

# **Civil Procedure (LAW 502-3)**

**Fall 2017-Spring 2018**

**Texas Southern University**

**Thurgood Marshall School of Law**

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

**Office: 236-M**

**Office Hours: Mon, Wed & Fri, 12–1 & 2-4 PM**

**and via appointment.**

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**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 208 from 11:00–11:50 AM on Mondays, Wednesdays and Fridays. This course carries 3 hours of credit for the Fall 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. We will also explore the most important determinations that must be made *prior* to filing a civil action (i.e., the establishment of **jurisdiction** and the selection of proper **venue**).

## **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](http://www.law.cornell.edu) (Cornell Univ. Legal Information Institute, recent SCOTUS Opinions), [supreme.lp.findlaw.com](http://supreme.lp.findlaw.com) (FindLaw's SCOTUS Database), and [www.supremecourtus.gov](http://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 (OLD VERSION)**

<b><u>Subject Area</u></b>	<b><u>Approximate Number of Final Exam Questions</u></b>
Personal Jurisdiction	10
Subject Matter Jurisdiction	10
Venue	10
Pleading	10
Discovery	10
Joinder	6
Dispositions Without Trial	4

**TOPICS NOT COVERED ON THE COMPREHENSIVE EXAM**

The “Erie doctrine”  
Issue Preclusion  
Claim Preclusion  
Appeals  
Identifying the Trier of Fact  
Trial  
Jury

## **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 (Fall 2017)

Dates	Topic	Chapter(s)
21AUG17	<b>Course Introduction</b>	
Week 1	<i>What the heck is "Civil Procedure"?</i>	Chapters 1 and 2
Weeks 2-5	Subject Matter Jurisdiction	Chapters 3-6
Weeks 5-8	Personal Jurisdiction & Notice	Chapters 7-11
Weeks 9-10	Basic Venue & Transfer of Venue	Chapters 12 and 13
20OCT17	<b>Exam 1 (Midterm Exam)</b>	
Week 11	Basic Venue & Transfer of Venue	Chapters 12 and 13
Weeks 12-13	Joinder & Supp. Jurisdiction Part 2	Chapters 18-19
29NOV17	Last Class Day	
TBA	<b>Exam 2 (Semester Final Exam)</b>	

*\*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 Fall 2017 Academic Calendar**

### **FALL SEMESTER 2017 (SEVENTY DAYS OF CLASSES)**

<b>First Day of Class</b>	<b>Monday August 21, 2017</b>
<b>Last Day to ADD/DROP</b>	<b>Friday August 25, 2017</b>
<b>Labor Day (NO CLASSES)</b>	<b>Monday September 4, 2017</b>
<b>Purge of all unpaid course selections</b>	<b>Thursday September 20, 2017</b>
<b>Mid Term Examinations</b>	<b>Mon–Fri October 16-20, 2017</b>
<b>VETERANS DAY (NO CLASSES)</b>	<b>Friday November 10, 2017</b>
<b>Thanksgiving</b>	<b>Th–Fri November 23-24 2017</b>
<b>Last Day of Classes</b>	<b>Thursday November 30, 2017</b>
<b>Last Day to Drop a Class</b>	<b>Thursday November 30, 2017</b>
<b>Reading Period (NO CLASS)</b>	<b>Fr-Sun December 1-3, 2017</b>
<b>Final Examinations</b>	<b>Mon–Fri Dec 4 -Dec. 15, 2017</b>
<b>Commencement Saturday</b>	<b>December 16, 2017</b>