

**WESTERN STATE UNIVERSITY  
COLLEGE OF LAW**

**CIVIL PROCEDURE II: Section 142 C – Spring 2022**

**SYLLABUS AND COURSE POLICIES**

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**1. Objectives:**

During the first semester you explored issues relating to the beginning phases of a lawsuit in federal court: personal and in rem jurisdiction, notice and opportunity to be heard, subject matter jurisdiction, removal, venue and transfer, pleadings, and choice of law (*Erie*). You should retain your notes from the first semester as they will come in handy when you study for the bar exam and when we refer to matters covered in the first semester.

This semester we will begin with joinder of claims and parties in a civil lawsuit including class actions (and the application of supplemental jurisdiction to joined claims that lack an independent basis of subject matter jurisdiction), discovery, pretrial disposition (including summary judgment), disposition at the trial itself, claim and issue preclusion, and appeal. While this semester will be somewhat more practice oriented, the same skills that you developed in the first semester will continue to be developed in Civil Procedure II. For example:

- (a) In order to obtain the maximum benefit from our classroom time (42 hours), you will need to read, and fully engage with, the assigned materials and do your best to understand them **before** class. This includes the required Click & Learn assignments.
- (b) You should continue to practice the *analytical skills* you will need to succeed in law school and in the practice of law – primarily how to read, interpret, apply and distinguish cases, statutes and procedural rules.
- (c) *Vocabulary* is important. Lawyers and judges talk and write like lawyers. Use of the correct legal terms-of-art and complete, coherent sentences is not a sinister requirement of overly picayune law professors. It is essential to the effective study and practice of law. For example, residence is not the same as citizenship; statutes are not Rules [of Civil Procedure]; and the word “jurisdiction” by itself could mean either subject matter or personal jurisdiction. You may find a legal term in your reading for which you just don’t know the meaning. Look up it up in a legal dictionary.

- (d) The ability to apply cases, Federal Rules and statutes to differing fact situations is critical. Imagination, as much as anything else, is what good lawyers get paid for. Sometimes, but not often, a proffered fact pattern will be exactly like the facts of a case or Rule or statute you have read. Exam questions are often variations of well-known cases. And, of course the skill of applying the appropriate law to the client's situation is critical to the practice of law.

Civil Procedure is highly controversial these days. The federal rules were originally intended to eliminate the formalist barriers to justice so that cases can be determined "on the merits." Some critics contend that the liberal ethos of the federal rules has promoted a "litigation explosion" of baseless lawsuits that has clogged our courts and denied justice to all but the wealthiest litigants. These critics advocate more liberal use of summary judgment and arbitration to de-rail litigation out of court at an early stage. The federal courts have responded by raising the pleading bar (*see* *Twiqbal*), making summary judgment a more powerful tool in the hands of defendants (*see* *Anderson v. Liberty Lobby and Celotex*) and by upholding "fine-print" mandatory arbitration provisions in consumer contracts that prohibit class action arbitration. Several years ago, Congress enacted the Class Action Fairness Act to cut back on class actions which is a joinder device intended to empower persons who otherwise might be unable to enforce their rights in court. Others, however, argue that the "litigation explosion" is a myth created by wealthy "repeat-player" defendants to justify "fixing" the rules to make it easier to dismiss claims against them.

Discovery is another bone of contention. Intended originally as a reform measure designed to level the playing field between rich and poor litigants by providing equal access to relevant information, discovery - many experts believe - is out of control, abused by some litigators to achieve unfair tactical advantage in litigation. In response, a series of rules amendments over the years has chipped away at liberal discovery.

As you work your way through this course, you need to ask yourself whether the federal rules have achieved the goals of securing the "just, speedy, and inexpensive determination of every action." (Rule 1)

## 2. **Required Texts:**

- *Civil Procedure: Cases, Materials & Questions*, 8th ed. by Freer, Perdue & Effron; Carolina Academic Press, 2020 ("Freer")
- *Federal Rules of Civil Procedure*, West Academic Publishing, 2020-2021 Educational Edition (the "Rules")
- Click & Learn: Civil Procedure by Angela Upchurch, Susan Gilles, Cynthia M. Ho (Carolina Academic Press).

If you already have a Click& Learn account from the fall 2021 semester, you don't need to purchase access again, but you do need to switch to your new class.

1. Log in to Click & Learn: Civil Procedure Available at <https://clickandlearnguide.com>.
2. Click the [My Account](#) link.
3. Enter the new class code for this class 122-48-1702. **Make sure you have linked your C & L online account to the class code for this class: 122-48-1702**
4. Click the "Join Class" button.

When you initially log in to Click&Learn [C&L: CP], you will be provided some initial quick start instructions about how to use C&L:CP. You will be informed about the different types of questions, as well as how the Table of Contents reveals your progress. It also informs you of available resources online. **For further details on how to use C&L: CP, see the Student Guide to Click & Learn: Civil Procedure accompanying this Syllabus.**

**Also, at any time, you can obtain help online in the SUPPORT tab from three sources:**

- **How to use C&L:CP**
- **Technical Support**
- **Downloadable Table of Contents**

**2. Helpful Supplemental Reading:**

The following books are available in the Library.

- Richard D. Freer, Civil Procedure, Second Edition, Aspen Publishers, Wolters Kluwer.
- Glannon, Civil Procedure, Examples and Explanations, 7th ed. Walters Kluwer, ("Glannon Examples") contains questions followed by narrative answers.
- Glannon, The Glannon Guide to Civil Procedure, 4th Ed. Walters Kluwer ("Glannon Guide") contains multiple choice questions followed by the answers.
- Shreve Raven-Hansen Geyh Understanding Civil Procedure, 5th ed. LexisNexis,
- Friedenthal, Kane & Miller, Hornbook on Civil Procedure, 5th ed. West Academic, 2015

**4. "In-Class" Methodology:**

The centerpiece of this course will be Federal Rules of Civil Procedure [hereinafter, "F.R.C.P."] which is the code of procedural rules applicable in civil litigation in federal court. However, Civil Procedure law is derived from a wide variety of primary legal authority besides the F.R.C.P. For example, the law of claim and issue

preclusion is derived from case law (*see, e.g.*, The Restatement of Judgments (2d)) while supplemental jurisdiction of federal courts is codified in a congressional statute (*see* 28 U.S.C. § 1367)). But even where an F.R.C.P. or statute or constitutional provision governs a particular procedural issue, courts provide their interpretation (sometimes conflicting) through case law.

Therefore, although this course deals with “procedural rules,” we will, nevertheless, heavily employ the same “case method” with which you have become familiar in your “substantive” courses (*e.g.*, contracts and torts) as well as Civ Pro I.

## **5. 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 including the casebook’s Notes and Questions, (b) briefed all assigned cases and (c) *completed the assigned C&L:CP questions* for each week’s classes, 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.

**Class preparation requires that you complete each week’s assignments as follows:**

- 1. Complete each week’s assignments in the column labeled Required Reading and C&L:CP Reading & Understanding Questions before the first class of that week. Complete the assignments in the order in which they are listed in that column:**
  - a. 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 F.R.C.P. 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.**
    - *Carefully read and re-read the cases and Notes and Questions in the casebook*
    - Then brief each black letter case to help you prepare to answer my questions about that case in class.
    - Where the casebook materials refer to a rule and/or statute, you are expected to turn to the rules supplement and look up, and carefully read and re-read, that rule or statute (including Advisory Committee Notes relating to that rule).
  - b. Then, complete the C&L Reading & Understanding Questions assigned for that week. The purpose of these questions is to test your understanding of the assigned casebook, and other, material you have read to better prepare you to discuss and comprehend that material in**

class. PLEASE NOTE: Each C&L assignment has a Due Date by which that assignment must be completed. The professor will monitor each student's completion of the C&L assignments.

2. The C&L assignments in the column labeled **Required C&L Review – Synthesis Questions** are designed for you to review material *after it has been discussed in class*. The purpose of these more advanced *synthesis* questions is to test your understanding of the material *once the issues in that material have been discussed in class*. Each of these assigned synthesis questions also has a Due Date. The professor will monitor each student's completion of the C&L assignments.

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.

6. **Requirements for Students in Zoom Sessions:**

- **The Zoom link:**  
**Civil Procedure II-142-C**

Join Zoom Meeting

<https://zoom.us/j/94450131266?pwd=UVFhUTRxWWZ5ZW9CdEkrM1ZsNGRLQT09>

Meeting ID: 944 5013 1266

Passcode: 147008

One tap mobile

+14086380968,,94450131266# US (San Jose)

+16699006833,,94450131266# US (San Jose)

Dial by your location

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Washington DC)

Meeting ID: 944 5013 1266

Find your local number: <https://zoom.us/u/acaFioAYj2>

- **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.**

**7. Exams and Grading:**

Throughout the semester, I will be happy to review with students, during scheduled consultations on Zoom, student answers to practice exams. You can reserve virtual office appointments through Calendly. Please bring your practice exam answer with you to your consultation. I have posted practice exams, and corresponding Answer Keys containing rubrics, on Lexis Classroom. For the most efficient use of your consultation time, *please use a past examination that I have drafted and that has a corresponding answer key. Do not wait until the end of the semester to begin taking practice exams.* A good time to start would be after we have completed the first unit: joinder of claims and parties. Try your hand at those portions of past final exams dealing with that topic;

There will be a graded mid-term in essay format and a final examination in essay, short-answer, and multiple choice formats. The Final Course Grade will consist of the mid-term (15%) and the final examination (85%).

**7. Attendance & Decorum:**

I will take attendance at the beginning of each class. **IN ACCORDANCE WITH SCHOOL RULES, IF YOU MISS MORE THAN FOUR (4) ONE AND ONE HALF-HOUR CLASSES , OR MORE THAN TWO (2) THREE HOUR CLASSES, YOU WILL BE ACADEMICALLY DISMISSED FROM THE COURSE.**

**8. Virtual Office Hours:**

I will hold Virtual Office Hours online on Zoom and will meet with students for 15 minute slots on Mondays, Wednesdays and Fridays from 3:30 p.m. to 5:30 p.m. To make an appointment, click on to <https://calendly.com/gkoppel/prof-koppel-office-hours-fall-2021>. Just follow the instructions to schedule an appointment and to log into Zoom at the appointed time. The Zoom ID is **805 074 9594**. The Zoom link is <https://zoom.us/j/8050749594>.

If you are unable to show up for a scheduled appointment, please notify me as soon as possible that you are canceling your appointment in order to make room for another student for that time slot.

**10. Online Contact - LexisClassroom:**

I have already set up the Lexis Classroom for this class. You need to enroll in this web course when that procedure has been announced. 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 and outlines that pertain to the topics we will

study. I may also use the web course to post practice exams and sample answers or to administer quizzes. Finally, the web course can be used to hold out-of-class discussions.

To register for the online portion of the course you will need to use Lexis Classroom. You can access this by going to <http://www.LexisNexis.com/LawSchool>. Click on “Training” on the top bar and select “add course” to open the course selection page. Select “K” for Koppel and then click on Glenn Koppel. Please enroll in your class from this screen.

When accessing the class after you have registered you can once again go from the <http://www.LexisNexis.com/LawSchool> under “Lexis Classroom” which take you to the Lexis Classroom dashboard, where you will find all Lexis Classroom courses you are enrolled in. Once you are already logged into Lexis+ (via [LexisNexis.com/LawSchool](http://www.LexisNexis.com/LawSchool) or [Plus.Lexis.com](http://Plus.Lexis.com)) you can access your dashboard directly by going to <https://classroom.lexis.com/>, without going back through the other Lexis pages.

## **11. 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](mailto: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](mailto:aeasley@wsulaw.edu) or (714) 459-1168. Complaints will be handled in accordance with the College of Law’s “Policy against Discrimination and Harassment.”

## **12. 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.

**13. Reading and C&L Assignments: Make sure you have linked your C & L online account to the course code for this course: 220-48-4274**

Week	Subject	<b><u>Required Reading and C&amp;L:CP Reading &amp; Understanding Questions:</u></b> C&L assignments in this column to be completed you read the assigned casebook material, rules, statutes, etc. to prepare you for class discussion ( <i>i.e., before class</i> ).	<b><u>Required C&amp;L Review – Synthesis Questions:</u></b> C&L questions in this column are to help you review topics <i>already discussed</i> in class.
1 1/24	<i>Scope of Litigation – Joinder and Supplemental Jurisdiction</i> A. Introduction and	Freer, pp. 693-694	

	<p><b>Integration</b></p> <p><b>C. Claims Joinder by Plaintiffs</b></p> <p><b>1. Procedural Aspects</b></p> <p><b>2. Jurisdictional Aspects: <i>United Mine Workers v. Gibbs</i></b></p> <p><b>D. Permissive Party</b></p>	<p><b>C&amp;L Unit 6, Part 1: Big Picture for Joinder</b></p> <p><b>C&amp;L Unit 3, Part 6: Supplemental SMJ</b>  <u>Ch I. Big Picture Introduction to Supplemental SMJ</u>  A. What is Supplemental SMJ?  B. When Would I Use Supplemental SMJ?  C. FAQs</p> <p>Freer, pp. 695-698  Rule 18</p> <p><b>C&amp;L Unit 6, Part 2: Claim Joinder</b>  <u>Ch I. Big Picture for Claim Joinder</u>  <u>Ch II. Claim Joinder by Plaintiffs—Rule 18</u>  A. Claim Joinder by Plaintiffs 6 Qs R&amp;U  B. Review of Claim Joinder by Plaintiffs 3 Qs PMP</p> <p>Freer, pp. 698-705  28 U.S.C. §1367</p> <p><b>C&amp;L Unit 3, Part 6: Supplemental SMJ</b>  <u>Ch II. The 1367 Statute</u>  A. Understanding 1367 and Its Sections 4 Qs R&amp;U  B. Additional Practice 2 Qs R&amp;U  <u>Ch III. The Grant in 1367(a): What is the Basic Test for 1367 Supplemental SMJ?</u>  A. Reading and Decoding 1367(a) 4 Qs R&amp;U  B. The Basic Test for 1367 Supplemental SMJ 5 Qs R&amp;U  C. Review of 1367(a) 5 Qs Recap + 6 Qs PMP  <u>Ch IV. The 1367(b) Bar</u>  A. The Origins of the (b) Bar  B. Reading and Decoding 1367(b) 23 Qs R&amp;U  C. Review of the (b) Bar 4 Qs Recap + 7 Qs PMP  D. The "Extra" Limit of the Exxon Bar 8 Qs R&amp;U  E. Review of the Exxon Bar 5 Qs Recap + 4 Qs PMP  <u>Ch V. Discretion to Decline in 1367(c)</u>  A. Reading and Decoding 1367(c) 3 Qs R&amp;U  B. Applying the Factors in 1367(c) 5 Qs R&amp;U  C. Review of 1367(c) 5 Qs Recap + 6 Qs PMP</p> <p>Freer, pp. 705-714</p>	<p><b>Review and Issue Spotting of Joinder of Claims and Parties is in C&amp;L Unit 6, Part 4: Joinder: Issue Spotting and Review</b></p> <p><u>Ch II. Introduction and How to Use this Part</u>  <u>Ch II. Issue Spotting Joinder</u>  A. Selecting the "Correct" Joinder Rule(s) to Apply 4 Qs Synthesis  B. Seller Fact Pattern—Selecting the Correct Rule(s) 6 Qs Synthesis  C. Spotting the Call of the Question when Joinder is Tested in Combination with Other Topics 1 Qs Synthesis  <u>Ch III. Practice Writing a Few Simple Joinder Essays</u>  4 Qs Synthesis</p>
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	<b>Interpleader</b>	<p>D. The "Extra" Limit of the Exxon Bar <b>8 Qs R&amp;U</b></p> <p>E. Review of the Exxon Bar <b>5 Qs Recap + 4 Qs PMP</b></p> <p>Freer, pp. 763-778 Rule 22 28 U.S.C. §§1335, 1397, 2361</p>	
<b>4</b> <b>2/14</b>	<p><b>The Class Action</b></p> <ul style="list-style-type: none"> <li>○ Introduction</li> <li>○ Constitutional Considerations</li> <li>○ Practice under Federal Rule 23</li> <li>○ Jurisdictional Considerations</li> </ul>	<p>Rule 23 Freer, pp. 778-782 Freer, pp. 782-786</p> <p>Freer, pp. 786-815</p> <p>Freer, pp. 816-831</p>	
<b>5</b> <b>2/22<sup>1</sup></b>	<p><b>Discovery</b></p> <p><b>A. Introduction and Integration</b></p> <p><b>B. Required Disclosures</b></p> <p><b>C. Discovery Tools</b></p>	<p>Freer, pp. 387-390</p> <p>C&amp;L Unit 7 Discovery <u>Ch I. Introduction to Discovery</u></p> <p>Freer, pp. 390-392 Rule 26(a)</p> <p><b>C&amp;L Unit 7 Discovery</b> <u>Ch III. Mandatory Disclosures</u></p> <p>A. Big Picture: Disclosures vs. Discovery Devices <b>2 Qs R&amp;U</b></p> <p>B. Digging Deeper: Initial Disclosures <b>14 Qs R&amp;U</b></p> <p>C. Review of Mandatory Initial Disclosures <b>7 Qs PMP</b></p> <p>Freer, pp. 392-398 Rules 26(e), 27, 28(a) and (c), 30, 31, 32, 33, 34, 35, 36, 45.</p> <p><b>C&amp;L Unit 7 Discovery</b> <u>Ch IV. Discovery Devices</u></p> <p>A. Request for Admissions <b>11 Qs R&amp;U + 2 Qs PMP 2</b></p>	<p><b>Review of Discovery is in C&amp;L Unit 7</b> <u>Ch IV. Discovery Devices</u></p> <p>F. Discovery Devices Chart</p> <p>I. Review of Discovery Devices <b>4 Qs PMP</b></p>

<sup>1</sup> No classes on Monday, 2/21 (President's Day). Monday evening's class [section C] meets on Tuesday, 2/22. Day class (sections A & B) is moved from Tuesday, 2/22 to Thursday, 2/24.





	<p><b>Adjudication With and Without a Trial or a Jury</b></p> <ul style="list-style-type: none"> <li>• <b>Trial and the Right to a Jury Under the Seventh Amendment</b></li> </ul>	<p>Freer, pp. 463-482 7<sup>th</sup> Amendment, U.S. Const. Rule 38</p> <p><b>C&amp;L Unit 8, Part 3: Jury Trials</b> <u>Ch I. Introduction to Jury Trials and How to Use this Part</u> A. What Happens in a Jury Trial? A basic Guide to Jury Trials <u>Ch II. Right to a Jury Trial Under the 7th Amendment</u> A. The 7th Amendment Test <b>1 Qs R&amp;U</b> B. Review of the 7th Amendment Test <b>3 Qs R&amp;U</b></p>	
<p><b>9</b>  <b>3/28</b></p>	<ul style="list-style-type: none"> <li>• <b>Right to a Jury (cont'd)</b></li> <li>• <b>Summary Judgment – Adjudication without Trial (Pre-Trial Disposition)</b></li> </ul>	<p>Freer, pp. 508-532 Rule 56</p> <p><b>C&amp;L Unit 8, Part 1: Motions During the Early Stages of Litigation</b> <u>Ch III. Summary Judgment: Rule 56</u> A. Understanding the Big Picture –FAQs <b>3 Qs R&amp;U</b> B. What is Summary Judgment? <b>5 Qs R&amp;U</b> C. The Standard for Summary Judgment <b>5 Qs R&amp;U</b> D. Refining the Standard for Summary Judgment <b>12 Qs R&amp;U</b> E. How to Move for Summary Judgment? <b>9 Qs R&amp;U</b> F. The Celotex Case—Defendants' Optional Route to Summary Judgment when the Plaintiff Lacks Proof <b>2 Qs R&amp;U</b></p>	<p><b>Review of SJ motions is in C&amp;L Unit 8, Part 1</b> <u>Ch III. Summary Judgment: Rule 56</u> G. Motions Review (Rule 12 Motions vs. Rule 56 Summary Judgment Motions) H. Summary Judgment Synthesis <b>2 Qs Recap + 17 Qs Synthesis</b></p>
<p><b>10</b>  <b>4/4</b></p>	<ul style="list-style-type: none"> <li>• <b>Summary Judgment (cont'd)</b></li> <li>• <b>Disposition at Trial: Controlling and Second-Guessing Juries</b> <ul style="list-style-type: none"> <li>○ <b>Judgment as a Matter of Law (Directed Verdict and JNOV)</b></li> </ul> </li> </ul>	<p>Freer, pp. 532-542 Rule 50</p>	



	<ul style="list-style-type: none"> <li>• <b>Claim Preclusion (Res Judicata)</b></li> </ul>	<p><b>C&amp;L Unit 10. Preclusion</b>  <u>Ch I. Big Picture</u>  A. What is Preclusion?  B. FAQ about Preclusion</p> <p>Freer, pp. 643-665</p> <p><b>C&amp;L Unit 10. Preclusion</b>  <u>Ch II. Claim Preclusion</u>  A. Basics of Claim Preclusion  B. What are the Elements of Claim Preclusion?  C. Element #1: "Same" Claim 7 Qs R&amp;U  D. Element #2: "Same" Parties ("Same Claimant") 5 Qs R&amp;U  E. Element #3: Valid Final Judgment on the Merits (in Suit 1) 6 Qs R&amp;U  F. Review of Claim Preclusion 10 Qs Recap + 11 Qs PMP  G. Comparing Claim Preclusion and Compulsory Counterclaims under FRCP 13(a) 2 Qs Recap + 4 Qs R&amp;U + 3 Qs PMP</p>	
<p>12 4/18</p>	<ul style="list-style-type: none"> <li>• <b>Claim Preclusion (cont'd)</b></li> <li>• <b>Issue Preclusion (Collateral Estoppel)</b></li> </ul>	<p>Freer, pp. 665-692</p> <p><i>The Case for Nonmutual Privity in Vicarious Liability Relationships: Pushing the Frontiers of the Law of Claim Preclusion</i>, Glenn S. Koppel, 39 Campbell Law Rev. 1 (2017)</p> <p><b>C&amp;L Unit 10. Preclusion</b>  <u>Ch III. Issue Preclusion</u>  A. Basics of Issue Preclusion  B. What Are the Elements of Issue Preclusion 6 Qs R&amp;U  C. Element #1: Same Issue 2 Qs R&amp;U  D. Element #2: Issue Preclusion Is Asserted Against a Party Who Litigated (and Likely Lost) the Issue in the First Case 4 Qs R&amp;U  E. Element #3: The Issue was Actually (a) Litigated, (b) Decided, and (c) Essential to Reach the Final Judgment in the First Case 9 Qs R&amp;U  F. Practice Applying Issue Preclusion 13 Qs PMP  G. Review of Issue Preclusion 11 Qs Recap + 5 Qs PMP</p>	

		<p><u>Ch IV. Advanced Issue Preclusion— Nonmutual Issue Preclusion</u></p> <p>A. Mutual versus Nonmutual Issue Preclusion <b>4 Qs R&amp;U</b></p> <p>B. Offensive Nonmutual Issue Preclusion: What is the Parklane Rule? <b>5 Qs R&amp;U</b></p> <p>C. Review of Nonmutual Issue Preclusion and the Parklane Rule <b>5 Qs Recap + 2 Qs PMP</b></p>	
<p><b>13</b></p> <p><b>4/25</b></p>	<p>• <b>Issue Preclusion (cont'd)</b></p>		<p><b>Review of Preclusion is in C&amp;L Unit 10</b> <u>Ch V. Preclusion Synthesis</u> <b>14 Qs Synthesis</b></p> <p><b>Review of Joinder in combination with SMJ and Preclusion is in C&amp;L Unit 11, Part 2: Advanced Joinder, SMJ and Preclusion</b></p> <p><u>Ch I. When and How to Use this Part</u></p> <p><u>Ch II. Recap Questions</u></p> <p>A. SMJ <b>4 Qs Recap</b></p> <p>B. Joinder <b>11 Qs Recap</b></p> <p>C. SMJ and Joinder <b>2 Qs Recap</b></p> <p>D. Preclusion <b>2 Qs Recap</b></p> <p><u>Ch III. Review of Connecting Concepts With Questions</u></p> <p>A. Big Picture <b>3 Qs Recap</b></p> <p>B. Joinder and Claim Preclusion <b>4 Qs Recap</b></p> <p>C. Joinder and 1367 Supp SMJ <b>3 Qs Recap</b></p> <p><u>Ch IV. Synthesis Questions</u></p> <p>A. Joinder, Preclusion and Easy SMJ <b>10 Qs Synthesis</b></p> <p>B. Joinder, Preclusion and All Types of SMJ <b>18 Qs Synthesis</b></p>
<p><b>14</b></p> <p><b>5/2</b></p>	<p><b>Appellate Review</b></p>	<p>Freer, pp. 835-860 28 U.S.C. §§ 1291 and 1292 Rules 23(f), 54(b)</p>	