

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

CIVIL PROCEDURE I, Section 141 C

SYLLABUS AND COURSE POLICIES – Fall 2021

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A. Learning Outcomes:

Program Level (JD Program):

Western State College of Law’s JD 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 Faculty/Administration building, Room 317. 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 aesley@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 & Efron, 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 2021 update to their book, free of charge, which will be available on our web course (“Freer 2021 Supplement”)

2. Federal Rules of Civil Procedure, Thomson West, 2021-22 Educational Edition (the “Rules Supplement”) (NOTE: the 2020-21 Educational Edition, and any 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 **321-48-281**.

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 starting on p. 9 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.

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:

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?
- C. 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 Qs R&U](#)
- B. How to Apply the Three-Step Process with Statutory Text [4 Qs R&U](#)

- B. Detailed Explanation of our Reading Tips
- C. Visual Summary of our Three-Step Process

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

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 Qs PMP](#)

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 three hours of outside of class study time for each 90 minute 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.

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 10% weighting of the mid-term exam and a 90% 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.

Among other reasons for you to be prepared is that 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. Just make sure you are sufficiently familiar with the cases, statutes, rules, questions and problems that you are able to discuss them when called upon to do so.

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 FOUR (4) 1 ½ HOUR CLASSES, YOU WILL BE ACADEMICALLY DISMISSED FROM THE COURSE.**

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

I expect that smart phones, iPads and the like will be not be seen, heard or used in the classroom. You may use your laptop computer but it should be open to course related materials. I know that many students use their laptops to take notes in class. I want to make you aware of studies that have shown that students do better on exams when they take notes by hand (the old fashioned way). See <https://www.nytimes.com/2017/11/22/business/laptops-not-during-lecture-or-meeting.html> and <http://www.theatlantic.com/technology/print/2014/05/to-remember-a-lecture-better-take-notes-by-hand/361478/>. The theory behind these findings is that students who take notes by hand are forced to listen more and write down what is important, because they can't write fast enough to take down everything. Notetakers who use laptops are more likely to subconsciously turn into scribes, simply transcribing things verbatim. As they shift into scribe-mode they stop actively listening. As a result they retain less and understand less. One of the above studies found that even when laptop note-takers were told in advance not to be a scribe, but to listen and take notes in your own words, it still didn't make a difference. Laptop notetakers performed worse on tests. So please remember that technology is a tool. It cannot replace the wonderful learning tool that is your mind. Do everything you can to make sure that your mind is fully engaged during class, and that even when you are not directly participating in class discussion that you are actively listening and thinking.

I. Seating Chart:

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

J. Office Hours:

I am delighted to talk with students almost any time. During the pandemic last year in person office visits were problematic. Using a tool called Calendly I was able to set up virtual office hours that were very easy to schedule and automatically created a Zoom link for the time period selected by the student. For the convenience Calendly provided to students in scheduling visits, I am going to continue to use Calendly this fall. You can schedule office hour appointments by clicking on this link (<https://calendly.com/aeasley-1/civ-pro-easley-office-hours>). It will pull up my calendar of office hour slots, you pick a time that works for you, and schedule a meeting. Calendly will set up a Zoom session during the time you picked and put it on your and my calendars. When you schedule the session, you will have the option to add other members of your study group to the meeting. In addition, I am very responsive to questions sent via email. And I am happy to schedule Zoom or in person meetings outside of normal office hours.

K. Web Course:

Sometime before the first day of class I will set up a LexisNexis Web Course for this class. **DURING ORIENTATION YOU WILL BE TOLD HOW TO REGISTER WITH LEXISNEXIS. YOU WILL THEN BE ENROLLED IN THE WEB COURSE FOR MY CLASS AND WILL BE ABLE TO ACCESS MATERIALS POSTED TO THE WEB COURSE SITE.** During the semester I will use this web course to send you emails, make class announcements and post course documents such as this syllabus and charts, questions, outlines and other documents that pertain to the topics we will study. I will also use the web course to post practice exams. Finally the web course may be used to hold out-of-class discussions or “chats.” **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):

Class	Subject	Required Reading from Freer and Rules Supplement	Corresponding required assignments from C & L (Note: when you login to Click & Learn you will see these assignments listed there as well, for your convenience)
1	<p>Introduction</p> <p>(Please complete this reading before the first day of class)</p>	<p>Check your access to web course</p> <p>Rules Supplement, review the materials on pp. v-xx at the beginning of the supplement (entitled “Historical Introduction” and “An Outline of the Procedure in a Civil Action”)</p> <p>Freer 3-22</p>	<p>Make sure you have linked your C & L online account to the course code for this course:</p> <p style="text-align: center;">320-48-4192</p> <p>C&L Unit 0, 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>
2	<p>Personal Jurisdiction</p>	<p>Freer 34-38 (<i>Hess</i>)</p>	<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>B. Shortened Treatment of <i>Pennoyer</i> 4 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><u>Ch IV. The Quick Routes to PJ: The Traditional Categories</u></p> <p>D. Tag (Transient, or Presence + Process) Jurisdiction 4 Qs R&U</p> <p>E. Consent</p> <p>3. Consenting Through Appointment of an Agent for Service of process</p>

8	Personal Jurisdiction	Freer 91-115 (<i>Daimler; Bristol-Myers Squibb</i>) Freer 2021 Supplement 4-19 (<i>Ford</i>)	C&L Unit 1, Part 2: Historical Origins of PJ & Traditional Categories of PJ <u>Ch IV. The Quick Routes to PJ: The Traditional Categories</u> C. General Jurisdiction (AKA “at Home” Jurisdiction or “All-Purpose” Jurisdiction) C&L Unit 1, Part 4: Revisiting General Jurisdiction (“At Home” or All-Purpose PJ) <u>Ch I. General (“At Home” or All-Purpose) Jurisdiction</u> A. Reading and Understanding Questions 5 Qs R&U B. Practice Makes Perfect Questions 3 Qs PMP C&L Unit 1, Part 6: Digging Deeper: Working Through the International Shoe Test in Path 2 of the Framework <u>Ch III. Basic International Shoe Constitutionality Test in Application</u> B. Minimum Contacts 3. What Contacts? The Relatedness Requirement 2 Qs PMP
9	Personal Jurisdiction & the internet	Freer 115-125 (<i>Telemedicine</i>)	<i>A case involving internet sales is in:</i> C&L Unit 1, Part 5: A Suggested Framework for Analyzing Personal Jurisdiction <u>Ch I. What is the PJ Framework?</u> <u>Ch II. PJ Framework: PJ Pathways</u> <u>Ch III. Using the Framework to Analyze Personal Jurisdiction</u> <u>Ch IV. Seeing the Framework in Action in a Lower Court Case</u>
10	Transient presence (tagging); doing business	Freer 131-138 (<i>Burnham; doing business</i>)	C&L Unit 1, Part 2: Historical Origins of PJ & Traditional Categories of PJ <u>Ch IV. The Quick Routes to PJ: The Traditional Categories</u> D. Tag (Transient, or Presence + Process) Jurisdiction 4 Qs R&U E. Consent 3. Consenting Through Appointment of an Agent for Service of process
11	Challenging Jurisdiction	Freer 141-146 (<i>Baldwin</i>) FRCP 12	C&L Unit 1, Part 1: Introduction <u>Ch II. Introduction to Personal Jurisdiction (PJ)—Review the FAQs</u>
12	Notice	Freer 151-170 (<i>Mullane; Triad</i>) FRCP 4	C&L Unit 2, Notice and Service <u>Ch I. Big Picture Introduction</u> C&L Unit 2, Notice and Service <u>Ch III. Constitutional Notice Requirement (<i>Mullane</i>)</u> A. The Key Case of <i>Mullane</i> 11 Qs R&U B. Constitutional Notice 4 Qs PMP C&L Unit 2, Notice and Service <u>Ch II. Service in Federal Courts — FRCP Rule 4</u> A. Overview 3 Qs R&U B. Service Basics 9 Qs R&U C. Service on Individuals 10 Qs R&U D. Service on Corporations and Other Business Entities 8 Qs R&U E. “Waiver” of (Actual) Service 9 Qs R&U F. Review of Rule 4 Service (and Waiver of Service) 8 Qs PMP <u>Ch IV. Service, Notice and PJ</u> A. Recap Questions 2 Qs Recap B. Application Questions 6 Qs Synthesis

<p>13 & 14</p>	<p>Subject Matter Jurisdiction: Diversity</p>	<p>Freer 175-213 (<i>Strawbridge; Mas; Randazzo; Hertz; Belleville</i>) US Constitution, Article III 28 USC §1332</p>	<p>C&L Unit 3, Part 1: Introduction <u>Ch I. Background</u> A. Suggestions on How to Use the SMJ Unit—Navigating as a Student B. FAQ’s about SMJ: The “Not So Easy” Questions You Need Answers to, But Might Be Hesitant to Ask in Class <u>Ch II. Key SMJ Concepts You Have to Know</u> A. Key Concepts Defined 5 Qs R&U B. Review of Key Concepts 6 Qs PMP C&L Unit 3, Part 4: Diversity (& Alienage) SMJ <u>Ch. I. Big Picture Introduction; Diversity (& Alienage) SMJ</u> A. Diversity SMJ Basics B. Key Constitutional & Statutory Rules 12 Qs R&U + 5 Qs PMP C. What is an Exception to Diversity SMJ? 2 Qs R&U D. What is Alienage SMJ? 2 Qs R&U <u>Ch II. Diversity Jurisdiction: "Citizenship" for SMJ</u> A. When do we Decide Citizenship? 1 Qs R&U B. Citizenship of Individuals 10 Qs R&U C. Corporations, Unincorporated Entities & Legal Representatives 19 Qs R&U D. Diversity Jurisdiction: Review of “Citizenship” for SMJ 7 Qs Recap + 10 Qs Synthesis <u>Ch III. Alienage Jurisdiction & US Citizens Domiciled Abroad</u> A. Basic Alienage Jurisdiction—1332(a)(2) 7 Qs R&U + 6 Qs PMP B. Alienage Jurisdiction under 1332(a)(3) 4 Qs R&U C. Alienage Jurisdiction under 1332(a)(4) 3 Qs R&U D. Alienage and US Citizens Domiciled Abroad 6 Qs PMP <u>Ch IV. Amount in Controversy (AIC)</u> A. Understanding the Basic Rule 5 Qs R&U B. Does 1332 Only Exist if Plaintiff Seeks Monetary Compensation? 1 Qs R&U C. What if Plaintiff Recovers Less Than the AIC? 3 Qs R&U D. When Can Separate Claims Be Aggregated (Added Together) to Meet the AIC? 6 Qs R&U E. "Tricky" AIC Rules 4 Qs R&U F. Review of Amount in Controversy (AIC) 2 Qs Recap + 4 Qs PMP <u>Ch V. 1332 SMJ Synthesis</u> A. Recap Questions 7 Qs Recap B. Application Questions 15 Qs Synthesis</p>
<p>15</p>	<p>Midterm Exam (approximate date)</p>		

16	Subject Matter Jurisdiction: Federal Question	Freer 213-233 (<i>Mottley; Grable</i>) US Constitution, Article III 28 USC §1331	<p>C&L Unit 3, Part 3: 1331 Federal Question SMJ</p> <p><u>Ch I. Big Picture</u> A. Introduction to 1331 Federal Question SMJ 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> 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> A. What Is the "Centrality" of Federal Law Rule? B. The Creation Test—Easy 1331 Fed Q SMJ 5 Qs R&U C. The Grable Test—Tricky 1331 Fed Q SMJ 12 Qs R&U D. Applying the Grable Test 4 Qs PMP</p> <p><u>Ch IV. 1331 Federal Question Synthesis</u> A. Recap Questions 8 Qs Recap 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> A. What is Supplemental SMJ? B. When Would I Use Supplemental SMJ?</p>
17	Subject Matter Jurisdiction: Removal	Freer 233-242 28 USC §§1441 and 1446-1448	<p>C&L Unit 3, Part 5: Removal & Remand</p> <p><u>Ch I. Introduction—How to Use this Part and Big Picture</u> A. Big Picture B. FAQs about Removal (and Remand) 2 Qs R&U</p> <p><u>Ch II. The Fundamental Removal Test (28 USC 1441)</u> A. What Do the Different Parts of 1441 Address? 1 Qs R&U B. 1441(a) The Basic Removal Provision 16 Qs R&U C. 1441(b) Limits on Removal in Solely 1332 Cases (In-State Defendant Bar) 11 Qs R&U D. What Can Plaintiffs Do to Prevent Removal 12 Qs R&U E. 1441(c) Removal in 1331 Fed Q Cases 6 Qs R&U F. Can the Plaintiff Remove If the State Court Has No SMJ—1441(f) 4 Qs R&U G. Removal Review 10 Qs Recap + 12 Qs PMP</p> <p><u>Ch III. Removal Procedure (28 USC 1446)</u> A. The Process for Removal: 1446(a) and (d) 4 Qs R&U B. The Timing of Removal: 1446(b) 5 Qs R&U C. Can a Defendant Ever Remove a Case Where the Initial Complaint Was Not Removable? 7 Qs R&U D. Removal Procedure Review 6 Qs Recap + 6 Qs PMP</p> <p><u>Ch IV. Remand (28 USC 1447)</u> A. The Grounds and Process for Remand 9 Qs R&U B. Remand Review 7 Qs Recap + 4 Qs PMP</p> <p><u>Ch V. Removal and Remand Synthesis</u> A. Recap Questions 5 Qs Recap B. Application Questions 10 Qs Synthesis C. Additional Application Questions 10 Qs Synthesis</p> <p>C&L Unit 3, Part 1: Introduction to SMJ</p> <p><u>Ch I. Background</u> B. FAQ's about SMJ: The "Not So Easy" Questions You Need Answers to, But Might Be Hesitant to Ask in Class - Review the FAQs</p>

18 & 19	Venue, Transfer and Forum Non Conveniens	Freer 243-243; 247-275 (<i>Bates; Piper</i>) 28 USC §§1391, 1404 and 1406	<p>C&L Unit 4, Part 1: Big Picture Introduction to Venue <u>Ch I. What is Venue?</u> 1 Qs R&U <u>Ch II. Testing Your Understanding of Venue Basics</u> 4 Qs R&U</p> <p>C&L Unit 4, Part 2: Venue in the Federal Courts <u>Ch I. The Federal Venue Statute: 28 USC 1391</u> A. Overview of the Entire Venue Statute 3 Qs R&U B. What are the Key Venue Options in 1391(b)? 3 Qs R&U <u>Ch II. Where is there Venue under 1391(b)(2)(Location of Events)?</u> 6 Qs R&U <u>Ch III. Where is there Venue under 1391(b)(1)(Focusing on Residency)?</u> A. The Basic Residency Provision 5 Qs R&U + 2 Qs PMP B. What Does "Reside" Mean for 1391(b)(1): Individuals? 4 Qs R&U C. What Does "Reside" Mean for 1391(b)(1): Entities? 10 Qs R&U D. What If a Defendant Does Not Reside in the United States? 8 Qs R&U E. Residency Compared 2 Qs R&U <u>Ch IV. When does 1391(b)(3) (the "Fall Back" Provision) Apply?</u> 5 Qs R&U <u>Ch V. Venue Synthesis</u> A. Recap Questions 14 Qs Recap B. Application Questions 17 Qs Synthesis</p> <p>C&L Unit 4, Part 3: Transfer of Venue <u>Ch I. Big Picture</u> A. What is Transfer of Venue? 2 Qs R&U B. FAQs on Transfer of Venue 5 Qs R&U <u>Ch II. Transfer from a Proper Forum (28 USC 1404)</u> A. Basics of 1404 Transfer 6 Qs R&U B. 1404 Transfer: What Will the Court Consider in Deciding Transfer? 2 Qs R&U <u>Ch III. Transfer From an Improper Forum (28 USC 1406)</u> 8 Qs R&U <u>Ch IV. Transfer Synthesis</u> A. Recap Questions 9 Qs Recap B. Application Questions 7 Qs Synthesis</p>
20	Pleadings: Complaint	Freer 305-348 (<i>Dioguardi; Twombly; Iqbal; Swanson; Leatherman</i>) FRCP 7, 8, 9, 10	<p>C&L Unit 5, Part 1: Overview of Litigation, Pleadings and FAQs (Rules 3,7 and 10) <u>Ch I. What are the Stages of a Lawsuit?</u> <u>Ch II. FAQs on Pleadings and How to Commence a Lawsuit</u> 2 Qs R&U <u>Ch III. Review of Pleading Basics—Rule 3, 7 and 10</u> A. Rule 3 Commencing a Lawsuit 3 Qs R&U B. Rule 7(a): Pleadings 3 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) <u>Ch I. Plaintiff's Complaint (and other Pleadings that Have Claims)- FAQs</u> 2 Qs R&U <u>Ch II. Rule 8: What's the Required Content of a Complaint</u> 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 <u>Ch IV. Rule 8(a)(2) and the Plausibility Test: What is the Required Content of a Complaint?</u> 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 Plausibility Test 11 Qs PMP</p>

21	Voluntary and Involuntary Dismissal	Freer 348-351 FRCP 41(a) and (b)	<p>C&L Unit 8, Part 1: Motions During the Early Stages of Litigation <u>Ch II. Voluntary and Involuntary Dismissals: Rule 41</u> 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>
22	Pleadings: Defendant's Options in Response	Freer 351-363 FRCP 12, 55, 60(b)	<p>C&L Unit 5, Part 3: Pleadings—Responding to the Complaint: Answers and Motions <u>Ch I. Responding to Claims- FAQs on Answers and Motions</u> <u>Ch III. Rule 12 Motions</u> 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 <u>Ch IV. Waiver under Rule 12</u> 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 <u>Ch II. Answers</u> A. Responding to Claims—FAQs 1 Qs 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> <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 —FAQs 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>

23	Pleadings: Amendments; Rule 11	Freer 363-365; 366-385 (<i>Marsh; Rector</i>) FRCP 11 and 15	<p>C&L Unit 5, Part 4: Amending Pleadings Under Rule 15 <u>Ch I. Introduction to Amendments-FAQs</u> 1 Qs R&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 <u>Ch III. Relation Back under Rule 15(c)(1)</u> A. Introduction to Relation Back — Some 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 <u>Ch I. Rule 11: Understanding the Big Picture</u> 1 Qs R&U <u>Ch II. Focusing on the Details of Rule 11(a) and (b)</u> 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 <u>Ch III. Rule 11 Sanctions: Process and Types of Sanctions</u> 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>
24 & 25	The <i>Erie</i> Doctrine: When must a federal court apply state law <i>Hanna</i> and the FRCP	Freer 561-577; 582-596 (<i>Erie; York; Ragan; Hanna</i>) U.S. Constitution, Article VI, cl. 2 28 USC §1652 (RDA) 28 USC §2072 (REA)	<p>C&L Unit 9. The <i>Erie</i> Doctrine <u>Ch I. How to Use this Unit</u> <u>Ch II. Big Picture</u> A. What's Easy about the <i>Erie</i> Doctrine? B. FAQs about the <i>Erie</i> Doctrine <u>Ch III. A Step-by-Step Guide (with Flowchart) to the Tough Issues of the <i>Erie</i> Doctrine</u> A. A Flowchart of How to Analyze <i>Erie</i> 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 Qs 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</p>
26 & 27	<i>Erie</i> Refinements	Freer 597-632 (<i>Gasperini; Shady Grove</i>)	<p>C&L Unit 9. The <i>Erie</i> Doctrine <u>Ch IV. Synthesis of the <i>Erie</i> Doctrine</u> A. Recap Questions 4 Qs Recap B. Application Questions 16 Qs Synthesis</p>
28	Finish		
	Reading Week		