

WESTERN STATE UNIVERSITY COLLEGE OF LAW
At Westcliff University

CIVIL PROCEDURE II, Section 141 C
SYLLABUS AND COURSE POLICIES – Spring 2023

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A. LEARNING OUTCOMES

Course Level Learning Outcomes:

This three (3) credit, semester-long course is the second half of the required six (6) credit courses which will explore the procedural rules which govern civil (as opposed to criminal) disputes. 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. During the 14 weeks (42 hours) of class instruction this semester you will:

- Study 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 which we touched on the first semester), 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 utilized in Civil Procedure II.
- Continue to practice the analytical skills you will need to succeed in law school and in the practice of law, as well as to pass the bar exam – primarily how to read, interpret, apply and distinguish cases, statutes, and procedural rules.
- Continue to practice proper essay writing format, including use of issue headings, IRAC format, and analysis that explains how and why the facts prove or disprove the rules, all of which are necessary skills to succeed in law school and in the practice of law, as well as to pass the bar exam.
- Continue to improve MBE test taking strategies and skills through practice of assigned MBE questions.

Program Level (JD Program) 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.

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 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 AND PROGRAMS

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 **123-48-9493**. 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 CIVIL PROCEDURE II:

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* from last semester as an example), making summary judgment a more powerful tool in the

hands of defendants (as we will see this semester) 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, many experts believe discovery 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.” (FRCP 1)

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 CLASS PREPARATION

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, completing MBE U World assignments, reviewing the PowerPoints from in class, and any other study methods or materials you are utilizing to learning the materials.

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 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.

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 spend 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 MBE U World or 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. EXAMS AND GRADING

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 multiple-choice and/or short-answer questions. The final course grade will be based on a 20% weighting of the mid-term exam, 75% weighting of the final examination, and 5% for timely and full completion of all C&L and U World assigned questions (accuracy will not be counted toward your grade but completion and effort only so if you complete all questions in one minute by just clicking answers, you will not get credit as that is insufficient effort).

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 NOTE TAKING 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 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. All in person office hours will be in my office (Room 309). All zoom office hours will be held at the following zoom link:

<https://us06web.zoom.us/j/87250507066?pwd=UVovNGFKeWYvMVhIVS9NbTRsb0syQT09>

Meeting ID: 87250507066
 Password: 544082

K. WEB COURSE (LEXIS CLASSROOM)

Sometime before the first day of class I will set up a Lexis Web Course for this class. You will then be enrolled in that course and able to access all course materials there. During the semester I will use this web course to send you emails, make class announcements, and post course documents such as this syllabus, in class handouts and PowerPoints, 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 AND that you set up notifications for announcements. You should test your access BEFORE the first day of class. Each class will have a module for assignments and materials before class as well as well as a module for materials distributed during 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 (1/23)	Scope of Litigation - Joinder and Supplemental Jurisdiction	Check your access to web course	
	A. Introduction and Integration	Freer pp. 693-697	C&L Unit 6, Part 1: Big Picture for Joinder
	B. Real Party in Interest, Capacity and Standing		C&L Unit 3, Part 6: Supplemental SMJ <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>C. Claim Joinder by Plaintiffs</p>	<p>Freer pp. 697-705</p> <p>FRCP 18</p> <p>28 USC §1367</p>	<p>C&L Unit 6, Part 2: Claim Joinder <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&U B. Review of Claim Joinder by Plaintiffs 3 Qs PMP</p> <p>C&L Unit 3, Part 6: Supplemental SMJ <u>Ch II. The 1367 Statute</u> A. Understanding 1367 and Its Sections 4 Qs R&U B. Additional Practice 2 Qs R&U</p> <p><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&U B. The Basic Test for 1367 Supplemental SMJ 5 Qs R&U C. Review of 1367(a) 5 Qs Recap + 6 Qs PMP</p> <p><u>Ch IV. The 1367(b) Bar</u> A. The Origins of the (b) Bar B. Reading and Decoding 1367(b) 23 Qs R&U C. Review of the (b) Bar 4 Qs Recap + 7 Qs PMP D. The "Extra" Limit of the <i>Exxon</i> Bar 8 Qs R&U E. Review of the <i>Exxon</i> Bar 5 Qs Recap + 4 Qs PMP</p> <p><u>Ch V. Discretion to Decline in 1367(c)</u> A. Reading and Decoding 1367(c) 3 Qs R&U B. Applying the Factors in 1367(c) 5 Qs R&U C. Review of 1367(c) 5 Qs Recap + 6 Qs PMP</p>
	<p>D. Permissive Party Joinder by Plaintiffs</p>	<p>Freer pp. 705-718</p> <p>FRCP 20</p> <p>28 USC §1367</p>	<p>C&L Unit 6, Part 3: Party Joinder <u>Ch I. Big Picture for All of the Party Joinder Rules—FAQs</u> <u>Ch II. Plaintiff's Permissive Party Joinder under Rule 20</u> A. Permissive Joinder of Parties by Plaintiffs under Rule 20 7 Qs R&U B. Review of Permissive Joinder of Parties by Plaintiffs under Rule 20 6 Qs PMP</p> <p>C&L Unit 6, Part 4: Joinder: Issue Spotting and Review <u>Ch I. 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</p> <p><u>Ch III. Practice Writing a Few Simple Joinder Essays 4 Qs Synthesis</u></p>
<p>Class 2 (1/30)</p>	<p>Scope of Litigation - Joinder and Supplemental Jurisdiction</p>	<p>Freer pp. 718-730</p> <p>FRCP 13 (a), (b), (g)</p>	<p>C&L Unit 6, Part 2: Claim Joinder <u>Ch III. Claim Joinder by Defendants—Rule 13</u> A. Claim Joinder by Defendants 5 Qs R&U B. Counterclaims under Rule 13(a) and (b) 14 Qs R&U + 8 Qs PMP</p>

	<p>E. Claims Joinder by Defendants:</p> <p>1. Counterclaims</p> <p>2. Crossclaims</p> <p>F. Overriding Plaintiff's Party Structure</p> <p>1. Impleader</p>	<p>28 USC §1367</p> <p>Freer pp. 731-745</p>	<p>C. Crossclaims under Rule 13(g) 4 Qs R&U + 7 Qs PMP</p> <p><u>Ch IV. Synthesis of Claim Joinder by Plaintiffs and Defendants</u></p> <p>A. Recap Questions 4 Qs Recap</p> <p>B. Application Questions 7 Qs Synthesis</p> <p>C&L Unit 3, Part 6: Review of 1367</p> <p><u>Ch VI. 1367 Synthesis</u></p> <p>A. Recap Questions 15 Qs Recap</p> <p>B. Application Questions 12 Qs Synthesis</p> <p>C&L Unit 6, Part 3: Party Joinder</p> <p><u>Ch III. Defendant's Permissive Party Joinder under Rule 14 Third-Party Practice (Impleader)</u></p> <p>A. Big Picture and a Simple Hypo 2 Qs R&U</p> <p>B. Task 1: How and When May a Defending Party Join ("Implead") a Nonparty? 15 Qs R&U</p> <p>C. Review of Task 1: Impleading a Nonparty 10 Qs PMP</p> <p>D. Task 2: What Happens After the Nonparty is Added to the Lawsuit? 14 Qs R&U</p> <p>E. Review of Permissive Joinder of Parties by Defendants under Rule 14 8 Qs PMP</p>
<p>Class 3 (2/6)</p>	<p>Scope of Litigation - Joinder and Supplemental Jurisdiction</p> <p>F. Overriding Plaintiff's Party Structure</p> <p>2. Compulsory Joinder (Necessary and Indispensable Parties)</p> <p>3. Intervention</p>	<p>Freer pp. 746-757</p> <p>FRCP 19</p> <p>Freer pp. 757-762</p> <p>FRCP 24</p>	<p>C&L Unit 6, Part 3: Party Joinder</p> <p><u>Ch IV. Rule 19 Required Parties</u></p> <p>A. Big Picture—FAQs</p> <p>B. Reviewing the Text of Rule 19: Finding the Three Steps 12 Qs R&U</p> <p>C. Learning Rule 19 Step by Step: A Rule 19 Flowchart</p> <p>D. Learning Rule 19 Step by Step: Step #1 Who is a Rule 19(a) Required Party? 17 Qs R&U</p> <p>E. Learning Rule 19 Step by Step: Step #2 Why Would a Person Required to be Joined Not be Able to be Joined? 2 Qs R&U</p> <p>F. Learning Rule 19 Step by Step: Step #3 What to do When Joinder of a 19(a) Required Party is Not Feasible? How do you Apply the Rule 19(b) Factors? 7 Qs R&U</p> <p>G. Applying Rule 19 in Context: Joint Tortfeasors and Rule 19 (the <i>Temple</i> Case) 12 Qs R&U</p> <p>H. Applying Rule 19 in Context: Property (Owners) and Rule 19 5 Qs R&U</p> <p>I. Applying Rule 19 in Context: Contract Cases and Rule 19 5 Qs R&U</p> <p>J. Review of Rule 19 Required Parties 8 Qs PMP</p> <p>C&L Unit 6, Part 3: Party Joinder</p> <p><u>Ch V. Rule 24 Intervention</u></p> <p>A. Rule 24: Big Picture —FAQs 1 Qs R&U</p> <p>B. Intervention Type #1: Rule 24(a) Intervention of Right 12 Qs R&U</p> <p>C. Intervention Type #2: Rule 24(b) Permissive Intervention 6 Qs R&U</p> <p>D. Rule 24(c): Procedure 3 Qs R&U</p> <p>E. Review of Rule 24 Intervention 10 Qs PMP</p>

	Special Multiparty Litigation: Interpleader	<p>Freer pp. 763-778</p> <p>Freer Supplement p. 27</p> <p>FRCP 22</p> <p>28 U.S.C. §§ 1335, 1397, 2361</p>	<p>C&L Unit 6, Part 3. <u>Ch VI. Synthesis of Party Joinder</u> A. Recap Questions 28 Qs Recap B. Application Questions 12 Qs Synthesis</p> <p>C&L Unit 6, Part 6 for Interpleader Questions <u>Ch I. Interpleader: FAQs</u> <u>Ch II. Interpleader Under Rule 22</u> 12 Qs R&U <u>Ch III. Statutory Interpleader Under 28 USC 1335</u> 10 Qs R&U <u>Ch IV. Review of Interpleader</u> 5 Qs R&U + 7 Qs PMP</p> <p>POST Class: 16 MBE Questions on Joinder & Supplemental Jx through U World (link to access on Lexis Nexis course home page)</p>
Class 4 (2/13)	Special Multiparty Litigation: Class Action	<p>Freer pp. 778-833</p> <p>FRCP 23</p>	<p>C&L Unit 6, Part 5: Special Joinder – Class Actions <u>Ch I. Class Actions: The Basic Concept</u> 3 Qs R&U <u>Ch II. Class Actions: Process</u> 6 Qs R&U <u>Ch III. The Requirements to Proceed as a Class Action Under Rule 23</u> A. Overview 1 Qs R&U B. Prerequisites: Meet All Prerequisites of Rule 23(a) 9 Qs R&U C. Class Type: Fit One of the Types of Class Actions of Rule 23(b) 14 Qs R&U D. Review of Rule 23(a) and (b) 9 Qs PMP <u>Ch IV. Proceeding with a Class Action</u> A. Notice and Opt Out 3 Qs R&U B. Conducting the Action 1 Qs R&U C. Settlement 1 Qs R&U</p> <p>POST Class: 4 MBE Questions on Class Action through U World (link to access on Lexis Nexis course home page)</p>
Monday 2/20/23 – No Class (Presidents’ Day Holiday) – class meets 2/21/23 instead			
Class 5 (2/21) Tuesday	<p>Discovery</p> <p>A. Introduction and Integration</p> <p>B. Required Disclosures</p> <p>C. Discovery Tools</p>	<p>Freer pp. 387-392</p> <p>FRCP 26(a)</p> <p>Freer pp. 392-398</p> <p>FRCP 26(d) & (e), 27, 28(a) and (c), 29-36, 45</p>	<p>C&L Unit 7 Discovery <u>Ch I. Introduction to Discovery</u> <u>Ch III. Mandatory Disclosures</u> A. Big Picture: Disclosures vs. Discovery Devices 2 Qs R&U B. Digging Deeper: Initial Disclosures 14 Qs R&U C. Review of Mandatory Initial Disclosures 7 Qs PMP</p> <p><u>Ch IV. Discovery Devices</u> A. Request for Admissions 11 Qs R&U + 2 Qs PMP B. Interrogatories 11 Qs R&U + 1 Qs PMP C. Requests for Production of Documents and Things 13 Qs R&U + 1 Qs PMP D. Physical and Mental Examination 9 Qs R&U + 1 Qs PMP E: Depositions 11 Qs R&U F. Discovery Devices Chart G. Duty to Supplement: Rule 26(e) 2 Qs R&U H. Special Discovery Tool: The Subpoena 6 Qs R&U I. Review of Discovery Devices 4 Qs PMP</p>

Class 6 (2/27)	Discovery D. Scope of Discovery 1. General Scope 2. ESI Discovery 3. Work Product	Freer pp. 398-417 FRCP 26(b)(1) & (2), (c)(1)(B) Freer pp. 417-428 FRCP 26(b)(3)	C&L Unit 7 Discovery <u>Ch V. Scope of Discovery</u> A. Introduction to Scope of Discovery 1 Qs R&U B. Relevancy 6 Qs R&U C. Proportionate to the Needs of the Case 5 Qs R&U D. Non-Privileged Matter: The Attorney-Client Privilege 15 Qs R&U E. Non-Privileged Matter: "Work Product" 20 Qs R&U F. Review of Scope of Discovery 7 Qs PMP <u>Ch VII. Synthesis of Discovery</u> A. Recap Questions 9 Qs Recap B. Application Questions 11 Qs Synthesis POST Class: 20 MBE Questions on Discovery (Part 1) through U World (link to access on Lexis Nexis course home page)
Class 7 (3/6)	Discovery D. Scope of Discovery 4. Experts, etc. E. Timing and Pretrial Disclosures, Conferences, and Orders F. Sanctions Midterm Review	Freer pp. 428-441 FRCP 26(b)(4) & (5) Freer pp. 441-461 FRCP 26(f) and 16 FRCP 26(g) and 37	C&L Unit 7 Discovery <u>Ch II. Planning for Discovery</u> A. The Big Picture 6 Qs R&U B. Timing and Sequence of Discovery 3 Qs R&U <u>Ch VI. Controlling the Discovery Process</u> D. Sanctions 11 Qs R&U POST Class: 20 MBE Questions on Discovery (Part 2) & 7 Pretrial Conference and Order through U World (link to access on Lexis Nexis course home page)
Monday 3/13/23 – No Class (Spring Break Week) – note I specifically made the midterm AFTER spring break so you have ample time to study during break (-;			
Class 8 (3/20)	Midterm (First 90 minutes of class) Second half of class (last 90 minutes) – Adjudication With	Freer pp. 463-482 FRCP 38	C&L Unit 8, Part 3: Jury Trials <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 1 Qs R&U

	and Without a Trial or a Jury	7th Am., U.S. Const.	B. Review of the 7th Amendment Test 3 Qs R&U
Class 9 (3/27)	Adjudication With and Without a Trial or a Jury continued <ul style="list-style-type: none"> • Right to a Jury Trial • Summary Judgment 	Freer pp. 508-532 FRCP 56	C&L Unit 8, Part 1: Motions During the Early Stages of Litigation <u>Ch III. Summary Judgment: Rule 56</u> A. Understanding the Big Picture –FAQs 3 Qs R&U B. What is Summary Judgment? 5 Qs R&U C. The Standard for Summary Judgment 5 Qs R&U D. Refining the Standard for Summary Judgment 12 Qs R&U E. How to Move for Summary Judgment? 9 Qs R&U F. The <i>Celotex</i> Case—Defendants' Optional Route to Summary Judgment when the Plaintiff Lacks Proof 2 Qs R&U G. Motions Review (Rule 12 Motions vs. Rule 56 Summary Judgment Motions) H. Summary Judgment Synthesis 2 Qs Recap + 17 Qs Synthesis POST Class: 22 MBE Questions on Jury Trials through U World (link to access on Lexis Nexis course home page)
Class 10 (4/3)	Adjudication With and Without a Trial or a Jury continued <ul style="list-style-type: none"> • Summary Judgment • Judgment as a Matter of Law • New Trials • Motion to Set Aside a Judgment or Order 	Freer pp. 532-542 FRCP 50 Freer pp. 542-557 FRCP 59 Freer pp. 557-559 Freer Supplement p. 25 FRCP 60	C&L Unit 8, Part 2: Trials and Post-Trial Motions (Rules 50, 59 and 60) <u>Ch I. Introduction and How to Study the Trial and Post-Trial Motions (Rules 50, 59 and 60)</u> A. What are the Key Trial and Post-Trial Motions? <u>Ch II. Motion for Judgment as a Matter of Law (JMOL) Rule 50</u> A. JMOL Basics and FAQs 6 Qs R&U B. Timing and Process 13 Qs R&U C. Ground for Granting JMOL 5 Qs R&U D. Contrasting Motions: Summary Judgment vs. JMOL 1 Qs R&U E. Review of Rule 50 JMOL Motions 7 Qs PMP <u>Ch III. Motion for New Trial Rule 59</u> A. New Trial Basics and FAQs B. Timing and Process 1 Qs R&U C. Grounds for Granting a Motion for New Trial 1 Qs R&U D. Review of Rule 59 New Trial Motions 7 Qs PMP <u>Ch IV. Motion for Relief from Judgment Rule 60</u> A. Rule 60 Motions and FAQs B. Rule 60(a) Motion to Correct Clerical Mistakes, Oversights and Omissions 2 Qs R&U C. Rule 60(b) Motion for Relief from Final Judgment 4 Qs R&U D. Timing of Rule 60(b) Motions 2 Qs R&U E. Review of Rule 60(b) Motions 5 Qs PMP <u>Ch V. Synthesis: Comparing the Trial and Post-Trial Motions</u> A. Comparison Chart for All Three Motions 4 Qs Recap B. Selecting a Motion 8 Qs Synthesis

			POST Class: 6 MBE Questions on Motion for Summary Judgment; 12 on JMOL; 17 on New trial/set aside judgment through U World (link to access on Lexis Nexis course home page)
Class 11 (4/10)	Preclusive Effects of Prior Judgments <ul style="list-style-type: none"> • Introduction and Integration • Claim Preclusion (Res Judicata) Review of midterm	Freer pp. 641-665	C&L Unit 10. Preclusion <u>Ch I. Big Picture</u> A. What is Preclusion? B. FAQ about Preclusion <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&U D. Element #2: "Same" Parties ("Same Claimant") 5 Qs R&U E. Element #3: Valid Final Judgment on the Merits (in Suit 1) 6 Qs R&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&U + 3 Qs PMP
Class 12 (4/17)	Claim Preclusion (Res Judicata) continued Issue Preclusion (Collateral Estoppel)	Freer pp. 665-692	C&L Unit 10. Preclusion <u>Ch III. Issue Preclusion</u> A. Basics of Issue Preclusion 6 Qs R&U B. What Are the Elements of Issue Preclusion C. Element #1: Same Issue 2 Qs R&U D. Element #2: Issue Preclusion Is Asserted Against a Party Who Litigated (and Likely Lost) the Issue in First Case 4 Qs R&U E. Element #3: The Issue was Actually (1) Litigated, (2) Decided, and (3) Essential to Reach the Final Judgment in the First Case 9 Qs R&U F. Practice Applying Issue Preclusion 13 Qs PMP G. Review of Issue Preclusion 11 Qs Recap + 5 Qs PMP <u>Ch IV. Advanced Issue Preclusion—Nonmutual Issue Preclusion</u> A. Mutual versus Nonmutual Issue Preclusion 4 Qs R&U B. Offensive Nonmutual Issue Preclusion: What is the <i>Parklane</i> Rule? 5 Qs R&U C. Review of Nonmutual Issue Preclusion and the <i>Parklane</i> Rule 5 Qs Recap + 2 Qs PMP
Class 13 (4/24)	Issue Preclusion continued		C&L Unit 10. Preclusion <u>Ch V. Preclusion Synthesis</u> 14 Qs Synthesis C&L Unit 11, Part 2: Advanced Joinder, SMJ and Preclusion <u>Ch I. When and How to Use this Part</u> <u>Ch II. Recap Questions</u> A. SMJ 4 Qs Recap B. Joinder 11 Qs Recap C. SMJ and Joinder 2 Qs Recap D. Preclusion 2 Qs Recap <u>Ch III. Review of Connecting Concepts With Questions</u>

			<p>A. Big Picture 3 Qs Recap B. Joinder and Claim Preclusion 4 Qs Recap C. Joinder and 1367 Supp SMJ 3 Qs Recap</p> <p>Ch IV. Synthesis Questions A. Joinder, Preclusion and Easy SMJ 10 Qs Synthesis B. Joinder, Preclusion and All Types of SMJ 18 Qs Synthesis</p> <p>POST Class: 15 MBE Questions on Jury Trials through U World (link to access on Lexis Nexis course home page)</p>
Class 14 (5/1)	<p>Appellate Review</p> <p>Final exam review</p>	<p>Freer pp. 835-862</p> <p>FRCP 23(f) and 54(b)</p> <p>28 USC. §§ 1291 and 1292</p>	<p>POST Class: 8 MBE Questions on Final Judgment Rule; 9 on Scope of Review; 3 on Judicial Findings and Conclusions through U World (link to access on Lexis Nexis course home page)</p>
FINAL EXAM TBD – CHECK FINAL EXAM SCHEDULE			

NOTE about Class Coverage: Topics NOT covered this academic year in this class (these topics are in the case book but we don't have time to cover every single page unless you want to read even more than you already are.....):

- Provisional Remedies (hopefully you will cover those in your Remedies class as they are tested on the CA bar exam in essays and MBE questions) – pp. 277-303 in the book
- Alternative Dispute Resolution – pp. 863-909 (there are entire courses on this subject that you can take if you are interested) – this is not tested on the CA bar exam or on the MBE but it is helpful if you plan on practicing law
- Specifics on jury selection pp. 482-508 (worth noting that I am not assigning the casebook reading but I will cover this content in slides that I create for you and through U World MBE practice questions – so you will cover this but not in the textbook reading)