

CIVIL PROCEDURE
PROFESSOR GREENBERGER
FALL 2008

Office No. 947
Office Hours: 2:30 – 3:30 MW

Required Books: Hazard, Tait, Fletcher & Bundy, Pleading and Procedure (9th ed. 2005) and Federal Rules of Civil Procedure, Foundation 2008.

Syllabus:

I. Background: Introduction to Procedure

Text: 1-35; 47-52

II. Pleading

A. Introduction

Rules: Fed R. Civ. P. 1, 8, 12
Handout: Swann Complaint and Motions

B. Allocation

Rules: Fed. R. Civ. P. 8, 12
Text: 546-47; 581-91

C. The Complaint

Rules: Fed. R. Civ. P. 8, 9, Forms 2-9
Text: 567-81; 592-601
Cases: Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955 (2007) (majority opinion only); Erickson v. Pardus, 127 S.Ct. 2197 (2007); Phillips v. County of Allegheny, 515 F.3d 224 (3rd Cir. 2008).

D. Responses to the Complaint (Motions and Answer)

Rules: Fed. R. Civ. P. 7, 8, 12
Handout: Swann Answer
Text: 565-67; 625-27; 632-35

E. Amendment & Service

Rules: Fed. R. Civ. P. 3, 4, 15
Text: 61-64; 293-303
Case: Schiavone v. Fortune, 477 U.S. 21 (1986)
Text: 635-647
Case: Jacobsen v. Osborne, 133 F.3d 315 (5th Cir. 1998)

F. Rule 11

Rules: Fed. R. Civ. P. 11
Case: Albright v. Upjohn Co., 788 F.2d 1217 (6th Cir. 1986)
Text: 609-11; 619-25
Cases: Keegen Management, 78 F. 3d 431 (9th Cir. 1996);
Whitehead v. Food Max of Mississippi, 277 F. 3d 791 (5th Cir 2002).

III. Adjudication Without Trial

A. Default Judgment and Judgment on the Pleadings

Rules: Fed. R. Civ. P. 54, 55
Text: 919-23

B. Summary Judgment

Rules: Fed. R. Civ. P. 56
Text: 923-45; 950-63
Cases: Clark v. Coats & Clark, Inc., 929 F.2d 604 (11th Cir. 1991);
Williams v. Borough of West Chester, 891 F.2d 458 (3d. Cir. 1989);
Jones v. Clinton, 990 F. Supp. 657 (E.D. Ark. 1998).

IV. Relief

Rules: Fed. R. Civ. P. 57, 65
Text: 35-46
Cases: Lawson Products, Inc. v. Avnet, Inc., 782 F. 2d 1429 (7th Cir. 1986)

V. Jurisdiction

A. Personal Jurisdiction: Territoriality

Text: 145-76; 250-66; 176-235
Handout: Illinois long-arm Statute
Text: 266-81; 303-16; 235-39
Case: Panavison v. Toeppen, 141 F. 3d 1316 (9th Cir. 1998)

B. Personal Jurisdiction: Notice

Text: 281-93; 64-95
Case: Dusenberry v. United States, 534 U.S. 161 (2002)

C. Federal Subject Matter Jurisdiction

Rules: U.S. Const., Art. III; 28 U.S.C. §§ 1331-1367; 1441-1447; 1653
Text: 346-55; 362-93; 400-12

VI. Venue

Rules: 28 U.S.C. §§ 1391-1407
Text: 414-35

VII. Erie Problem

Rules: U.S. Const. Am. 7, 14; 28 U.S.C. §§ 1652, 2072
Text: 449-91
Cases: Walker v. Armco Steel Corp., 446 U.S. 740 (1980);
Burlington Northern v. Wood, 480 U.S. 1 (1987);
Stewart Organization v. Ricoh, 487 U.S. 22 (1988).

VIII. Discovery

Rules: Fed. R. Civ. P. 16, 26-37, 45, 53
Text: 821-45; 852-65; 867-84; 897-918

IX. Former Adjudication

A. Basic Principles

Text: 1158-59; 1166-1211

B. Offensive Collateral Estoppel

Text: 1211-28

C. Preclusion and *Erie*

Text: 514-22

X. Right to Jury Trial

Rules: U.S. Const. Am. 7; Fed. R. Civ. R. 38

Text: 995-1015

Case: Ross v. Bernhard, 396 U.S. 531 (1970)

Text: 1015-32; 1043-56; 491-514

Student performance will be evaluated primarily upon the basis of a final examination. Regular attendance is required. Class participation may be taken into account in determining the final grade.