

CIVIL PROCEDURE DVS

Syllabus for Fall Term 2018

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Reading Assignments: See Page 6

Instructor: Professor Lipson
Credit Hours: Five (5) Credit Hours
Days: Tuesdays and Thursdays / 2452 LAW 540 (Cohort 2B, Section 2)
Time & Place: 1:30 - 4:00 pm / Room 217
Changes: Professor reserves the right to modify the syllabus during the semester.

1. **Required Text:** *Civil Procedure: Cases & Materials*, Jack H. Friedenthal, *Compact Version* (12th Edition, West Group); and latest Supplement.
2. **Course Objectives/Goals/Contents:** To provide an in-depth course covering the theory, mechanics, and rules by which the court systems of the United States function. Focus is on the federal court system. By the end of the course, students will become proficient in analyzing the law in the following subject areas:
 - I. **Subject Matter Jurisdiction,**
 - II. **Territorial Jurisdiction,**
 - III. **Venue,**
 - IV. **Choice of Law, and**
 - V. **Court Rules Governing Pleadings, Parties and Proceedings.**
3. **Classroom Expectations:** This course is designed around specific reading assignments. During class sessions, you will be expected to recite case briefs and participate in a modified Socratic discussion. Therefore, as you read the assigned cases, question the content as you attempt to seek answers and solutions. Pay attention to the date of the case and the court rendering the decision.

Preparation is very important. A lack of proper preparation, when called upon, wastes time, adversely affects the entire class, and cannot be tolerated. You are expected to attend every class and be prepared. You should read all assigned material, prepare a written brief of all major cases and review all cases that are assigned. (Briefs may be collected periodically). You should be ready to discuss the cases in class; you will not be permitted to simply read your briefs. Rather, you should have enough knowledge about the case to discuss it intelligently.

Students are not permitted to record lectures. You are expected to be on time for each class. If you are late, you will be marked absent. Excessive absences from class will result in an involuntary withdrawal from the course pursuant to College of Law policies. Changing seats without prior permission will not be tolerated.

There is a **zero tolerance** for cell phones, computers and other electronic devices, which are strictly banned from the classroom. These rules constitute a simple courtesy to your fellow classmates and your professor. Studies have shown that *all* computers and electronic devices cause distraction and lower grades, particularly with respect to note-taking.

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4. Office Hours:

Tuesday: Noon - 1:00 p.m. & 4:30 p.m. - 9:30

Thursday: Noon -1:00 p.m. & 4:30 p.m. - 9:30

Select Mondays and Wednesdays: 1:00 p.m. – 3:00 p.m.

All other times: By Appointment.

Any time (24/7) by telephone or email: [310] 777-8333. ashley@objection.com.

- 5. Study Considerations:** Civil procedure is often difficult for first year law students because the concepts are abstract rather than concrete. Civil procedure is a system and it may be difficult to understand the beginning without knowing the end.

Rather than study a substantive area of the law, we will be focusing upon procedural law – the methodology for dispute resolution. Many of the cases depend upon their particular facts, so be sure to read them carefully. And, if you do not completely grasp a subject, initially, re-reread the material. If you still fail to understand it, see me or the assigned Teaching Assistant.

Civil procedure is not limited to those interested in becoming litigators. It is a critical subject for transactional lawyers as they draw up contracts and other documents. For example, you will learn the importance of jurisdiction (the place where a wronged individual may file suit) and certain problems that can be averted by well-drafted agreements before a dispute ever arises. If you understand the concepts of civil procedure, you will be better prepared to draft contracts. Also, corporate lawyers must know the ramifications of the discovery process in order to better advise the client with respect to business records.

Keep in mind the difference between substantive law (*Who* is liable for *what* actions) and procedural law (*How* a case proceeds through stages of litigation). As you study substantive law topics such as contracts, torts and property, you will be determining the rights and duties among parties.

- 6. Examinations/Grading Components:** There will be one final examination (three hours in length) consisting of two essays and a set of multiple choice questions. The Final Exam will account for 75% of your final grade; In-Class and Out-Of-Class Exercises will account for 25% of your final grade. A final course numeric grade shall also be subject to the *College of Law* policies and rules pertaining to absences and instances of unpreparedness. The exercises may consist of quizzes, written essays or other skill-developing functions. Out-Of-Class (Homework) Exercises must be submitted when due; a late submission will result in a lesser grade or a zero.

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7. **Class Policies and Standards:**

Attendance, Participation, and Preparation: Attendance is mandatory. Students benefit by attending every class session and actively participating. Attendance policy is required by the California State Bar and is, therefore, strict. Upon notice, any instructor may, in his or her sole discretion, mark unprepared students as "absent". Regardless of excuse, absences in excess of 20% of a class (tardiness is an absence) results in automatic exclusion. The effects of an automatic exclusion are as follows: A student's first withdrawal for excessive absence from a course results in an F/0.0 unless the Associate Dean for Academic Affairs finds that the student should receive an I, W, or F as defined in the Mapp. A student withdrawn for excessive absences a second time from the same course receives an F/0.0 in the second registration in the course with no right of appeal.

Tardiness: Students are expected to arrive on time and stay for the full class session as a matter of courtesy to your classmates and the professor. Arriving late or leaving early results in a full absence. If not present when roll is taken, you will be marked absent.

Plagiarism: Plagiarism is prohibited. A violation will result in a score of zero on the subject assignment and a report to the Dean. The student may receive a grade of no credit in the course. Plagiarizing may adversely affect your moral character determination with the California State Bar, and your future career. Assignments for academic credit may differ somewhat from those of practicing attorneys. Students should also review the Student Handbook to familiarize themselves with the College of Law Plagiarism Policy.

8. **Disabilities and Accommodations:**

Students With Disabilities: Students whose disabilities require accommodation must comply with all applicable requirements of the College of Law. Students desiring accommodation for a bar examination should research the rules and practices of the state in which they wish to be licensed, and begin the process early. In California, obtaining an accommodation is difficult, and is best pursued well in advance of the bar examination.

Accommodations: If you are eligible for and requesting academic accommodations for a documented or suspected disability, contact the Director of Student Affairs and ADA Compliance in Room 102 of the College of Law or telephone phone 909.460.2046; to be considered, your disabilities must be documented and proper medical evaluations submitted. We want you to succeed in law school. Visit online: <http://sites.laverne.edu/disabled-student-services/>

Civility: At all times, you must conduct yourself with civility and respect for your classmates and professor. Any behavior that unduly distracts from classroom instruction, or contributes to creating an environment that is not wholly conducive to your classmates' participation or concentration is prohibited. Examples of such behaviors include (but are not limited to) having "side" conversations during class, and eating. Unprofessional conduct will result in your being dismissed from class and marked absent.

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9. University Mission and Values:

It is the mission of the University of La Verne to provide opportunities for students to achieve their educational goals and become contributing citizens to the global community.

The University of La Verne shares four core values that promote a positive and rewarding life for its students through fostering a genuine appreciation and respect for: (1) Values Orientation: The University affirms a philosophy of life that actively supports peace with justice, the health of the planet and its people. Therefore, in light of this affirmation, it encourages students to become reflective about personal, professional, and societal values. It also encourages values-based ethical behavior. (2) Community and Diversity: The University promotes the goal of community within a context of diversity. Therefore, it encourages students to understand and appreciate the diversity of cultures that exists locally, nationally, and internationally. It also seeks to promote appreciation and preservation of biodiversity by helping students understand the impact-dependence of human beings on their environment. (3) Lifelong Learning: The University commits itself to promoting education that facilitates lifelong learning. Therefore, it teaches students how to learn, to think critically, to do constructive research, and to access and integrate information in order to prepare them for continued personal and career growth. (4) Community Service: The University believes that personal service is a primary goal of the educated person. Therefore, it encourages students to experience the responsibilities and rewards of serving the human and ecological community.

Vision: La Verne Law is an incubator for innovation in legal education, thought, and advocacy for individuals passionate about serving their communities and promoting access and justice.

Mission: The mission of La Verne Law is to guide our students in the discovery of law and self as they prepare for the practice of law or other professional careers. Our faculty of scholars and teachers is committed to creating an innovative, collaborative learning environment designed to develop the knowledge and skills relevant to achieving individual and professional success. Our mission encompasses educating, as well as enhancing the professional lives of, the members of the local, regional, national, and international communities we encounter – students, faculty, staff, administrators, alumni, members of the bench and bar, and others who pursue social justice. Our mission is grounded in the core values of the University of La Verne – life-long learning, ethical reasoning and decision-making, diversity & inclusivity, and community & civic engagement. Difference-making is our legacy.

University Core Values: As a College within the University of La Verne we adopt and endorse the University core values of Lifelong Learning, Diversity and Inclusivity, Community Engagement, and Ethical Reasoning.

College of Law Core Principles and Values: As an institution dedicated to teaching and training the next generation of lawyers and leaders, we operate institutionally and individually on the principles of professionalism, innovation, ethics, student centeredness and community enhancement. In our actions and interactions, we are and seek to be affirming, respectful, humble, accountable, committed, inclusive, empathetic, responsive, passionate, and positive.

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University of La Verne College of Law Program Objectives:

- A. Upon completion of the program of legal education, students will possess the skills and knowledge to enable them to pass any bar examination of their choosing.
- B. Upon completion of the program of legal education, students will possess those skills to participate as respected members of the legal profession.
- C. Upon completion of the program of legal education, students will model ethical, responsible, and professional behavior.
- D. Upon completion of the program of legal education, students will embrace cultural differences and civic and community engagement.

10. American Bar Association Standard 302: Learning Outcomes

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following: (a) Knowledge and understanding of substantive and procedural law; (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context; (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

In compliance with ABA Standard 302, the University of La Verne College of Law has established the following: 1. Students shall demonstrate knowledge and understanding of substantive and procedural law. 2. Students shall demonstrate competence in legal analysis and reasoning. 3. Students shall demonstrate competence in conducting legal research. 4. Students shall demonstrate competence in problem-solving. 5. Students shall demonstrate competence in written and oral communication. 6. Students shall be able and motivated to exercise proper professional and ethical responsibilities to clients, the legal system, and the wider community. 7. Students shall demonstrate competent litigation skills. 8. Students shall demonstrate competent transactional skills. 9. Students shall apply cultural competency while exercising their legal skills.

11. American Bar Association Standard 310: Coursework

A “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time; or (2) at least an equivalent amount of work as required in Subparagraph (1) of this definition for other academic activities as established by the institution, including simulation, field placement, clinical, co-curricular, and other academic work leading to the award of credit hours. For purposes of this Standard, fifty minutes suffices for one hour of classroom or direct faculty instruction. An “hour” for out-of-class student work is sixty minutes. The fifteen-week period may include one week for a final examination. A school may award credit hours for coursework that extends over any period of time, if the coursework entails no less than the minimum total amounts of classroom or direct faculty instruction and of out-of-class student work specified in Standard 310.

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12. Course Schedule: The listed pages are to be read prior to their applicable class session, subject to changes or modifications by the Professor.

- Week 1** [08/21/18] - **Chapter 1** – Read Chapter 1 in its entirety. Pages 1-35.
[08/23/18] - **Chapter 2** - Territorial Jurisdiction. Pages 37 - 58
- Week 2** [08/28/18] - Long Arm Jurisdiction. Pages 58-95.
[08/30/18] - Long Arm JD Continued. Pages 95-120.
- Week 3** [09/04/18] - Jurisdiction Based On Other Contacts. Pages 120-155.
[09/06/18] - **Chapter 3** – Notice. Pages 157-180.
EXERCISE 1 (Issue Drafting)
- Week 4** [09/11/18] - Notice and Service Continued. Pages 180-195.
[09/13/18] - **Chapter 4** - SMJ. Pages 197-239.
- Week 5** [09/18/18] - SMJ Continued. Pages 239-255.
[09/20/18] - **Chapter 5** - Venue. Pages 257-283.
EXERCISE 2 (Quiz)
- Week 6** [09/25/18] - **Chapter 6** – Choice of Law. Pages 285-329.
[09/27/18] - Choice of Law Continued. Pages 329-349.
- Week 7** [10/02/18] - **Chapter 7** – Catch Up & Review. Pleading Preview.
[10/04/18] - Modern Pleading (Complaint) Pages 351-388.
EXERCISE 3 (Essay/IRAC)
- Week 8** [10/09/18] - Modern Pleading (Complaint/Response) Pages 388-411.
[10/11/18] - Modern Pleading (Reply/Amendment). Pages 411-431.
- Week 9** [10/16/18] - **Chapter 8** – Joinder (3rd Party). Pages 433-458.
[10/18/18] - Joinder Continued. Pages 458-482.
- Week10** [10/23/18] - **Chapter 9** – Class Actions. Read entirely, but do not brief.
[10/25/18] - **Chapter 10** Discovery. Pages 563-601.
EXERCISE 4 (Quiz)
- Week 11** [10/30/18] - Discovery Continued. Pages 601-651.
[11/01/18] - **Chapter 11 (Omit).**
Chapter 12 – Adjudication. Read entirely, but do not brief.
- Week 12** [11/06/18] - **Chapter 13** – Trial By Jury. Pages 689-722.
[11/08/18] - Jury Trials Continued. Pages 722-753.
- Week 13** [11/13/18] - **Chapter 14 (Omit).** **Chapter 15** – Binding Effect. Pages 783-818.
[11/15/18] - Binding Effect Continued. Pages 818-854.
- Week 14** [11/20/18] - **Chapter 16** – ADR. Read entirely but do not brief.
Review for Final Examination.

Make-up Days: As needed.