

Civil Procedure (LAW 502-3)

Spring 2018

Texas Southern University

Thurgood Marshall School of Law

Professor Michael C. James, J.D., LL.M.

Office: 236-M

Office Hours: Mon-Thur, 2-4 PM

and via appointment.

E-mail: mijames@tmslaw.tsu.edu

Catalog Description: “This course covers modern civil procedure in the United States with emphasis on pre-trial procedure under the Texas and Federal rules. The content includes constitutional and statutory aspects of jurisdiction (including personal and subject-matter jurisdiction), the ‘Erie doctrine’ and procedural rules of pleading, joinder of parties, joinder of claims, discovery, and pretrial motions.”

This class meets in room 107 from 10:00–10:50 AM on Mondays and Wednesdays. This course carries 2 hours of credit for the Spring Semester.

Course Description

This course serves as a primer on civil procedure. Special emphasis will be placed on the procedural framework of contemporary litigation, the corresponding rules that govern all civil actions, as well as the critical constitutional principles that underlie this vital area of law. During the spring semester, we will explore: joinder of parties and claims, pleadings and amendments, the discovery process, dispositions without trial (dismissals, defaults and summary judgment), pre-trial case management, trials, juries & judgments, the Erie Doctrine and the appellate process.

Course Objectives

1. Achievement of a critical understanding of the essential tenets of civil procedure (e.g., the proper commencement of a civil action, the basic stages of litigation, the identification of the proper parties of a civil action, the sufficiency of pleadings, etc.).
2. Effective exhibition and development of fundamental legal skills (i.e., critical analysis of case law and efficient construction/interpretation of statutes).
3. Development of the capacity to digest legal scholarship and jurisprudence, while simultaneously maintaining the ability to reason deductively, inductively, and with the use of analogies.

Books and Readings

The following textbook is required for this course:

Michael James & Ana M. Otero, *Civil Procedure: A Coursebook* (Custom Coursebook 2E), Wolters Kluwer (Latest Edition).

This Custom Book is based on Glannon's *Civil Procedure: A Coursebook*, Wolters Kluwer.

***Note:** You may also elect to obtain the Rules Supplement for our textbook (i.e., Glannon, Perlman, Raven-Hansen, *Civil Procedure: Rules, Statutes and Other Materials*, Latest). Supplement information available at <http://www.aspenlaw.com>.

However, in addition to WestLaw and Lexis-Nexis, Cornell University Law School maintains an excellent online repository of both the Federal Rules of Civil Procedure (<http://www.law.cornell.edu/rules/frcp>) and also the United States Code (<http://www.law.cornell.edu/uscode/text>). These resources are **FREE**. I find their online resources to be quite useful.

Additional readings will occasionally be required and will be announced and/or distributed either in class or via TWEN.

Course Policies

1. **Attendance & Conduct:** **Attendance is NOT optional!** Per the Law School's attendance policy, students are expected to attend all classes unless you are prevented from doing so by severe medical or other unexpected trauma. **Absences will affect your course grade adversely (See Student Rules and Regulations for details on absences and corresponding grade reductions).** Should a medical or other urgent situation arise, you must inform me A.S.A.P. DO NOT sit back and allow time to elapse and expect me to make arrangements for you at the end of the semester! If you have a problem that you know will intrude on your studies, speak to me about it as early as you can. Remember, I am here to help you learn, not to further hinder you, but you must handle your affairs in a professional manner. **Extraneous web surfing is disallowed during class. If you own a cellular telephone or pager, you must NOT have it operating during any class session; otherwise, you risk being asked to leave class if it rings! Similarly, use of personal computers for activities unrelated to our course is prohibited!**
2. **Make-up Examinations:** You should be present at each scheduled examination. **Only students with exceptional explanations for their absence will be given an opportunity to sit for a make-up exam.**
3. **Evaluation:** Your grade will be based on the following metrics: "professionalism" points (discretionary) for attendance, class participation, quizzes and/or homework assignments (10%), Exam 1 (10%), Exam 2 (10%), Exam 3 (10%), Exam 4 (10%) and the departmentally-mandated "comprehensive exam" (50%).
4. **Class Discussions:** Wherever possible, I will seek to engage the class in a thoughtful discussion pertaining to various relevant topics. Keeping abreast of the latest events (Legal and Political) will allow you to more seriously participate in class discussions on current affairs, cases and controversies. It is up to you to decide whether you want to read news sources in print or on the Internet. As students of law, you should monitor current events (both domestic and international) by reading a national daily newspaper (e.g., *The Washington Post* or *The New York Times*), a major local newspaper (i.e., *The Houston Chronicle*), or a weekly news journal (e.g., *Time*, *U.S. News & World Report*, or *Newsweek*). Additionally, you should also consult the following websites regularly to stay abreast of current case law and judicial trends: www.law.cornell.edu (Cornell Univ. Legal Information Institute, recent SCOTUS Opinions), supreme.lp.findlaw.com (FindLaw's SCOTUS Database), and www.supremecourtus.gov (official website of SCOTUS). **Topical and relevant questions are welcome during class!**
5. **Reasonable Accommodation & Disabled Students:** *"TSU adheres to federal and state law that prohibits discrimination in programs for students with disabilities. When the disability is documented, a notice will be given to all instructors."* **Students with any disabilities should contact the Office of Disability Services at (713) 313-4210.** Make certain that you personally discuss this situation with me promptly in order to arrange for any appropriate accommodations that will become necessary as the semester proceeds.

PROFESSIONALISM POINTS FOR TUTORIAL ATTENDANCE

Half of the available “professionalism points” will be derived by calculating individual student participation in all scheduled tutorial sessions.

STUDENT TUTORIAL PARTICIPATION REQUIREMENTS

To receive the point allotment, each student must:

- (1) Attend all scheduled tutorial sessions for this semester (i.e., perfect attendance).
- (2) Complete all assigned “review problems” prior to each tutorial session.
- (3) Pay attention and participate fully during each tutorial session.

NOTE: Failure to: (1) attend any of the tutorial sessions scheduled for this semester, (2) to complete any of the assigned tutorial materials, or (3) to participate in any sessions will result in the non-attainment of these points.

Furthermore, conduct yourselves appropriately during each session. This means that all cellular phones, MP3 players, etc., will be powered off and put away during the actual tutorial sessions. Additionally, there should be no cross-chatter occurring in the audience during any of the tutorial sessions. Treat the tutorial sessions just like normal class days. My tutor will inform me of any students who fail to adhere to any of the above-mentioned guidelines.

COMPREHENSIVE EXAM COVERAGE (REVISED VERSION)

Topic	# of questions
Personal Jurisdiction	8
Subject Matter Jurisdiction	8
Removal	5
Supplemental Jurisdiction	2
Venue	6
Disposition Without Trial (Verdicts and Judgments)	6
Pleading	8
Discovery	6
Rule 11	3
Erie	1
Trials	3
Verdicts/Judgments	3
Appeal	1

Other Useful Policies to Know

Academic Honesty Policy Statement

“Students must maintain a high standard of honesty in their academic work. They should avoid all forms of academic dishonesty, **especially the following: Plagiarism, Collusion, Cheating and Impersonation.**” *Any violations of the honesty policy will result in immediate course failure.*

Statement of Non-Discrimination

“Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in educational programs or activities that receive federal financial assistance. It is the policy of Texas Southern University not to discriminate on the basis of race, color, national origin, or sex in its educational programs, activities, or employment.”

Counseling Center

The University Counseling Center is available to help you maximize your health and effectiveness at home, school or work. Through this program, you receive confidential, personal support for a wide range of issues, from everyday concerns to serious problems. Their offices are located in the Student Health Center Building. Their phone number is (713) 313-7804.

Preliminary Course Program and Schedule (Spring 2018)

Dates	Topic	Chapter(s)
08JAN18	Course Introduction	
Weeks 1-2	Joinder & Supp. Jurisdiction Part 2	Chapters 18 and 19
Weeks 2-3	Pleading & Amendments	Chapters 14-17
Weeks 4-5	The Discovery Process	Chapters 21-23
Weeks 6-7	Dispositions Without Trial	Custom Materials
07MAR18	Midterm Exam	
Weeks 9-10	Pre-Trial Case Management	Custom Materials
Week 11-12	Trials, Juries & Judgments	Custom Materials
Week 13	Erie Doctrine & Choice of Law	Custom Materials
Week 14	The Appellate Process	Custom Materials
Week 15	Review of Material	
25APR18	Last Class Day	
TBA	Semester Final Exam	
TBA	Comprehensive Exam	

**The above dates represent an estimate of the amount of time that I anticipate devoting to a corresponding chapter or topical discussion. During the semester, the actual coverage schedule will be adjusted as necessity dictates.*

TMSL Spring 2018 Academic Calendar

SPRING SEMESTER 2018 (SEVENTY DAYS OF CLASSES)

School Opens	Tuesday	January 2, 2018
First Day of Class	Monday	January 8, 2018
Last Day to ADD/DROP	Wednesday	January 10, 2018
M L K Holiday (No Classes)	Monday	January 15, 2018
<i>Purge of all unpaid course selections</i>	Wednesday	February 7, 2018
Mid Term Examinations	Mon – Fri	March 5– 9, 2018
Spring Break	Mon – Fri	March 12 – 16, 2018
Spring Break (University Closed)	Mon-Wed	March 12- 14, 2018
Good Friday (No Classes)	Friday	March 30, 2018
Last Day of Classes	Wednesday	April 25, 2018
Last Day to Drop a Class	Wednesday	April 25, 2018
First Year Professors' Grades due	Wednesday	April 25, 2018
Reading Period (No Classes)	Thur. – Sun	April 26 - 29, 2018
Final Examinations	Mon- Fri	April 30 – May 11, 2018
Hooding Ceremony	Friday	May 11, 2018
Commencement	Saturday	May 12, 2018

Please note that the calendar events and /or dates are subject to change.