina Academic Press, 2020

Click & Learn is a special online tool to help guide students through the complex subject of Civil Procedure, using a combination of specially prepared FAQs and many quizzes using a variety of different quiz formats to test your understanding of concepts and help you learn. Once purchased from Carolina Academic Press you will have access to these materials for the entire academic year for both your Civil Procedure I and Civil Procedure II courses.

You can purchase **Click & Learn** at this link: <https://clickandlearnguide.com/>. Click on the green "Create Student Account" button on the bottom right corner of your computer screen.

It is important when you are creating your account to select Western State as your school. Please note that Carolina Academic Press still lists our name as Western State University College of Law. That is an older version of our name.

You will have an opportunity when you are creating your account to enter a "class code." The **class code** for this section of Civil Procedure is **322-48-6720**. Please make sure you enter this class code, as it will link you to this class so you can see what segments of **Click & Learn** have been assigned for this class and at what time during the semester. If you enter your class code incorrectly, you can go back to "My Account" and correct the class code entry.

Please note: The assignments from **Click & Learn** that are listed below are required assignments. Your "scores" on the **Click & Learn** quizzes will NOT be incorporated into your course grade, because I do not want you to be afraid of getting wrong answers on those quizzes. Whether you get right or wrong answers, you are still learning. But you must complete all the required **Click & Learn** assignments to complete this course.

For reference, assignment labels include: PMP = Practice Makes Perfect Questions; R&U = Reading and Understanding Questions

D. Background as you approach the subject of Civil Procedure:

A centerpiece of this year-long course (though we will not turn our focus to it until the middle of the fall semester) 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**" (written rules drafted by the Advisory Committee on Rules of Civil Procedure and adopted by the Supreme Court), but also at **statutes** (laws 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 two more quick examples, the FRCP set out the “service of process” rules that dictate to the party bringing a lawsuit (plaintiff) how the party being sued (defendant) must be notified that a lawsuit has been brought against the individual in federal court. The FRCP also set out the “pleading” rules that establish the requirements the parties (plaintiff and defendant) must adhere to in setting forth their claims and defenses in that lawsuit. 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).

If you are looking for some additional help on understanding the difference between the constitution, statutes, rules of procedure and judicial opinions, **Click & Learn** has a nice primer on this subject (**Unit 0 = “Basic Skills and Fundamentals for Your Civil Procedure Class”**):

C&L Unit 0, Part 2: How to Read Constitutional and Statutory Text

Ch I. Why Study the Constitution and Statutory Text in Civil Procedure?

- A. How Is the US Constitution Relevant to Civil Procedure?
- B. How Are Statutes Relevant to Civil Procedure?

Ch II. The Three-Step Process for Reading the Constitution and Statutes

- A. An Explanation of the Three Steps
- B. Additional Tips for Reading

Ch III. The Three-Step Process in Action

- A. How to Apply the Three-Step Process with Constitutional Text [3 PMP Qs](#)

B. How to Apply the Three-Step Process with Statutory Text [4 PMP Qs](#)

C&L Unit 0, Part 3. How to Read Cases for Civil Procedure

Ch I. Introduction to Case Reading

- A. Why are Civil Procedure Cases Challenging for Law Students?
- B. What is the Goal of Civil Procedure Cases?

Ch II. Reading Tips

- A. Three-Step Approach to Effective Case Reading
- B. Detailed Explanation of our Reading Tips
- C. Visual Summary of our Three-Step Process

C&L Unit 0, Part 4: What are The Federal Rules of Civil Procedure, Where do they come From & How to Read a Rule

Ch I. Federal Rules of Civil Procedure (FRCP) — FAQs

Ch II. How to be an Expert Rule Reader

- A. How to Read a Rule (of FRCP) in Three Steps
- B. Applying Three-Step Process to FRCP Rule 7 (With a Little Help) [10 PMP Qs](#)

Also very helpfully, 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.

E. Expectations for outside preparation time required for this class:

While the amount of time you need to set aside for class preparation will vary with the degree of difficulty of the materials we will be discussing, I would anticipate that you should be devoting a **minimum of six hours of outside of class study time for each three-hour weekly class session**, and often more than that. I include in “preparation time” reading the assigned materials, group study, case briefing and outline preparation, going through the exercises and assignments for **Click & Learn**, taking practice tests, reviewing my comments on your practice answers, and time that you and I might spend going over materials during office hours.

Complete each week’s assignments in the column labeled Required Reading PRIOR to class and C&L and other assignments (some prior to class and some after class as indicated in the below assignment chart).

Prepare for class by following the below approach BEFORE each class:

1. First, read the assigned casebook pages and, if assigned for that week, any rules, statutes, and constitutional provisions. Most of the federal rules in the rules supplement are followed by Advisory Committee Notes, which are the FRCP equivalent of the “legislative history” behind the rules. These Notes are a valuable resource to help you to understand and interpret the rules. You are, therefore, required, as part of your preparation for class, to read these carefully as well.
2. Try to answer the Notes and Questions (if available) at the end of each case you read in the textbook. You may be called on in class to answer these questions.
3. Brief each case you are assigned to read. You may be required to submit copies of your case briefs at random so have a written or typed brief ready to turn in (by hand or online -whichever you prefer) on all cases we read in this class.
4. Then, complete the C&L Reading & Understanding Questions assigned for that week as well as any other assignments listed or discussed in class. The purpose of the pre-class questions is to test your understanding of the assigned casebook reading, and other material you have read, to better prepare you to discuss that material in class. Post class assignments are provided to review material we covered in class. PLEASE NOTE: Each assignment has a Due Date by which that assignment must be completed. The professor will monitor each student’s completion of all assignments.

DURING class approach:

1. Do NOT try to write down every word. Your completed case briefs should allow you to make notes and add commentary without needing to write down everything discussed in class since you should have most important details already written in your brief if you are correctly briefing your cases and answering the notes and questions prior to class.
2. Highlight or make a note of key rules and discussion we spent a lot of time discussing in class.
3. Pay attention to examples and hypos as those often form the basis of future exams.
4. Always try to answer the questions being asked in class in your head even if a classmate is the one being called on.
5. Focus on class and don’t allow yourself to get distracted by your phones or the internet or any other distractions in class.

POST-class approach:

1. Review your notes from class while they are fresh in your head. Make a note of any areas of confusion now so you can ask the professor in office hours or after class. Do not be afraid to ask a question if you are confused.
2. Reread any cases or areas of confusion is needed as well as hypos and examples

discussed in class.

3. Complete any post-class C & L assignments or any other assignments listed.
4. Create and regularly update an organization tool (flashcards, outlines, approaches, visual charts, etc.) that will help you memorize and synthesize your rules to prepare for exams.
5. Go to office hours if you need help with anything.

F. 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. *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 at least one essay question and perhaps several short-answer and/or multiple-choice questions. The final exam will likely contain one or two essay questions, and perhaps some multiple-choice and/or short-answer questions. The final course grade will be based on a 25% weighting of the mid-term exam and a 75% weighting of the final examination.

G. 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. Also, 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 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.

H. Attendance, Decorum and Notetaking in class:

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 TWO 3 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. 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 smart phones and the like will not be seen, heard or used in the classroom. You may use your laptop computer, but it should be open only to course related materials. I know that many students use their laptops to take notes in class. I want to make you aware that studies have shown that students do better on exams when they take notes by hand (the old-fashioned way). 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.

I. Seating Chart:

A seating chart will be distributed during one of the beginning classes. 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.

J. Office Hours:

I am delighted to talk with students almost any time. Since the pandemic many students have found Zoom online office hours to be helpful and time efficient. I am happy to have office hours both in person and/or online via Zoom. Since this course is in the evening and many students have full-time responsibilities during the day, I am happy to meet on weeknights or weekends too. Since your schedules all vary, please email to set up an office hour appointment and I will be sure to meet with you at a time convenient for you. I will also hold periodic drop-in office hours both in person and on zoom and will announce those weekly in class and on the course web page (the hours will vary to accommodate varying schedules) and will be in addition to any individual appointments.

K. Web Course:

Sometime before the first day of class I will set up a Lexis Web Course for this class. **DURING ORIENTATION YOU WILL BE TOLD HOW TO REGISTER WITH LEXIS to access the course page. 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 also use the web course to post practice exams. **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.**

L. Reading Assignments (subject to modification):

Week/ Class	Topic	Required Reading PRIOR to Class	Corresponding required assignments – all PRIOR to class unless noted POST class
Class 1 (8/29)	Introduction	<p>Check your access to web course</p> <p>Freer 3-22</p>	<p>C&L Unit 0 (Basic Skills & Fundamentals), Part 1: Introduction to Civil Lawsuits & the Federal Court System</p> <p><u>Ch I. Introduction to Civil Lawsuits</u></p> <p><u>Ch II. Stage of Civil Lawsuits</u></p> <p>A. Where to Sue (Jurisdiction) Stage</p> <p>B. Starting the Case (Pleadings) Stage</p> <p>C. Learning about the Case (Discovery) Stage</p> <p>D. Deciding the Case Stage</p> <p>E. Summary of Stages and Associated Terms</p> <p><u>Ch III. Which Court? (Federal and State Court Systems)</u></p>
	Personal Jurisdiction (PJ) (traditional basis)	Freer 23-34 (<i>Pennoyer</i>)	<p>C&L Unit 1, Part 2: Historical Origins of PJ & Traditional Categories of PJ</p> <p><u>Ch I. Some Suggestions as You Work Through This Part</u></p> <p><u>Ch II. The 3 Types of Personal Jurisdiction: Understanding the Latin Terms</u></p> <p><u>Ch III. PJ's Historical Origins: A Short and Simple Look at <i>Pennoyer v. Neff</i></u></p> <p>A. How to Use this Chapter</p> <p>B. Shortened Treatment of <i>Pennoyer</i> 4 Qs</p>

	PJ (Interim developments)	Freer 34-38 (Hess)	<p>R&U</p> <p>C. In-Depth Treatment of <i>Pennoyer</i> 23 Qs R&U</p> <p>D. The <i>Pennoyer</i> Rule 5 Qs PMP</p> <p>E. Post-<i>Pennoyer</i>: A Quick Look at the Evolving PJ Standard</p> <p>C&L Unit 1, Part 2: Historical Origins of PJ & Traditional Categories of PJ</p> <p>Ch IV. The Quick Routes to PJ: The Traditional Categories</p> <p>D. Tag (Transient, or Presence + Process) Jurisdiction 4 Qs R&U</p> <p>E. Consent 6 Qs R&U</p>
	PJ (Modern Era)	Freer 38-49 (Int'l Shoe, McGee, Hanson, Gray)	<p>C&L Unit 1 Part 3: Reading and Decoding <i>International Shoe</i></p> <p>Ch I. <u>Some Suggestions as You Work Through this Part</u></p> <p>Ch II. Edited <i>International Shoe Case</i></p> <p>Ch III. Working Through the Facts of <i>International Shoe</i> 5 Qs R&U</p> <p>Ch IV. What is the "<i>International Shoe</i>" Test? 4 Qs R&U</p> <p>Ch V. What does "Minimum Contacts" Mean? 7 Qs R&U</p> <p>Ch VI. What Happened to <i>Pennoyer</i> after <i>International Shoe</i> 4 Qs R&U</p> <p>Ch VII. Review of <i>International Shoe</i> Test 4 Qs PMP</p>
Monday 9/5/22 – No Class (Labor Day Holiday)			
Class 2 (9/12)	PJ continued: Statutory limits on PJ (Long-arm statutes)	Freer 138-141	<p>C&L Unit 1, Part 6: Digging Deeper: Working Through the <i>International Shoe</i> Test in Path 2 of the Framework</p> <p>Ch II. Long Arm Statutes</p> <p>A. What Is a "Long Arm" Statute and Why Is It Important?</p> <p>B. How Do I Apply Non-Enumerated (Catch-All) Statutes? 2 Qs R&U</p> <p>C. How Do I Apply Enumerated (List) Statutes? 2 Qs R&U</p> <p>D. Advanced Tips on Reading Long Arm Statutes? 10 Qs R&U</p>

	<p>PJ: Minimum Contacts</p>	<p>Freer 49-73 (<i>World-Wide Volkswagen</i>; <i>Burger King</i> notes)</p>	<p>C&L Unit 1, Part 6: Digging Deeper: Working Through the <i>International Shoe</i> Test in Path 2 of the Framework <u>Ch III. Basic <i>International Shoe</i> Constitutionality Test in Application</u> A. Introduction to the Fundamentals of the <i>International Shoe</i> Two-Part Test B. Minimum Contacts 11 Qs R&U + 7 Qs PMP SKIP 3. What Contacts? The Relatedness Requirement (assigned later) C. Fair Play and Substantial Justice 8 Qs R&U + 9 Qs PMP</p> <p>C&L Unit 1, Part 7: Applying the Minimum Contacts Test <u>Ch II. Minimum Contacts Analysis when the In-State Contacts Are Business Relationships: <i>Burger King v. Rudzewicz</i></u> A. The Decision B. Basic Facts 4 Qs R&U C. Identify the Holding 5 Qs R&U D. Tease out the Basic Rules 9 Qs R&U E. Tease out the "Minimum Contact" Rules for a Contract Dispute 3 Qs R&U F. Check Your Understanding of the Court's Analysis 26 Qs R&U G. What Does <i>Burger King</i> Teach us About Prong 2: FPSJ? 7 Qs R&U</p>
<p>Class 3 (9/19)</p>	<p>PJ: Minimum Contacts continued</p>	<p>Freer 73-91 (<i>Asahi</i> notes; <i>J. McIntyre Machinery</i>)</p>	<p>C&L Unit 1, Part 7: Applying the Minimum Contacts Test <u>Ch IV. Minimum Contacts Analysis when the In-State Contacts Are Part of the Stream of Commerce: <i>Asahi</i></u> A. Introduction: Spotting a Stream of Commerce Fact Pattern 2 Qs R&U B. The <i>Asahi</i> Decision C. Identify the Basics 9 Qs R&U D. Identify the Holding 2 Qs R&U E. Working through the Plurality Split 5 Qs</p>

	<p>PJ: General and Specific Jurisdiction</p>	<p>Freer 91-115 (<i>Daimler AG; Bristol-Myers Squibb Co.</i>)</p> <p>Freer 2022 Supplement 4-21 (<i>Ford</i>)</p>	<p>R&U</p> <p>F. Check Your Understanding of the Court’s Rationale 3 Qs R&U</p> <p><u>Ch V. Minimum Contacts Analysis when the In-State Contacts Are Part of the Stream of Commerce: <i>McIntyre</i></u></p> <p>A. The <i>McIntyre</i> Decision</p> <p>B. Identify the Basics 6 Qs R&U</p> <p>C. Identify the Holding 2 Qs R&U</p> <p>D. Tease out the Basic Rules 11 Qs R&U</p> <p>E. Check Your Understanding of the Court’s Analysis 4 Qs R&U</p> <p>C&L Unit 1, Part 2: Historical Origins of PJ & Traditional Categories of PJ</p> <p><u>Ch IV. The Quick Routes to PJ: The Traditional Categories</u></p> <p>C. General Jurisdiction (AKA “at Home” Jurisdiction or “All-Purpose” Jurisdiction)</p> <p>C&L Unit 1, Part 4: Revisiting General Jurisdiction (“At Home” or All- Purpose PJ)</p> <p><u>Ch I. General (“At Home” or All-Purpose) Jurisdiction</u></p> <p>A. Reading and Understanding Questions 5 Qs R&U</p> <p>B. Practice Makes Perfect Questions 3 Qs PMP</p> <p>C&L Unit 1, Part 6: Digging Deeper: Working Through the International Shoe Test in Path 2 of the Framework</p> <p><u>Ch III. Basic <i>International Shoe</i> Constitutionality Test in Application B. Minimum Contacts</u></p> <p>B. Minimum contacts</p> <p>3. What Contacts? The Relatedness Requirement 18 Qs R&U + 4 Qs PMP</p>
<p>Class 4 (9/26)</p>	<p>PJ & the Internet; Consent & Forum Selection</p>	<p>Freer 115-125 (<i>Telemedicine Solutions LLC</i>)</p>	<p><i>A case involving internet sales is in:</i></p> <p>C&L Unit 1, Part 5: A Suggested Framework for Analyzing Personal</p>

	<p>PJ: In Rem & Quasi-in-Rem Jurisdiction</p> <p>PJ: Transient presence (tagging)</p> <p>Challenging PJ</p>	<p>Freer 125-131 (<i>Shaffer</i>)</p> <p>Freer 131-138 (<i>Burnham</i>)</p> <p>Freer 141-146 (<i>Baldwin</i>)</p>	<p>Jurisdiction Ch IV. <u>Seeing the Framework in Action in a Lower Court Case</u></p> <p>C&L Unit 1, Part 2: Historical Origins of PJ & Traditional Categories of PJ Ch IV. <u>The Quick Routes to PJ: The Traditional Categories</u> F. Property in Forum</p> <p>Already did questions above in class 1 (feel free to review them again)</p> <p>C&L Unit 1, Part 1: Introduction Ch II. <u>Introduction to Personal Jurisdiction (PJ)</u>—<i>Review the FAQs</i> (How is lack of PJ challenged? How does defendant raise lack of PJ?)</p> <p>POST Class: 15 Questions on Personal Jurisdiction through U World (link to access on Lexis Nexis course home page)</p>
Class 5 (10/3)	Review of PJ	<p>Work on organizational tool (outline, flashcards, flow chart, etc.) for PJ – bring to class to do practice essay(s) and MBE questions in class</p>	POST Class: Submit assigned PJ essay (from in class) by next class on course web page
Class 6 (10/10)	<p>Notice & Opportunity To Be Heard</p> <p>How to prepare for midterm and taking law school exams</p>	<p>Freer 151- 173 (<i>Mullane; Nat'l Development Co.</i>)</p> <p>Freer 2022 Supplement p. 22 (read before <i>Nat'l Development Co.</i>)</p> <p>FRCP 4</p>	<p>C&L Unit 2, Notice and Service Ch I. <u>Big Picture Introduction</u></p> <p>C&L Unit 2, Notice and Service Ch III. <u>Constitutional Notice Requirement</u> (<i>Mullane</i>) A. The Key Case of <i>Mullane</i> 11 Qs R&U B. Constitutional Notice 4 Qs PMP</p> <p>C&L Unit 2, Notice and Service Ch II. <u>Service in Federal Courts — FRCP Rule 4</u></p>

			<p>A. Overview 3 Qs R&U</p> <p>B. Service Basics 9 Qs R&U</p> <p>C. Service on Individuals 10 Qs R&U</p> <p>D. Service on Corporations and Other Business Entities 8 Qs R&U</p> <p>E. "Waiver" of (Actual) Service 9 Qs R&U</p> <p>F. Review of Rule 4 Service (and Waiver of Service) 8 Qs PMP</p> <p>Ch IV. Service, Notice and PJ</p> <p>A. Recap Questions 2 Qs Recap</p> <p>B. Application Questions 6 Qs Synthesis</p> <p>POST Class: 15 MBE Questions on U World on Service of Process and Notice</p>
Class 7 (10/17)	Subject Matter Jurisdiction (SMJ): Diversity	<p>Freer 175-213 (<i>Strawbridge; Mas; Randazzo; Hertz; Belleville</i>)</p> <p>Freer 2022 Supplement p. 23 (add to bottom of p. 180 in above reading)</p> <p>US Constitution, Art. III</p> <p>28 USC §1332</p>	<p>C&L Unit 3, Part 1: Introduction</p> <p>Ch I. Background</p> <p>A. Suggestions on How to Use the SMJ Unit—Navigating as a Student</p> <p>B. FAQ's about SMJ: The "Not So Easy" Questions You Need Answers to, But Might Be Hesitant to Ask in Class</p> <p>Ch II. Key SMJ Concepts You Have to Know</p> <p>A. Key Concepts Defined 5 Qs R&U</p> <p>B. Review of Key Concepts 6 Qs PMP</p> <p>C&L Unit 3, Part 4: Diversity (& Alienage/Foreign Citizen) Jurisdiction</p> <p>Ch. I. Big Picture Introduction: Diversity (& Alienage/Foreign Citizen) Jurisdiction</p> <p>A. Diversity SMJ Basics</p> <p>B. Key Constitutional & Statutory Rules 12 Qs R&U + 5 Qs PMP</p> <p>C. What is an Exception to Diversity SMJ? 2 Qs R&U</p> <p>D. What is "Alienage"/Foreign Citizen SMJ? 2 Qs R&U</p> <p>Ch II. Diversity Jurisdiction: "Citizenship" for SMJ</p> <p>A. When do we Decide Citizenship? 1 Qs R&U</p> <p>B. Citizenship of Individuals 10 Qs R&U</p> <p>C. Corporations, Unincorporated Entities & Legal Representatives 19 Qs R&U</p>

			<p>D. Diversity Jurisdiction: Review of "Citizenship" for SMJ 7 Qs Recap + 10 Qs Synthesis</p> <p><u>Ch III. "Alienage"/Foreign Citizen Jurisdiction & US Citizens Domiciled Abroad</u></p> <p>A. Basic "Alienage"/Foreign Citizen Jurisdiction—1332(a)(2) 11 Qs R&U + 6 Qs PMP</p> <p>B. "Alienage"/Foreign Citizen Jurisdiction under 1332(a)(3) 4 Qs R&U</p> <p>C. "Alienage"/Foreign Citizen Jurisdiction under 1332(a)(4) 3 Qs R&U</p> <p>D. Review of "Alienage"/Foreign Citizen and US Citizens Domiciled Abroad 6 Qs PMP</p> <p><u>Ch IV. Amount in Controversy (AIC)</u></p> <p>A. Understanding the Basic Rule 5 Qs R&U</p> <p>B. Does 1332 Only Exist if Plaintiff Seeks Monetary Compensation? 1 Q R&U</p> <p>C. What if Plaintiff Recovers Less Than the AIC? 3 Qs R&U</p> <p>D. When Can Separate Claims Be Aggregated (Added Together) to Meet the AIC? 6 Qs R&U</p> <p>E. "Tricky" AIC Rules 4 Qs R&U</p> <p>F. Review of Amount in Controversy (AIC) 2 Qs Recap + 4 Qs PMP</p> <p><u>Ch V. 1332 SMJ Synthesis</u></p> <p>A. Recap Questions 7 Qs Recap</p> <p>B. Application 15 Qs Synthesis</p> <p>POST Class: 15 MBE Questions on U World on Subject Matter Jurisdiction (Diversity)</p>
Class 8 (10/24)	<p>Midterm (First 90 minutes of class)</p> <p>Second half of class (last 90 minutes) – SMJ continued: Federal Question & Supplemental</p>	<p>Freer 213-233 (<i>Mottley; Grable</i>)</p> <p>US Constitution, Art. III</p> <p>28 USC §1331; 1367</p>	<p>C&L Unit 3, Part 3: 1331 Federal Question SMJ</p> <p><u>Ch I. Big Picture</u></p> <p>A. Introduction to 1331 Federal Question SMJ</p>

	Jurisdiction		<p>B. FAQ on 1331 Federal Question SMJ 9 Qs R&U</p> <p><u>Ch II. 1331 Federal Question SMJ: The Well-Pleaded Complaint ("WPC") Rule</u></p> <p>A. What is the WPC Rule and Why Is the Name Misleading? 9 Qs R&U + 5 Qs PMP</p> <p><u>Ch III. 1331 Federal Question SMJ: The "Centrality" of Federal Law Rule?</u></p> <p>A. What Is the "Centrality" of Federal Law Rule?</p> <p>B. The Creation Test—Easy 1331 Fed Q SMJ 5 Qs R&U</p> <p>C. The Grable Test—Tricky 1331 Fed Q SMJ 12 Qs R&U</p> <p>D. Applying the Grable Test 4 Qs PMP</p> <p><u>Ch IV. 1331 Federal Question Synthesis</u></p> <p>A. Recap Questions 8 Qs Recap</p> <p>B. Application Questions 12 Qs Synthesis</p> <p>C&L Unit 3, Part 6: Supplemental SMJ</p> <p><u>Ch I. Big Picture Introduction to Supplemental SMJ</u></p> <p>A. What is Supplemental SMJ?</p> <p>B. When Would I Use Supplemental SMJ?</p> <p>POST Class: 13 MBE Questions on U World on Subject Matter Jurisdiction (Federal Question)/Supplemental Jurisdiction</p>
Class 9 (10/31)	Removal & Remand; Challenging SMJ	<p>Freer 233-242</p> <p>Freer 2022 Supplement p. 23 (to add to p. 239 above)</p> <p>28 USC §§1441 and 1446-1448</p> <p>FRCP 12(h)(3)</p>	<p>C&L Unit 3, Part 5: Removal & Remand</p> <p><u>Ch I. Introduction—How to Use this Part and Big Picture</u></p> <p>A. Big Picture</p> <p>B. FAQs about Removal (and Remand) 2 Qs R&U</p> <p><u>Ch II. The Fundamental Removal Test (28 USC 1441)</u></p> <p>A. What Do the Different Parts of 1441 Address? 1 Q R&U</p> <p>B. 1441(a) The Basic Removal Provision 16 Qs R&U</p> <p>C. 1441(b) Limits on Removal in Solely 1332 Cases ("In-State Defendant Bar") 11 Qs</p>

			<p>R&U</p> <p>D. What Can Plaintiffs Do to Prevent Removal? 12 Qs R&U</p> <p>E. 1441(c) Removal in 1331 Fed Q Cases 6 Qs R&U</p> <p>F. Can the Plaintiff Remove If the State Court Has No SMJ—1441(f) 4 Qs R&U</p> <p>G. Removal Review 10 Qs Recap + 12 Qs PMP</p> <p><u>Ch III. Removal Procedure (28 USC 1446)</u></p> <p>A. The Process for Removal: 1446(a) and (d) 4 Qs R&U</p> <p>B. The Timing of Removal: 1446(b) 5 Qs R&U</p> <p>C. Can a Defendant Ever Remove a Case Where the Initial Complaint Was Not Removable? 7 Qs R&U</p> <p>D. Removal Procedure Review 6 Qs Recap + 6 Qs PMP</p> <p><u>Ch IV. Remand (28 USC 1447)</u></p> <p>A. The Grounds and Process for Remand 9 Qs R&U</p> <p>B. Remand Review 7 Qs Recap + 4 Qs PMP</p> <p><u>Ch V. Removal and Remand Synthesis</u></p> <p>A. Recap Questions 5 Qs Recap</p> <p>B. Application Questions 10 Qs Synthesis</p> <p>C. Additional Application Questions 10 Qs Synthesis</p> <p>POST Class: 10 Questions on U World on Removal and Remand</p> <p>C&L Unit 4, Part 1: Big Picture Introduction to Venue</p> <p><u>Ch I. What is Venue? 1 Qs R&U</u></p> <p><u>Ch II. Testing Your Understanding of Venue Basics 4 Qs R&U</u></p> <p>C&L Unit 4, Part 2: Venue in the Federal Courts</p> <p><u>Ch I. The Federal Venue Statute: 28 USC 1391</u></p> <p>A. Overview of the Entire Venue Statute 3 Qs R&U</p>
	<p>Introduction to Venue</p>	<p>Freer 243-254 (Bates)</p> <p>28 USC §1391</p>	

		<p>FRCP 7, 8, 9, 10</p>	<p>Commence a Lawsuit 2 Qs R&U Ch III. Review of Pleading Basics—Rules 3, 7 and 10 A. Rule 3: Commencing a Lawsuit 1 Q R&U B. Rule 7(a): Pleadings 9 Qs R&U C. Rule 7(b): Motions 2 Qs R&U D. Rule 10: Format of Pleading 7 Qs R&U</p> <p>C&L Unit 5, Part 2: Pleadings—Plaintiff's Claims (The Complaint) Ch I. Plaintiff's Complaint (and other Pleadings that Have Claims)- FAQs 2 Qs R&U Ch II. Rule 8: What's the Required Content of a Complaint? A. What Are the Three Things that Must be in a Complaint? — Rule 8(a) 16 Qs R&U B. Reviewing Rule 8 Basics 5 Qs PMP Ch IV. Rule 8(a)(2) and the Plausibility Test: What is the Required Content of a Complaint? A. Failure to "State a Claim" under Rule 8(a)(2) — The Easy Cases 5 Qs R&U B. Failure to "State a Claim" under Rule 8(a)(2) — The Plausibility Test (aka, What If There Are Not Enough Facts about an Element?) 16 Qs R&U C. Reviewing Rule 8(a)(2) and the Plausibility Test 11 Qs PMP</p>
<p>Class 11 (11/14)</p>	<p>Pleadings continued: Voluntary & Involuntary Dismissal</p>	<p>Freer 348-351 FRCP 41(a) and (b)</p>	<p>C&L Unit 8, Part 1: Motions During the Early Stages of Litigation Ch II. Voluntary and Involuntary Dismissals: Rule 41 A. Comparing the Rule 41 Dismissals—FAQ 2 Qs R&U B. Voluntary Dismissals under Rule 41(a): The Basics 18 Qs R&U C. Voluntary Dismissals—The Two-Dismissal Rule 13 Qs R&U D. Review of Voluntary Dismissals 7 Qs PMP E. A Quick Look at Involuntary Dismissal—Rule 41(b) 7 Qs R&U + 2 Qs PMP</p>

	<p>Pleadings continued: Defendant's Options in Response: Motions</p>	<p>Freer 351-354 FRCP 12, 55, 60(b)</p>	<p>POST Class: 6 MBE Questions on U World on Adjudication without trial (dismissals)</p> <p>C&L Unit 5, Part 3: Pleadings— Responding to the Complaint: Answers and Motions</p> <p><u>Ch I. Responding to Claims- FAQs on Answers and Motions</u></p> <p><u>Ch III. Rule 12 Motions</u></p> <ul style="list-style-type: none"> A. Understanding Rule 12 Motions — FAQs B. Rule 12(b) Motions to Dismiss 15 Qs R&U C. Review of Rule 12(b) Motions to Dismiss 9 Qs PMP D. Other Rule 12 Motions: Motion for Judgment on the Pleadings, Motion for a More Definite Statement, and Motion to Strike 22 Qs R&U <p><u>Ch IV. Waiver under Rule 12</u></p> <ul style="list-style-type: none"> A. Understanding Waiver under Rule 12 — FAQs B. Waiver under Rules 12(g) and (h) 23 Qs R&U C. Reviewing Waiver 11 Qs PMP <p>POST Class: 9 MBE Questions on U World on Pretrial Motions</p>
	<p>Defendant's Options in Response: The Answer</p>	<p>Freer 355-360 FRCP 12, 55, 60(b)</p>	<p>C&L Unit 5, Part 3: Pleadings— Responding to the Complaint: Answers and Motions</p> <p><u>Ch II. Answers</u></p> <ul style="list-style-type: none"> A. Responding to Claims—FAQs 1 Q R&U B. What should you Include in your Answer (Or Other Responsive Pleading)? (With a Sample Answer) 5 Qs R&U C. Answers: Responding to Allegations (Task One) 15 Qs R&U D. Answers: Pleading Affirmative Defenses (Task Two) 5 Qs R&U E. Reviewing Answers 19 Qs PMP

	<p>Failure to Respond: Default and Default Judgment</p>	<p>Freer 360-363</p>	<p>C&L Unit 8, Part 1: Motions During the Early Stages of Litigation <u>Ch I. Default: Rule 55</u> A. Understanding the Big Picture 3 Qs R&U B. The Process of Default 6 Qs R&U C. Test Your Understanding of This Two-Step Process 14 Qs R&U D. Appearing and Defaulting—A Key Distinction 5 Qs R&U E. What If It Is Too Late? 4 Qs R&U F. Review of Rule 55 Default 2 Qs Recap + 4 Qs PMP</p> <p>POST Class: 5 MBE Questions on U World on Default Judgment</p> <p>POST Class: 6 MBE Questions on U World on Pleadings</p>
<p>Class 12 (11/21)</p>	<p>Pleadings Continued: Amendments; Rule 11</p>	<p>Freer 363-385 (<i>Marsh; Rector</i>) FRCP 11 and 15</p>	<p>C&L Unit 5, Part 4: Amending Pleadings Under Rule 15 <u>Ch I. Introduction to Amendments-FAQs 1 Q R&U</u> <u>Ch. II. Amending Pleadings under Rule 15(a)</u> A. Rule 15(a)(1): The "Freebie" Amendment 12 Qs R&U + 4 Qs PMP B. When to Use Rule 15(a)(1) versus 15(a)(2): Do You Need Permission? 3 Qs R&U + 4 Qs PMP C. Rule 15(a)(2): The "Freely Give Leave/<i>Foman</i>" Amendment 11 Qs R&U + 5 Qs PMP D. Review of Rule 15(a) Amendments 12 Qs PMP</p> <p><u>Ch III. Relation Back under Rule 15(c)(1)</u> A. Introduction to Relation Back —FAQs B. Understanding Rule 15(c)(1): What, When and How to Use It 8 Qs R&U C. Rule 15(c)(1)(B): Relation Back When an Amendment Adds a Claim 5 Qs R&U + 3 Qs PMP D. Rule 15(c)(1)(C): Relation Back When an Amendment Changes the "Named Party" 7 Qs R&U + 5 Qs PMP</p>

			<p>C&L Unit 5, Part 5: Rule 11 Certifications and Sanctions</p> <p><u>Ch I. Rule 11: Understanding the Big Picture - FAQs</u> 1 Q R&U</p> <p><u>Ch II. Focusing on the Details of Rule 11(a) and (b)</u></p> <ul style="list-style-type: none"> A. Signature: Focusing on Rule 11(a) 3 Qs R&U B. Triggering Rule 11: Rule 11(b) 11 Qs R&U C. The Certification: What Are You Promising the Court When You Present a Document? 20 Qs R&U D. Reviewing Rule 11 4 Qs PMP <p><u>Ch III. Rule 11 Sanctions: Process and Types of Sanctions</u></p> <ul style="list-style-type: none"> A. Focusing on Rule 11(c) 2 Qs R&U B. The Process for Imposing Sanctions 8 Qs R&U C. Types of Sanction 6 Qs R&U D. Review of Rule 11 Process and Sanctions 3 Qs PMP <p>POST Class: 11 MBE Questions on U World on Amended Pleadings and Rule 11</p>
Class 13 (11/28)	<p>The Erie Doctrine: When must a federal court apply state law <i>Hanna</i> and the FRCP</p>	<p>Freer 561-577; 582-596 (<i>Erie; York; Ragan; Hanna</i>)</p> <p>U.S. Constitution, Art. VI, cl. 2</p> <p>28 USC §1652 (RDA) 28 USC §2072 (REA)</p>	<p>C&L Unit 9. The Erie Doctrine</p> <p><u>Ch I. How to Use this Unit</u></p> <p><u>Ch II. Big Picture</u></p> <p><u>Ch III. A Step-by-Step Guide (with Flowchart) to the Tough Issues of the Erie Doctrine</u></p> <ul style="list-style-type: none"> A. A Flowchart of How to Analyze Erie Issues B. Step #1 Is There a Conflict? C. Step #2 Select the Correct Test Based on the Type of Federal Law at Issue 1 Q PMP D. Step #3 What's the Test for a Federal Statute? 3 Qs Recap + 3 Qs PMP E. Step #3 What's the Test for a Federal Rule? 3 Qs Recap + 2 Qs PMP F. Step #3 What's the Test for a Federal Practice? 5 Qs Recap + 7 Qs PMP

Class 14 (12/5)	Erie Refinements Final exam review	Freer 597-632 (<i>Gasperini; Shady Grove</i>)	C&L Unit 9. The <i>Erie</i> Doctrine Ch IV. <u>Synthesis of the <i>Erie</i> Doctrine</u> A. Recap Questions 4 Qs Recap B. Application Questions 16 Qs Synthesis POST Class: 21 MBE Questions on U World on Law Applied by Federal Courts
FINAL EXAM TBD – CHECK FINAL EXAM SCHEDULE			