

**CIVIL PROCEDURE**  
**PROFESSOR GREENBERGER**  
**FALL 2009**

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

Required Books: Hazard, Tait, Fletcher & Bundy, Pleading and Procedure (10th ed. 2009) and Federal Rules of Civil Procedure, Foundation 2009.

Syllabus:

I. Background: Introduction to Procedure

Text: 1-35; 47-52

II. Pleading

A. Introduction

Rules: Fed R. Civ. P. 1, 2, 8, 12

Handout: Swann Complaint and Motions

B. Allocation

Rules: Fed. R. Civ. P. 8, 12

Text: 585-86; 633-644

C. The Complaint

Rules: Fed. R. Civ. P. 8, 9, Forms 2-9

Case: American Nurses' Association v. State of Illinois, 783 F.2d 716 (7<sup>th</sup> Cir. 1986)

Text: 606-633

Cases: Erickson v. Pardus, 551 U.S. 89 (2007); Ashcroft v. Iqbal, 129 S.Ct. 1937 (2009)

Text: 644-660

D. Responses to the Complaint (Motions and Answer)

Rules: Fed. R. Civ. P. 7, 8, 12

Handout: Swann Answer

Text: 603-606; 684-694

E. Amendment & Service

Rules: Fed. R. Civ. P. 3, 4, 15  
Text: 61-64; 317-327  
Case: Schiavone v. Fortune, 477 U.S. 21 (1986)  
Text: 694-706  
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: 669-670; 678-684  
Cases: Keegen Management, 78 F. 3d 431 (9th Cir. 1996);  
Whitehead v. Food Max of Mississippi, 277 F. 3d 791 (5<sup>th</sup> Cir 2002).

III. Adjudication Without Trial

A. Default Judgment and Judgment on the Pleadings

Rules: Fed. R. Civ. P. 54, 55  
Text: 980-984

B. Summary Judgment

Rules: Fed. R. Civ. P. 56  
Text: 984-1006; 1011-1030  
Cases: Colston v. Barnhart, 130 F.3d 96 (5<sup>th</sup> Cir. 1997).  
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 (7<sup>th</sup> Cir. 1986)

V. Jurisdiction

A. Personal Jurisdiction: Territoriality

Text: 158-189; 265-281; 189-241; 281-296; 241-253  
Case: Panavison v. Toeppen, 141 F. 3d 1316 (9<sup>th</sup> Cir. 1998)

B. Personal Jurisdiction: Notice

Text: 296-308; 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: 371-379; 387-389; 397-425; 437-449

VI. Venue

Rules: 28 U.S.C. §§ 1391-1407  
Text: 449-472

VII. Erie Problem

Rules: U.S. Const. Am. 7, 14; 28 U.S.C. §§ 1652, 2072  
Text: 487-529  
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: 882-907; 914-926; 928-942; 945-46; 958-979

IX. Former Adjudication

A. Basic Principles

Text: 1223-24; 1231-1279

B. Offensive Collateral Estoppel

Text: 1279-1296

C. Preclusion and *Erie*

Text: 553-561

X. Right to Jury Trial

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

Text: 1062-1082

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

Text: 1082-1095; 529-552

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.