

**WESTERN STATE UNIVERSITY
COLLEGE OF LAW**

CIVIL PROCEDURE I, Section 141 A2

SYLLABUS AND COURSE POLICIES – Fall 2010

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Class Meets Mondays, 10:45 a.m. - 12:15 p.m., and Wednesdays, 9 a.m. – 10:30 a.m.

A. Objectives:

This three (3) credit, semester-long course is the first half of the required six (6) credit courses which will explore the procedure which governs civil (as opposed to criminal) disputes. During the fourteen weeks of the course you will:

1. Explore the basic issues of Civil Procedure including personal and in rem jurisdiction, subject matter jurisdiction, forum choice, pleadings, what law applies, joinder and supplemental jurisdiction and learn of the framework and practical issues that lawyers encounter in handling a civil dispute;
2. Come to appreciate the procedural structure as a part of the overall litigation system by gaining an understanding of the policies and goals that underlie the structure;
3. Learn something of the procedural relationship between the laws and tribunals of the various jurisdictions (e.g., state vs. federal; and state A vs. state B);
4. Observe how and why the 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. Required Texts:

1. Freer & Perdue, Civil Procedure: Cases, Materials, & Questions (“Freer & Perdue”), 5th ed. LexisNexis, 2008
2. 2010 Supplement to Freer & Perdue (allegedly available free in the Study Aids section of the Lexis/Nexis Law School website at www.lexisnexis.com/lawschool/). **You are responsible for figuring out which pages from the supplement correspond to the assigned readings (pretty easy to do) and reading those pages.**
3. Federal Rules of Civil Procedure, Thomson West, 2010-11 Educational Edition (the “Rules”)

C. Suggested Supplemental Reading (you may purchase these books and they may be available in the library):

1. Glannon, Civil Procedure, Examples and Explanations, 6th ed. Aspen, 2008 (“Glannon Examples”)

2. Glannon, The Glannon Guide to Civil Procedure, 2d Ed. Aspen, 2009 (“Glannon Guide”)
3. Shreve & Raven-Hansen, Understanding Civil Procedure, 4th ed. LexisNexis, 2009
4. Friedenthal, Kane & Miller, Hornbook on Civil Procedure, 4th ed. West, 2005

D. Preparing for the Classroom:

The centerpiece of this course will be the Federal Rules of Civil Procedure (“FRCP”) which is the code of civil procedure applicable in civil litigation in federal court and which has been adopted by many state courts, but not California. However, Civil Procedure law is derived from a wide variety of primary legal authorities besides the FRCP. For example, the law of personal jurisdiction is largely constitutional case law while the subject matter jurisdiction of federal courts is defined by Article III of the United States Constitution and federal statute. In addition, even where a FRCP or statute or constitutional provision seems to govern a particular procedural issue, courts have provided their interpretations (sometimes conflicting) through case law.

Therefore, although this course deals with “procedural rules,” we will employ the same “case method” which you will also encounter in your other courses such as contracts and torts. To prepare for class, you must read the assigned materials (see week by week reading assignments list, *infra*) carefully such that you understand them. **In particular you should brief the cases found in the reading. A case brief may be handwritten or typewritten. It may be on paper or on your computer.** A brief should be long enough to contain the important information and short enough to be a useful summary.

Along with the specific pages from Freer & Perdue contained on the following chart **you must also read the pages from the Supplement that correspond to the readings in assigned materials.** Since the Supplement is not available yet we do not know yet what those pages are but they are very easy to figure out.

When, during the course of your assigned reading, you encounter references to a FRCP or to a federal statute or constitutional provision, you are required, as part of your preparation for class, to look them up in your rules book and read them carefully. Also, most of the FRCPS in the rule book are followed by Advisory Committee Notes, which are the FRCP equivalent of the legislative history. These notes are a valuable resource to help you to understand the rules and you should, as a part of your preparation for class, read these as well.

The Glannon recommended reading texts are particularly helpful. They are relatively easy to read, are sometimes entertaining, and contain questions and answers; the Glannon Guide text contains multiple choice questions followed by the answers and the Glannon Examples text contains questions followed by narrative answers. The feedback is immediate and they are very good practice for your exams.

E. Class Participation

Your participation during class is an important part of your learning. You will be expected to participate in class in a variety of ways, including use of the CPS response system to answer questions during class, and through structured group work. 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 read the materials or do not have a written brief for an assigned case, you are unprepared. I will randomly call on people in class to describe cases or rules and to answer questions. If you are unprepared, I will lower your grade by .1 each time you are unprepared.**

PLEASE NOTE, HOWEVER, THAT THERE IS A SIGNIFICANT DIFFERENCE BETWEEN BEING UNPREPARED AND BEING UNABLE TO ANSWER A PARTICULAR QUESTION. No one knows the answer to every law-related question. An important part of the learning experience is testing your own knowledgeable opinions and conclusions. Your grade will not be lowered nor will you be considered absent for venturing an incorrect answer. **You should, however, be sufficiently familiar with the cases, notes, questions and examples to discuss them when called upon to do so.**

Classroom Performance System: During class, questions based on the assigned readings will be displayed, and you will have an opportunity to respond by transmitting your answer via a wireless response device. You may purchase the response device at *The Law Bookstore, 1775 W. La Palma Ave, Anaheim, CA 92801*. You will then need to register the device according to the CPS Enrollment Instructions, which are appended below. Please register your response pad online at eInstruction.com, according to the instructions that come with the response pad. The Course Key that you will need for enrollment is J60851H535. The course you should enroll in is designated “Buckner CP 2010.” For the day class students, please try to get your device and register it prior to the second week of class, so that you will be able to participate in class. After the second week of class, if you forget your device, or do not complete the registration, you will not be able to receive any of the credit available.

Group Learning: Because numerous studies have demonstrated that group work improves learning, you will have a substantial number of opportunities to participate in group work. I will assign students to groups at the beginning of the course, as soon as I receive the class roster. Please check the course webpage for this information and sit with your group on the first evening of class. Any of the practice exams and hypothetical exercises may be completed as a group, for credit, as long as all members of the group truly contribute to the work in a significant manner, and the names of those group members significantly contributing to the work are included in the assignment turned in or posted online. All submissions concerning student participation are governed by the Western State Honor Code. I also encourage discussion during class of the CPS questions prior to answering.

F. CALI, Practice Exams and Grading:

CALI: You are expected to complete the CALI assignments listed on the syllabus below. These are intended to allow you to review and apply the material you are learning after you have had the benefit of a class discussion, and to further reinforce your learning. You may complete these exercises alone, or with members of your group. Completion of the CALI exercises will be credited toward your participation grade in the course. The CALI exercises are available at <http://www2.cali.org>. You will need to register to use CALI – the authorization code for Western State is WESTNNstu235. You will need to input your graduation year. Western State is a CALI affiliated school. Once you are registered, you can click on the Lessons tab or use the search window to locate your exercise, then follow the instructions in order to download the exercise. Before clearing the final screen, print your final score by selecting Score Save and print the certificate. You can also cut and paste the text into a Word document, or press CONTROL-PRINT SCREEN and then paste a picture of the screen into a Word document. This

will serve as your record that you completed the exercise. CALI exercises are also available on CD and you can obtain the CD at the library Reserve Desk. Once you have printed your final score/certificate, please turn in a copy in class to obtain credit for completing the exercise. If you complete the exercise as a group, please be sure to indicate the names of all students participating in the exercise. All submissions indicating student participation are governed by the Western State Honor Code.

Practice Exams: Completing practice exams reinforces your learning and improves exam performance. You are required to complete two practice midterm essay exams and two practice final essay exams, as set forth below, and to obtain feedback on your exams from at least one other student in your group, and you may revise the practice exam after you receive the feedback. You also may work on these exams with another student. The exams will then be posted on the webcourse Discussion Board, and we will review them in class. Please be sure to indicate the names of the student(s) who completed the exam, as well as the student(s) who provided feedback on the exam, on the version of the exam that is posted on the webcourse. Completion of these practice exams will be credited toward your participation grade in the course.

Exams: There will be a graded mid-term exam and a final exam. The mid-term exam will be in essay format and the final exam will likely contain essay, multiple choice questions, and true/false - explain the answer questions. The midterm will be administered during regular class hours. The final exam will be administered as announced. Each student will receive a numeric final course grade which will consist be based upon participation (15% - including in class participation, CALI, CPS and practice exams), the mid-term grade (15%) and the final examination grade (70%).

G. Attendance and Decorum:

I will take attendance by asking you to sign in for the class on a roll sheet. If you are not signed in, you are absent. You must be in your seat at the start of class, and must attend the entire class in order to be considered present. If you leave the class halfway through the session, you will be marked absent.

IN ACCORDANCE WITH SCHOOL RULES APPLICABLE TO THE DAY CLASS, IF YOU MISS MORE THAN FOUR CLASSES, YOU WILL BE ACADEMICALLY DISMISSED FROM THE COURSE.

If you have a disability which prevents you from remaining in your seat during the class, please contact the Registrar or the Academic Dean.

H. 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. I would rather you not change your permanent seat but if you must please notify me so that I can make the appropriate change on the chart.

I. Office Hours:

I am delighted to talk with a student or students almost any time. I will remain after class for questions when that is possible. Please make appointments through me, either by speaking to

me in person, or by email. If you cannot make a scheduled appointment, please notify me as soon as possible. Office hours will also be held online as announced, or by telephone at your request.

J. Webcourse:

I have set up a LexisNexis Web Course for this class which is designated as CP 112300 - CPI – Buckner Fall 2010. There are several other Civ Pro webcourses for Buckner, so be sure to choose the one with the Fall 2010 designation. Enrollment for the webcourse will open on August 10, 2010, and instructions are appended below. The password for the webcourse is Buckner (case sensitive). 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, practice exams, and quizzes that pertain to the topics we will study. You will post your answers to the practice exams there as well. Finally we will use the web course to hold out-of-class discussions, including online office hours.

The webcourse will be important to your success in this class. You should test your access to the site BEFORE the first day of class. There are computers in the library if you need one.

K. Assignments (subject to modification):

Week	Subject	Required Reading, CALI Assignments & Practice Exams	Recommended Reading
1	Introduction Personal Jurisdiction [Please complete the reading before the first class]	Check your access to web course The Rules, pages XVII-XXVIII (“An Outline of the Procedure in a Civil Action”) Freer & Perdue 1-59 US Constitution, Art IV, § 1 US Constitution, Amends 5 and 14 28 U.S.C. § 1257	Glannon Examples 3-24
2	Personal Jurisdiction	Freer & Perdue 59-98; 126-138	Glannon Guide 69-99
3	Personal Jurisdiction In Rem Jurisdiction	Freer & Perdue 98-126	Glannon Guide 99-109

4	Personal Jurisdiction: <ul style="list-style-type: none"> • Long Arm statutes • Notice 	Freer & Perdue 140-176 FRCP 4 Complete CALI exercise on Jurisdiction Over the Person (CIV 19), by Week 5.	Glannon Examples 25-45; 345-365 Glannon Guide 111-130
5	Subject Matter Jurisdiction: <ul style="list-style-type: none"> • Diversity 	Freer & Perdue 177-209 US Const. Art. III 28 U.S.C. §1332 Practice midterm exam #1 due.	Glannon Examples 89-107 Glannon Guide 3-24
6	Subject Matter Jurisdiction: <ul style="list-style-type: none"> • Federal Question • Removal 	Freer & Perdue 210-228 U.S. Const, Art III 28 U.S.C. §1331 Freer & Perdue 229-238 28 U.S.C. §§ 1441 and 1446 – 1448 Complete CALI exercise on Analysis of a Diversity Case (CIV 05) by Week 7.	Glannon Examples 63-87 Glannon Guide 25-50 Glannon Examples 109-122 Glannon Examples 123-139 Glannon Guide 51-68
7	Venue, Transfer and Forum Non Conveniens Challenging Jurisdiction	Freer & Perdue 239-240; 243-271 28 U.S.C. §§1391, 1404 and 1406 Freer & Perdue 273-282 FRCP 12 Complete CALI exercise on Jurisdiction and Venue (CIV 03) by Week 8.	Glannon Examples 141-173 Glannon Guide 173-193 Glannon Examples 47-61
8	Pleadings: <ul style="list-style-type: none"> • Complaint • Voluntary and Involuntary Dismissal • Defendant's Options 	Freer & Perdue 283-334 FRCP 7, 8, 9, 10, 12, 41(a) and (b) <i>Ashcroft v Iqbal</i> , 129 S. Ct. 1937	Glannon Guide 279-299 Glannon Examples 367-382

	in Response	(decided May 18, 2009) – this case should be in the Freer & Perdue 2010 supplement	
9	Pleadings: <ul style="list-style-type: none"> • Amendment • Rule 11 	Freer & Perdue 334-355 FRCP 11 and 15 Complete CALI exercise on Drafting a Complaint (CIV 01) or Waiver Under Rule 12 (CIV 19), by Week 10. Practice midterm exam #2 due.	Glannon Examples 383-407 Glannon Guide 299-328
10	What Law Applies in Federal Court?: <i>Erie</i>	MIDTERM EXAM (tentative) Freer & Perdue 533-568 US Constitution, Art VI US Constitution, Amend 10 28 USC §§ 1652 and 2072	Glannon Examples 177-199 Glannon Guide 195-214
11	What Law Applies in Federal Court?: <i>Erie</i> (continued)	Freer & Perdue 568-582	Glannon Examples 201-228 Glannon Guide 215-234
12	Joinder (By Plaintiffs) and Supplemental Jurisdiction: <ul style="list-style-type: none"> • Claim Joinder by Plaintiffs • Permissive Party Joinder by Plaintiffs • Supplemental Jurisdiction 	Freer & Perdue 641-666 FRCP 18 and 20 Freer & Perdue 753-763 28 U.S.C. §1367	Glannon Examples 253-270 Glannon Guide 235-254 Glannon Examples 309-342 Glannon Guide 255-278
13	Joinder (By Defendants) <ul style="list-style-type: none"> • Counterclaims • Cross-Claims • Impleader 	Freer & Perdue 666-693 FRCP 13 and 14 Complete CALI exercise on Review of Joinder Concepts (CIV 07) or Joinder of Claims and	Glannon Examples 271-282

		Parties (CIV 18) by week 14. Practice final exam #1 due.	
14	Joinder (Compulsory) <ul style="list-style-type: none"> • Compulsory Joinder • Intervention • Interpleader <p><i>Note: No class 11/24/10. The second class for this week's material meets on 12/1/10.</i></p>	Freer & Perdue 693-709 FRCP 19, 22 and 24 28 U.S.C. §1335, 1397 & 2361 Practice final exam #2 due.	Glannon Examples 283-307
15	Reading Week		

**CPS ENROLLMENT AND USE
PROFESSOR CAROLE BUCKNER
FALL 2010
CIVIL PROCEDURE I
CLASS KEY: J60851H535**

You will need:

- ✦ Class Key (above)
- ✦ Connection to the Internet
- ✦ Method of Payment (Credit card or personal check)

Enrolling through CPSOnline

If you enroll through CPSOnline, you will first need to setup a CPSOnline account.

Create an Account

1. Go to www.einstruction.com.
2. Click on the **Students** link at the top left of the window.
3. Select your school or university from the drop-down menu.
4. Click **Choose Site**.
5. Enter your serial number in the space provided. You can find your serial number on your LCD screen when you turn on your pad: if your pad does not have an LCD screen, your serial number is on the back of the pad, under the battery cover.
6. Click **Create Your Account**.
7. Create a CPSOnline Username and Password and fill in your contact information. Click **Submit** to create your account.

You've now created a CPSOnline account. You can use your CPSOnline username and password to login anytime to CPSOnline. Now you can enroll your pad in your class.

Enroll in a Class

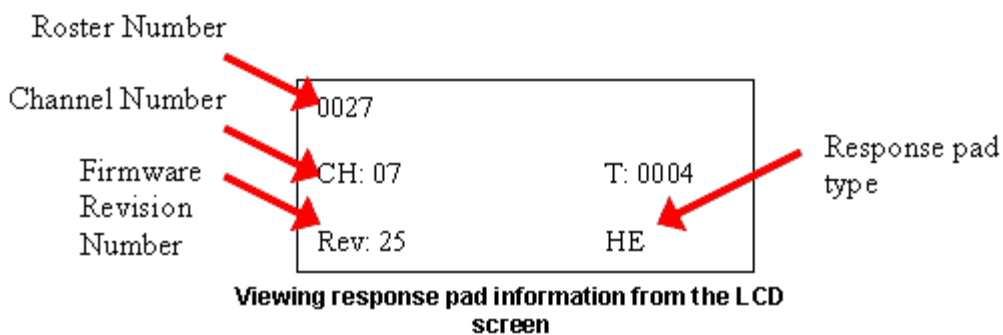
1. Click **Yes** to enroll immediately in your class.
2. Enter your **Class Key** in the space provided. If you have a Code, enter it in the **Code** box. Note that a Code is not required.
3. Click **Submit** and choose your payment options. Click **Continue**.
4. Fill in your billing information and click **Continue**.
5. To join an additional CPSOnline class, click the **Enroll in a class** button from the main menu.
6. Once you have finished enrolling in all of your classes, click **Log Out**. *So that CPSOnline properly records your information, log out of CPSOnline.*

NOTE: *If you enroll in more than one class using CPS, your response pad may have a different assigned number for each class. Note your assigned response pad number after you enroll for each class, and use the reminder emails from eInstruction to keep track of your information.*

Using CPS_{RF} in your class

The eInstruction response pad is easy to use with CPS. Use the information below to learn how to use the buttons on the pad. If you have any questions, log onto www.einstruction.com and use the **Customer Support** menu option. Type in your name and enter the live chat room for immediate help. You can also reach Technical Support at 888.333.7532.

- ✦ **Power** – turn the response pad on or off by pressing the **PWR/JOIN** button.
- ✦ **Join** – the response pads automatically search for a class roster to join whenever you turn on the pad.
 - **Initiate Join** – to have the response pad begin searching for a class roster to join, turn on the response pad and press the **PWR/JOIN** button.
 - **Manually Join** – to manually join a class, turn on the response pad and press the **PWR/JOIN** button twice. *Join:* appears on the LCD screen. Type in the channel number for the class roster you would like to join, and press **Send**.
- ✦ **Use Negative Numbers** – make a numeric response positive or negative by pressing the +/- button.
- ✦ **Enter Equations** – create equations by entering symbols into your response with the **Sym** button. You can include the following symbols: X, Y, =, (,), . (decimal), + (plus operator), - (minus operator), / (division operator), * (multiplication operator), (space)
- ✦ **View Response Pad Information** – to view the response pad channel, roster number, and firmware version, turn the pad on and press the < button.



- ✦ **View Serial Number** – to view the serial number for your response pad, simply press the **PWR/Join** button to turn on the response pad. The serial number displays in the LCD screen as your response pad searches for a class roster to join. Your serial number will begin with “r1...”.
- ✦ **Adjust LCD Screen Contrast** – to adjust the LCD screen contrast, press the > button. Use the **A1** button to decrease the contrast and the **C3** button to increase contrast.

Getting started with LexisNexis Webcourses

Student Instructions

Enrolling in your Web Course

Your professor will let you know if you need to self enroll or if he or she has already enrolled you. If your professor has enrolled you, skip to the next section below. Otherwise, follow these simple instructions to enroll for the first time:

1. Go to <http://webcourses.lexisnexis.com/>
2. Click on the **Login** button
3. Enter your **LexisNexis ID** and click the **Login** button
Note: If you get an error message "Invalid ID: If you have not registered your LexisNexis ID, please use the registration links below.", then you must first register your LexisNexis ID. Choose the "Law School Student Registration" link to register your LexisNexis ID, then repeat steps 1, 2 and 3.
4. Click on **Browse Course Catalog**
5. Click on the **link for your school**
6. Select your course and click **Enroll**

To access your LexisNexis Web Course once you have been enrolled:

1. Go to <http://webcourses.lexisnexis.com/>
2. Click on the **Login** button
3. Enter your **LexisNexis ID** and click the **Login** button
4. From the **Course List**, select the specific course you would like to access (this will only show the Web Courses for which you have enrolled)

Using your LexisNexis Web Course

Once you log into a Web Course, you will immediately see:

- the main course window in which **Announcements** will be posted
- **Navigation buttons** on the left for accessing different types of information and documents posted by your professor

Communicating with classmates and your professor through LexisNexis Web Courses

- *Send an e-mail to your classmates, groups of classmates, or your professor* – Click on the **Communication** button from the Navigation area; click **Send E-mail**; select the recipients to which you wish to send your e-mail
- *Participate in a discussion forum with your classmates* – Click on **Communication** from the Navigation area; click **Discussion Board** (or your professor may have selected **Discussion Board** as one of the navigation buttons); you may **Reply** to an existing message or **Start [a] New Thread**

Manage your course with Student Tools

- *Send documents to your professor or classmates* – click **Student Tools** from the Navigation area; click **Dropbox**; click **Browse** and select the file you wish to send
- *Check grades* – if your professor has created on-line quizzes, you may be able to check your grades by clicking **Student Tools** from Navigation area; click **Check Your Grade**; select the specific **Quiz/Exam**
- *Not down notes regarding your course* – click **Student Tools**, click **Electric Blackboard**; type notes in the text box; click **Save**.