

CIVIL PROCEDURE I: SYLLABUS: FALL 2009

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Key: **T** refers to the principal hardcover text, by Marcus, Redish and Sherman (5th ed. 2009); **FRCP** refers to the federal rules of civil procedure (in the paperback volume); **§** refers to a section from title 28 in the United States Code (in the paperback volume); **U.S. Const.** refers to provisions in the U.S. Constitution (in the paperback volume); **S** refers to supplemental cases and materials other than problem sets on the course website; **PS** refers to problem sets on the course website.

GENE SHREVE AND PETER RAVEN-HANSEN, UNDERSTANDING CIVIL PROCEDURE (4th Ed. 2009) (Shreve) is included as suggested reading for the course. On the syllabus, each major section of the course is followed by a reference to the applicable pages in Shreve.

INTRODUCTION

August 26: Introduction and welcome; review of course requirements
No reading

August 31: The big picture: the goals of procedural justice T1-16
FRCP 1; U.S. Constitution, Amendment 14, §1.

September 1: The big picture (cont'd)
S1-6; Caperton v. A.T. Massey (on website)
§ 455 (on website)

A. BEFORE GETTING A LAWSUIT STARTED: SOME THINGS TO CONSIDER

September 2: Whether to sue: litigation and its alternatives
T19-25; 93-96; 100-13

September 7: Where to sue: a primer on jurisdiction and related concepts
S7-11; T25-26
U.S. Constitution Art. III, §§1-2
§§ 1331; 1332(a)

September 8: Avoiding frivolous litigation: The omnipresent Rule 11
T137-51; PS1
FRCP11

**B. GETTING A LAWSUIT STARTED: PLAINTIFF'S COMPLAINT AND
DEFENDANT'S RESPONSES**

[Suggested reading: Shreve pp. 217-278; 387-89]

1. Maintaining the status quo while suit is pending: preliminary injunctions and temporary restraining orders

September 14: S12-22
FRCP 65

2. The complaint; responsive motions; default

September 15: T114-127
FRCP 2, 3, 7, 8(a), 10(b), 12(b)

September 16: T128-137
FRCP 8(d), 12(e), 12(f); PS2

September 21: T151-68; PS3
FRCP 9(b)

September 22: T174-195 (through n. 3)

September 23: T198-207 [Do problems in n.3 on pp. 199-200]
FRCP 12(g), 12(h), 55, 60

3. The answer; counterclaims; crossclaims; amendments; voluntary dismissal

September 28: T207-222
FRCP 8(b)-(d), 12(c), 13(a), (b), 41

September 29: T222-237; 274-75
FRCP 13 (g); 15; PS4

C. STILL GETTING STARTED: WHO'S THE BEEF WITH?--CONFIGURING AND RECONFIGURING THE PARTIES BY MEANS OF JOINDER DEVICES

[Suggested Reading: Shreve pp. 279-322]

1. Real party in interest; permissive joinder of parties; compulsory joinder of parties; impleader; interpleader; intervention

September 30: T238-40; 244-52 [do problems in n. 8 on pp. 251-52]
FRCP 17(a), 18, 20, 21; PS5

October 5: T252-53; S23-26; T268-274
FRCP 14, 19

October 6: T275-290; 293-97; PS6
FRCP 22, 24; § 1335

2. Class Action

October 7: T305-17 (through n.4); Holland v. Steele (on website);
FRCP 23

October 12: T318-331 (through n.3); PS7

October 13: Practice Exam

D. GATHERING INFORMATION IN SUPPORT OF YOUR CASE--DISCLOSURE AND DISCOVERY

[Suggested reading: Shreve pp. 327-386]

1. Disclosure/discovery devices and their limits

October 14: T343-47; 352-67 (through n.3); PS8
FRCP 26(a)(f); Skim FRCP 27, 30, 31 and 33-36
(this may look like a lot of work but there are no cases)

October 26: T368-87
FRCP 26 (b) (1) (2), 26(c)

2. Privileged and Protected Information

October 27: T387-399
FRCP 26(b) (3)

October 28: T399-408; PS9

3. Discovery from Experts; investigation

November 2: T409-419
FRCP 26(b) (4)

4. Investigation without Discovery; Discovery sanctions

November 3: T419-29; S27 [**Beware! S27 is a case--do not ignore it**]
FRCP 26 (e), (g), 37

E. CHALLENGING THE SUFFICIENCY OF YOUR OPPONENT'S CASE AFTER GATHERING INFORMATION BUT BEFORE TRIAL--SUMMARY JUDGMENT

[Suggested Reading: Shreve pp. 390-410]

November 4: T430-440
FRCP 56

November 9: T440-454

November 10: T455-468; PS10

November 11: Practice exam

F. CHALLENGING THE SUFFICIENCY OF YOUR OPPONENT'S CASE AT TRIAL-- JUDGEMENT AS A MATTER OF LAW AND NEW TRIAL

[Suggested Reading: Shreve pp. 459-474]

1. Judgment as a matter of law

November 16: T523-531 (skim); 594-611
FRCP 50

November 17: T623-643

2. New Trial

November 18: T611-628 (through n.4); PS11
FRCP 59, 60

G. Claim and Issue Preclusion

[Suggested Reading: Shreve pp. 525-557]

November 23: T1994-1106 (through n.6); 1110-113; 1122-27

November 24: T1145-61

November 30: T1167-81; 1186-1192

H. Conclusion

December 1: Practice exam

December 2: Question and Answer