

CIVIL PROCEDURE
COURSE NO. 510/SECTION 2
FALL - 2019
PROFESSOR ANA OTERO

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THE PROFESSOR

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LOCATION: Suite 236A

OFFICE HOURS: Monday 11:00 am -2:00 pm; Tuesday and Thursday 9-11:00 am; 1-2:00 pm.
(All other times by appointment only. Please feel free to email me to set up a mutually convenient time.)

MY TEACHING PHILOSOPHY:

My teaching philosophy has evolved during my thirty years of teaching in the legal profession. It is partly grounded on the words of the Lebanese poet, Khalil Gibran: *“The teacher who is indeed wise does not bid you to enter the house of his wisdom but rather leads you to the threshold of your mind.”*

I am thoughtful and passionate about my teaching. I teach by example, so I strive to be diligently prepared and to challenge students to excel. I am mindful that each student learns differently, so my teaching style evolves to meet the needs of my students. I believe that repetition and reinforcement of the legal concepts are pivotal in learning the law, so I provide different teaching tools to accomplish this goal. Above all, I strive to ensure that students fully understand the foundational principles so that their learning is meaningful and effective.

As I reflect on my years of teaching, I find that my mission is rooted on three principles: to spark enthusiasm for learning, to create a positive learning environment, and to infuse professionalism and compassion in my students.

Through the years, I have learned much from my students. I am humbled by their determination to succeed and their dedication to the task. I care about my students, and I believe that each of them can become a successful lawyer. But being a lawyer is a huge responsibility and I strive to ensure that my students will be ethical and competent practitioners.

COURSE BOOKS & MATERIAL

REQUIRED TEXTS

1. *Civil Procedure: A Coursebook*, Joseph W. Glannon, Andrew M. Perlman, and Peter Raven-Hansen (Wolters Kluwer) (Aspen Custom Book by Professors Michael James and Ana M. Otero (3rd Edition).
2. *A Student's Guide to the Federal Rules of Civil Procedure*, Baicker-McKee (Thomson-West) (Latest edition) or any book that contains the Federal Rules of Civil Procedure and selected provisions from the United States Code, Title 28. (Latest edition)

I strongly suggest you purchase the Baicker-McKee book as it's annotated with commentaries and additional sources that are exceedingly helpful in understanding the federal rules and statutes. That said, this is not mandatory; any rule book that contains the most recent enactment of the Federal Rules of Civil Procedure and the selected provisions of Title 28 will do.

Suggested readings:

1. *The Power of Procedure: The Litigation of Jones v. Clinton*, Nan D. Hunter (Aspen Publishers).

Importance of this syllabus

Beyond ground rules, my contact information, reading assignments, office hours, and grading, this syllabus contains particular items that constitute an integral part of the course. These items include the objective of the course, student learning outcomes, specific competencies, and probing questions on all assigned material. It is your responsibility to read these items carefully every week. This syllabus is a teaching tool, and you should use it in planning your reading and ensuring that you are well prepared for class. You should use this syllabus:

- to glean class policies, ground rules, and contact information;
- to understand my expectations;
- as a roadmap for your studies and to prepare for the class;
- to self-reflect about your understanding and knowledge of the legal principles and governing rules.

Please note that failure to have your books and be prepared for class will count against your participation grade.

COURSE DESCRIPTION & OBJECTIVE

COURSE DESCRIPTION

Civil Procedure covers the process of litigation in the federal courts. Through an examination of federal procedural rules, statutes, and cases, it examines the seven basic stages of litigation: investigative, pleadings, discovery, pre-trial, trial, post-trial, and appeal. It also involves the study of the most important determinations that must be made before filing a civil action: personal and subject matter jurisdiction, and venue.

Civil Procedure is a one-year course. The fall semester will cover the following areas:

- **Federal Subject Matter Jurisdiction, including Supplemental Jurisdiction and Removal.**
- **Venue**
- **Personal Jurisdiction**
- **Pleading (including a brief overview of default judgments and joinder)**
- **Introduction to Discovery**

In the spring semester, we will cover the following topic areas:

- **Discovery**
- **Disposition Without Trial (Default, Dismissals, and Summary Judgment)**
- **Erie**
- **Juries**
- **Trials**
- **Appeals**

CLASS OBJECTIVES

The class will be taught using four primary components:

- 1) Class lecture and discussion based on the casebook, *Civil Procedure: A Coursebook*, selected provisions of the United States Code, the Federal Rules of Civil Procedure, and pertinent handouts.
- 2) Exercises. There will be practice exercises to review before each assigned chapter. These exercises provide guidance in approaching the material, pose pertinent questions, and summarize the glossary of new terms that may be unfamiliar to you. The exercises will be posted on TWEN and should be reviewed before reading the pertinent assigned materials.

- 3) Quizzes: After the completion of each assigned topic, there will be a **mandatory** quiz posted on TWEN. The quizzes are designed as review and reinforcement. They are open-book. By email, I will notify you when the quizzes open and close. Generally, the quizzes remain open for two to three days. ***You may not print the quiz questions. I will consider it a violation of the Honor Code to do so and will act accordingly.***

- 4) Emails: I use the TWEN email to clarify concepts, and to provide additional information. As will be expected of you in a law firm, you are required to review the emails regularly, and I suggest that you print them and incorporate them into your notes. Some of the explanations provided in the emails may appear in the quizzes.

THIS SYLLABUS IS NOT A CONTRACT AND IS SUBJECT TO CHANGE WITH OR WITHOUT NOTICE.

STUDENT LEARNING OUTCOMES

The student learning outcomes are included with each week's assignment in the following pages.

GRADING

The grade for Civil Procedure will be as follows: my grade, which constitutes fifty percent of the total grade; and, the “uniform” exam at the end of the fall semester, which constitutes the other fifty percent of the total grade.

My portion of the grade is derived from your quizzes, essays, other graded exams, and participation. I allocate 500 points to the fifty percent of my portion of the grade, so that, for example, our first quiz is worth 50 points; together all graded material will be worth 500 points.

Quizzes (including a quiz that will be designated as a midterm).

After every major topic, there will be a quiz. Quizzes are composed of multiple choice and true/false questions. Some of the quizzes will be open-book, meaning you may use all the materials provided in this class, including your casebook. That said, because these quizzes are time-sensitive, they require you to be fully familiar with handouts and cases so that you can answer most of the questions unaided by your materials. Each quiz will be assigned a specific point value, which will be announced before the administration of the quiz.

There may also be a take-home quiz covering information on the federal courts.

Essays

There will be a number of timed graded essays, also be assigned a portion of the 500 points – generally, 10-20 points per essay. The turnaround for essays will be within a week, and your answers will contain extensive feedback. I will also provide you with a grading rubric or a sample answer which will be reviewed in class.

The purpose of the essays is to test your understanding of the legal concepts, and hone your legal analysis and communication skills.

It is my goal in this class to awaken your mind so that it becomes keen and inquiring; to give you an opportunity to become not just a good legal writer, but a skillful writer. Like any other craft, legal writing requires practice, love, and attention. Perfecting this craft is a life-long pursuit, but it is my hope that through various exercises we will do in this class, you will begin the process.

Final Exam

The final exam is cumulative and may include a take-home essay. The final exam is closed book.

Participation points

Participation points are earned through the recital of assigned cases, as well as your class participation.

TWEN quizzes: There will be a number of mandatory quizzes posted on TWEN during the semester. These will be announced in class and by email.

Tutorials: There will be a number of tutorials. These will be announced in class and by email.

EXAM NUMBERS

The use of multiple exam numbers not only protracts the grading process, but also causes confusion in the recording process, which could be detrimental to your grade.

You should use only two (2) exam numbers in my class:

- 1. one number for the quizzes (including the midterm), and other graded assignments, such as essays.**
- 2. one number for the final.**

Unless I have explicitly authorized it, the use of multiple exam numbers, will cause you to have 5 points deducted from the final grade. Please act accordingly.

ACCOMMODATIONS

Students requesting accommodations may do so through the Office of Student Affairs.

Participation, Attendance & Professionalism

PARTICIPATION AND ATTENDANCE

Class attendance and participation are mandatory. (See Students Rules of Matriculation for details on absences and grade reductions.)

TWEN

Most of my supplemental materials will be posted on TWEN. It is an integral component of this class. You should review my TWEN page as soon as possible and become familiar with the recent postings. The “Exercises,” for example should be read before the assigned material and the class discussion. Make sure to read the “General Instructions” handed out the first day of class.

To use TWEN, you need a WESTLAW password and access to the WEB. Whenever you are accessing TWEN, make sure to have the technical support number available so you can contact them with any problems you may have. That number is 1.800.486.4876.

CALENDAR: I will post all class announcements on the calendar. Please check the TWEN calendar on a regular basis for notices and announcements regarding quizzes, tutorials, etc.

PROFESSIONALISM

In keeping with the professional school environment, students should remember to respect their fellow classmates and the Professor at all times. Please refrain from excessive side conversations or other distracting conduct.



TEXAS SOUTHERN UNIVERSITY THURGOOD MARSHALL SCHOOL
OF LAW

*******TENTATIVE*******ACADEMIC CALENDAR 2019–2020

FALL SEMESTER ACCELERATED (TURBO) COURSE

First Day of Accelerated Summer	Monday	August 5, 2019
Last Day to Add/Drop Classes	Monday	August 5, 2019
Last Day of Classes	Friday	August 16, 2019

FALL SEMESTER 2019 (SEVENTY-ONE DAYS OF CLASSES)

Orientation	Monday–Friday	August 12–16, 2019
First Day of Class	Monday	August 19, 2019
Last Day to ADD/DROP	Wednesday	August 21, 2019
Labor Day (NO CLASSES)	Monday	September 2, 2019
<i>Purge of all unpaid course selections</i>	Wednesday	September 18, 2019
Mid Term Examinations	Monday–Friday	October 14–18, 2019
Last Day to Drop a Class	Friday	November 8, 2019
Last Day of Classes	Tuesday	November 26, 2019
First Year Professors' Grades due	Tuesday	November 26, 2019
Reading Period (NO CLASS)	Wednesday	November 27, 2019
Thanksgiving Holiday	Thursday–Friday	November 28–29, 2019
Reading Period (NO CLASS)	Saturday–Sunday	November 30–Dec. 1, 2019
Final Examinations	Monday–Friday	December 2–13, 2019
Commencement Exercises	Saturday	December 14, 2019

SPRING SEMESTER 2020 (SEVENTY DAYS OF CLASSES)

School Opens	Thursday	January 2, 2020
First Day of Class	Monday	January 13, 2020
Last Day to ADD/DROP	Wednesday	January 15, 2020
M L K Holiday (No Classes)	Monday	January 20, 2020
<i>Purge of all unpaid course selections</i>	Friday	February 7, 2020
Mid Term Examinations	Monday–Friday	March 9–13, 2020
Spring Break	Monday–Friday	March 16–20, 2020
Spring Break (University Closed)	Wednesday–Friday	March 18–20, 2020
Last Day to Drop a Class	Thursday	April 9, 2020
Good Friday (No Classes)	Friday	April 10, 2020
Last Day of Classes	Tuesday	April 28, 2020
First Year Professors' Grades due	Tuesday	April 28, 2020
Reading Period (No Classes)	Wednesday–Sunday	April 29–May 3, 2020
Final Examinations	Monday–Friday	May 4–May 15, 2020
Hooding Ceremony	Friday	May 15, 2020
Commencement Exercises	Saturday	May 16, 2020

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

Updated July 2019

POLICIES & PROCEDURES

CLASS ETIQUETTE

No laptops in the classroom

A 2006 study conducted by Winona State University found a negative relationship between laptop use and student learning. “Recently, a debate has begun over whether in-class laptops aid or hinder learning. While some research demonstrates that laptops can be an important learning tool, anecdotal evidence suggests more and more faculty are banning laptops from their classrooms because of perceptions that they distract students and detract from learning. The current research examines the nature of in-class laptop use in a large lecture course and how that use is related to student learning. Students completed weekly surveys of attendance, laptop use, and aspects of the classroom environment. Results showed that students who used laptops in class spent considerable time multitasking and that the laptop use posed a significant distraction to both users and fellow students. Most importantly, the level of laptop use was negatively related to several measures of student learning, including self-reported understanding of course material and overall course performance.”

<https://www.winona.edu/psychology/media/friedlaptopfinal.pdf>

Cell phones

The use of cell phones in the classroom during class is strictly prohibited. All electronic devices must be turned off during class.

Attendance

Please refrain from coming to class late or departing during class instruction. It can be very disruptive.

READING ASSIGNMENTS

- ▶ **Objectives and competencies:** In order to fully understand federal civil procedure, it's imperative to know the structure of the state and federal courts, as well as the myriad rules and regulations that govern the many aspects of litigation.

Every state has its own court system. The types of cases that can be heard in state courts are established by state legislatures and states' constitutions. The U.S. Constitution provides for a separate federal court system, and the categories of cases that the federal courts can hear are established by federal statutes.

Federal litigation commences with the filing and service of pleadings, followed by an intensive phase of discovery, motions, and investigation, culminating in pre-trial proceedings and ultimately a trial. Most litigation, however, does not end in trial; most cases settle or are resolved by dismissal or summary judgment.

Discovery, the process of gathering and exchanging information to prepare for trial or to attempt to settle, dominates litigation practice, and can often be a source of heated contention and abuse.

If a case does not settle, it proceeds to trial. In that event, it may be tried to the court or to a jury. While the federal rules of civil procedure govern primarily the litigation process, the federal rules of evidence predominate during trial proceedings.

Even after a judgment has been entered, the case is not over since the losing parties may file a number of post-judgment motions.

- ▶ **After Chapters 1 and 2 you should:**

1. Know the difference between the two American Court Systems: state and federal.
2. Know the structure of the federal and state courts.
3. Have a fundamental understanding of general principles of subject matter jurisdiction.
4. Be familiar with the sources of civil procedure regulation.
5. Have a basic understanding of the litigation process.

Week 1

INTRODUCTION TO CIVIL PROCEDURE AND THE AMERICAN LEGAL

8-20

- ▶ Overview of the Uniform Bar Exam
- ▶ Diagnostic Quiz; Discussion of the diagnostic material.
 - ▣ Exercise 1
 - ▣ Chapter 1, An Introduction to American Courts, pp. 3-19;
Chapter 2, A Description of the Litigation Process and Sources of Procedural Law, pp. 21-38.
 - ▣ Pleading Overview: PowerPoint presentation.

▶ **Objectives and competencies – Subject Matter Jurisdiction:** Federal courts must have subject matter jurisdiction over the types of cases before them, and as we have already learned, federal courts are courts of limited jurisdiction. Congress authorized jurisdiction in federal district courts “of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. 1331. Also, Congress has enacted specific statutes authorizing federal district courts to hear causes of actions relating to certain areas of federal law. These chapters explore the federal courts’ limited jurisdiction, pertinent statutes, and landmark cases. In particular, they explore the two predominant types of subject matter jurisdiction: diversity and federal question.

Federal courts often assume jurisdiction of a case based on the removal statutes, which authorize defendants sued in state court to remove certain cases to federal court, that is, to take the case out of the state court and refile it in federal court. The rationale for allowing removal is that the defendant should have the same option as the plaintiff to choose a federal court to hear a case that is within federal subject matter jurisdiction.

Federal cases often assert multiple claims, some that support original federal jurisdiction, and others that do not. For example, a plaintiff may sue a non-diverse defendant on a federal claim and a state claim. In a diversity case, a defendant may counterclaim for less than the jurisdictional amount, bring in a third party defendant from the same state, or assert a state law cross-claim against a codefendant from the same state. Before enactment of 28 U.S.C. § 1367, the supplemental jurisdiction statute, such claims were analyzed as either pendent claims or ancillary claims depending on their posture in the case. Today, both types of added claims are referred to as supplemental claims.

▶ **After Chapters 3-5, you should:**

1. Be familiar with all pertinent sections of Title 28 of the U.S. Code.
2. Understand diversity jurisdiction.
3. Understand federal question jurisdiction.
4. Understand the “well-pleaded” complaint and the essential federal requirement.
5. Understand supplemental and removal jurisdiction.

Week 2 INTRODUCTION TO SUBJECT MATTER JURISDICTION

8-27 Exercise #2

- Begin discussing Chapter 3, Diversity Jurisdiction in the Federal Courts. pp. 41-90.

Cases:

- Gordon v. Steele, p. 44.
- Mas v. Perry, p. 53.
- Hertz Corp. v. Friend, p. 62.
- Diefenthal v. C.A.B., p.76

Week 3 SUBJECT MATTER JURISDICTION

- 9-3
- Chapter 4, Federal Question Jurisdiction, pp. 91-125.

Cases

- Louisville & Nashville RR v. Mottley, p. 94.
- Gunn v. Minton, p. 111.

Week 4 REMOVAL AND SUPPLEMENTAL JURISDICTION

- 9-10
- Review of exercise on Removal and Supplemental Jurisdiction
 - Chapter 5, Removal of Cases from State to Federal Court, pp. 127-144.

Cases:

- Avitts v. Amoco, p. 129.
- Chapter 20, Supplemental Jurisdiction, pp. 730-772.

Cases:

- United Mine Workers v. Gibbs, p. 731.
- Owen Equipment & Erection v. Kroger, p. 743.
- Exxon Mobil Corp. v. Allapattah, p. 759.

► **Objectives and competencies:** Before a federal trial court may exert personal jurisdiction over a defendant, it must satisfy the due process standard of the 5th and 14th Amendments of the Constitution. This requirement must be met for each defendant. The 14th Amendment bars a state from depriving a person of life, liberty, or property without due process of law, that is, without a basically fair procedure. If it's a court that's doing the depriving - by entering a judgment against a person and forcing her to pay it – basic fairness requires that the defendant have some

relationship to the state where the court sits that will make it fair to conduct the litigation. In civil procedure, this means that the court must have a basis to exercise personal jurisdiction.

Although the Federal Rules of Civil Procedure control many aspects of a civil suit in a district court, the Rules do not contain all the elements that must be satisfied before the suit can be prosecuted successfully. Concepts of jurisdiction and venue are of great importance in the litigation process, but for the most part these elements are not discussed in the rules. These chapters review the pertinent sections of Title 28 and a number of landmark cases that have marked the evolution and application of personal jurisdiction in the federal courts.

► **After Chapters 6-10 you should:**

1. Be familiar with the pertinent statutory laws that govern personal jurisdiction.
2. Understand the historical roots of the doctrine.
3. Understand the modern personal jurisdiction doctrine.
4. Understand the differences between general and specific jurisdiction.
5. Understand the alternatives to specific jurisdiction.
6. Understand how to answer personal jurisdiction bar exam questions.
7. Understand the long arm statute and the constitutional bases for service.

Week 5 INTRODUCTION TO PERSONAL JURISDICTION

- 9-17
- ▣ Review of exercise on Personal Jurisdiction.
 - ▣ Chapter 6, The Evolution of Personal Jurisdiction, pp. 147-178.

Cases:

- ▣ Pennoyer v. Neff, p. 150.
- ▣ International Shoe v. State of Washington, p. 165.

Week 6 PERSONAL JURISDICTION (continued)

- 9-24
- ▣ Chapter 7, Specific In Personam Jurisdiction, pp. 179-248.

Cases:

- ▣ McGee v. International Life Insurance, p. 180.
- ▣ World Wide Volkswagen v. Woodson, p. 185.
- ▣ Burger King v. Rudzewicz, p. 206.
- ▣ Asahi Metal Industry v. Superior Court, p. 216.

Week 7 PERSONAL JURISDICTION (continued)

10-1

- ▣ Chapter 8 - Other Constitutional Bases for Personal Jurisdiction, pp. 249-305.

Cases:

- ▣ Daimler AG v. Bauman, p. 253.
- ▣ Shaffer v. Heitner, p. 272.
- ▣ Burnham v. Superior Court, p. 287.

Midterm, Friday, October 17, 2019

Week 8 PERSONAL JURISDICTION (continued)

10-8

- ▣ Chapter 9 - Long Arm Statutes.

Cases:

- ▣ Bensusan Restaurant Corp. v. King, p. 316.
- ▣ Chapter 10- Constitutional Requirement of Notice and Methods of Service, pp. 327-362.

Cases

- ▣ Mullane v. Central Hanover Bank & Trust Co., p. 329.
- ▣ Baidoo v. Blood-Dzraku, p. 350.

► **Objectives and competencies – Venue:** The requirement of venue sets the appropriate federal districts in which a particular case should be heard. Requirements to satisfy venue are additional to the jurisdictional prerequisites. Thus, even if a plaintiff satisfied both kinds of jurisdiction, the case might still be dismissed if venue was lacking. For certain specific causes of action, Congress has enacted special venue statutes.

A defendant, however, may want a case heard in another judicial district. To achieve this purpose, a defendant will file motions to change venue. There are generally two types of venue-motions. First, and most obviously, a defendant can make a motion that the case was filed in an improper venue. The second type of motion contends that the venue chosen by the plaintiff is not improper, but that there is a more appropriate federal district.

Forum non conveniens is a doctrine that allows a court to dismiss a case so that it can be filed in a more convenient forum. A forum non conveniens dismissal is premised on the assumption that the plaintiff can, in fact, refile the case in a foreign venue.

► **After Chapters 11 and 12 you should:**

1. Understand the pertinent statutes under Title 28 of the U.S. Code.
2. Understand venue and transfer of venue.
3. Understand forum non conveniens.

Week 9 VENUE & FORUM NON CONVENIENS

- 10-15**
- ▣ Review of exercise on Venue.
 - ▣ Begin discussion on Venue
Chapter 11 – Basic Venue: Statutory Allocation of Cases Within A Court System, p. 367-384.

Cases:

- ▣ Uffner v. La Reunion Francaise, p. 377.

Week 10 VENUE & FORUM NON CONVENIENS

- 10-22**
- ▣ Chapter 12, Challenges to Venue: Transfers and Dismissals, pp. 385-416.

Cases:

- ▣ MacMunn v. Eli, p. 389.
- ▣ Piper Aircraft Company v. Reyno, p. 398.

- **Objectives and competencies:** Pleadings communicate the nature of the lawsuit, define and shape the issues, furnish a basis for the evidence, and provide a foundation for res judicata. A pleading sets forth either an affirmative claim for relief or a response to a claim for relief. When drafting pleadings, the parties should comply with federal and local rules. The rules do not require the pleadings to detail the facts or plead legal theories. A complaint must give the defendant fair notice of what the plaintiff's claim is and the grounds on which it rests.

In responding to the complaint, the defendant has many choices. A defendant can respond to a complaint by doing nothing, and risking the entry of a default judgment, by moving to dismiss under Rule 12, or by answering.

► **After Chapters 13 and 14, you should:**

1. Demonstrate knowledge of the Federal Rules that govern pleadings: FRCP 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 15, and 55.
2. Know the six stages of litigation: investigative, pleading, discovery, pre-trial, trial and appeals, and how the FRCP apply to each of the stages.
3. Demonstrate knowledge of how a civil action is commenced, and the various steps in the pleading stage of litigation.
4. Understand notice pleading and the sufficiency of the complaint under the Federal Rules.
5. Know the heightened pleading requirement.
6. Demonstrate knowledge of the various ways of responding to a complaint and familiarity with Rule 12 motions.
7. Know the process of amending pleadings and the applicable rules.
8. Have a working knowledge of answering exam questions in the area of pleadings.

Week 11 INTRODUCTION TO PLEADING

- 10-29**
- ▣ Review pleading exercise.
 - ▣ Chapter 14, Basic Pleading, pp. 419-473.
I will cover cursorily pp. 419-446.

Cases:

- ▣ Leatherman v. Tarrant County Narcotics, p. 449.
- ▣ Ashcroft v. Iqbal, p 457.

Week 12 PLEADING – (continued)

- 11-5**
- ▣ Review of an exercise on answering the complaint
 - ▣ Chapter 14, Responding to the Complaint (or Not?), pp.475 - 524.

Cases:

- ▣ Virgin Records America, Inc. v. Lacey, p. 477.
- ▣ Matos v. Nextran, Inc., p. 487.
- ▣ Hunter v. Serv-Tech, Inc., p. 497.
- ▣ Reis Robotics USA, Inc. v. Concept Industries, Inc., p. 505.
- ▣ Ingraham v. United States, p. 511.

- **Objectives and competencies:** Care and candor in federal court litigation are policed by rules of professional conduct , Rule 11, statutes, the inherent power of the courts to control litigation, and legal malpractice law.

Rule 11 defines a form of legal malpractice based on an objective negligence standard. Before presenting any paper to a district court, the presenter must undertake an inquiry into the law and the evidence that is reasonable under the circumstances. Presenting a paper certifies that it has a proper purpose; that its claims, defenses, and other legal contentions have a legal basis; and that its factual contentions have evidentiary support under Rule 11.

► **After Chapter 15, you should:**

1. Know Rule 11 and demonstrate knowledge of its application.
2. Be familiar with the procedure for presenting a Rule 11 motion.

Week 13 PLEADING - RULE 11 and AMENDMENTS (continued)

- 11-12
- ▣ Review of an exercise on Rule 11.
 - ▣ Chapter 15, Care and Candor in Pleading, pp.525- 558.

Cases

- ▣ Hays v. Sony Corp. of America, p. 527.
- ▣ Hunter v. Earthgrains Co. Bakery, p. 537.
- ▣ Sussman v. Bank of Israel, p. 544.

- ▣ Review exercise on amending the pleadings.
- ▣ Chapter 16, Amending Pleadings, pp. 559-602.
Most of this section will be covered through exercises and practice questions.

Cases:

- ▣ Beek v. Aquaslide ‘N’ Dive Corp., p. 565.

- **Objectives and competencies** if one plaintiff asserts a single claim against one defendant, and that is the entire scope of the lawsuit, there is no issue raised about joinder of claims and parties. Seldom, is litigation that simple. Modern joinder provisions are constructed to foster a complete resolution of all claims, involving all of the players to the same transaction or occurrence that raise common issues of law or fact. Joinder rules repeatedly sound the theme of transactional relationship. Running parallel with the transactional analysis is a cardinal rule of the federal system: Every claim against each party must be supported by an independent ground of subject matter jurisdiction, or by the discretionary principles of supplemental jurisdiction.

► **After Chapter 17 you should:**

1. Know FRCP 13, 14, 18, 19, 20, 21, 22, 23, and 24.
2. Know joinder of multiple parties.
3. Know the difference between affirmative defenses, counterclaims, and crossclaims, and how the joinder rules applies.
4. Know the difference between interpleader and intervention.
5. Understand statutory interpleader -28 U.S.C. §1335.
6. Understand class actions.
7. Understand how to answer exam questions in joinder.

Week 14 JOINDER OF CLAIMS AND PARTIES

- 11-19**
- ▣ Review of an exercise on joinder of claims and parties
 - ▣ Chapter 17, Joinder of Claims and Parties, pp. 607-646.

Cases:

- ▣ Hohlbein v. Heritage Mutual Insurance Co., p. 615.
- ▣ King v. Blanton, p. 625.
- ▣ Erkins v. Case Power Equipment, p. 636.

Week 15

11-26 FINAL EXAM

LAST DAY OF CLASS WEDNESDAY, TUESDAY, NOVEMBER 26, 2019



WEEKEND TUTORIALS WILL BE ANNOUNCED AS THE SEMESTER PROGRESSES.