

**UNIVERSITY OF LAVERNE COLLEGE OF LAW**  
**CALIFORNIA CIVIL PROCEDURE**

Summer 2019 Syllabus  
Professor Joseph Richardson, Esq.

**I. COURSE OBJECTIVES**

Merriam-Webster's defines the word procedure as "a series of actions that are done in a certain way or order." 90 percent of the time, cases filed in civil court will settle or otherwise be disposed of prior to trial. Indeed, because civil trial becomes more expensive and happens less and less often, civil procedure has become even more important. With this in mind, our objective is to help students understand the importance of the civil procedure process in positioning cases for favorable disposition and/or settlement, and for success in the future practice of law. Our overview of California Civil Procedure, going in chronological order from the filing of an action onward, will include concepts such as jurisdiction, venue, pleadings, discovery, pre-trial disposition, trial, and (if time permits) post-trial procedures.

**Key Word "Civil:"** It is a bit ironic: while we use the word "civil" because we are talking about non-criminal matters, we also will emphasize the notion of civility in dealing with our legal adversaries in the litigation process. The word is defined as "adequate in courtesy and politeness: MANNERLY"). It is not only important that we understand civil procedure (i.e., the series of actions that are done a certain way), but we must also proceed in a certain manner and spirit; namely, with civility and integrity for the benefit of our profession. You can be "civil" and still vigorously represent the interests of your client.

**II. TEXTBOOKS**

A. Required

-David I Levine, et. al., Case & Materials on California Civil Procedure (5<sup>th</sup> ed., 2015)

**III. EXPECTATIONS**

**Note: This course is designed to satisfy the requirements of ABA Standard 310. Standard 310 requires that for each hour of in-class time, students spend two hours preparing for class (reading or completing class assignments or assessments), and researching and writing the required paper.**

Attend: You are expected to attend every class. Excessive absences will result in involuntary withdrawal per College of Law Policies. Please be on time and

prepared. Read the assigned material and summarize each case through written briefs.

Participate: Expect to make a contribution in EVERY class, and to do your best not to minimize the contributions of others. While we want you to give great weight to what you are saying, you should also pay attention to HOW it is being said. Making a contribution based on your thoughtful reflection of class materials is ideal. In the practice of law, it is truly a small world. Consider that the classmate taking the opposite side of a case may be on the other side of a case 10 or 20 years from now. Not only may your conduct in this class get you a good grade now, but it could very well create good will and respect that will help your client while dealing with a former classmate turned colleague. That's why civility is important!

As to each case, aside from briefing them, you should consider the following key questions:

- Which party is seeking to have the court act (who is the appellant/petitioner), and were they the original plaintiff or defendant?
- What is the legal theory that is being advanced by the party asking for the Court's action?
- Was the ruling an affirmation of what went on in the court below, or was the lower court's action overturned?
- In your analysis, did the decision (a) confirm established precedent, (b) present a nuance (i.e., a stretch/change or further interpretation on established precedent), or (c) establish a new precedent?
- Should the Court have done what it did in the case? Why or why not?
- How does each case fit into the larger principles of California Civil Procedure?

#### **Use of TWEN:**

I expect us to also use TWEN to have discussion questions related to our reading, etc., to confirm your further understanding of the cases and concepts that we will be covering.

#### **IV. LEARNING OUTCOMES**

At the conclusion of this course, students will be able to:

1. Identify major differences between Federal Civil Procedure and California State Civil Procedure.
2. Competently identify and argue positions from cases highlighted in the Civil Procedure textbook.
3. Articulate and apply leading California Civil Procedure cases to a real or hypothetical fact situation.
4. Identify and resolve the major issues in a California Bar Exam question involving California Civil Procedure.

5. Understand the importance of civil procedure as a tool for case management, which leads to the best possible outcomes for case resolution.

## **V. ACADEMIC INTEGRITY POLICY**

All work must be the individual work of each student unless specifically instructed to work in groups. Students will strictly adhere to the MAPP provision, Section V, A.6 on plagiarism, which states: “Plagiarism or other fraudulent representation (or material omission) relative to the originality of any part of any academic requirement in any course, including any written assignment or any examination;

Plagiarism is defined as representing, expressly or impliedly, the work of another to be one’s own. Plagiarism includes, but is not limited to:

- a. Using the words of another without proper attribution;
- b. Paraphrasing the word of another without proper attribution; or
- c. Using the ideas of another without proper attribution.

Lack of knowledge of what constitutes plagiarism shall not be a defense to a charge of plagiarism.”

## **VI. GRADING**

The course grade will be based on the following

- Class participation: 10%
- Class presentation: 10%
- Progress Test: 20%
- Final Exam 60%

**Class Participation/Presentation:** Will include both normal contributions in answer to professor’s questions (Socratic) as well as actual presentations in front of class arguing points from the cases, and/or from other hypothetical scenarios.

**Actual Documents/Recent Cases:** We will incorporate sample documents from actual cases that amplify the Civil Procedure process. In particular, we will see documents from key junctures of litigation, including early dispositive motions, and later dispositive motions. Also, to the extent that they occur and are relevant, we will incorporate current happenings in case law that may relate nicely to our civil procedure topics.

**Progress Tests:** There will be 1 Progress Test that will confirm your grasp of the information that is being presented in class on a weekly basis. Particularly, we want to confirm that you are getting the “big picture” of what is happening in the cases and how it relates to Civil Procedure.

**Final:** The Final Exam will give you factual scenarios calling for analysis based on applicable legal principles. There will be no notes on the final exam. So, to the extent you can think ahead now, about how each case fits into the larger principles of California Civil Procedure, you will be much more prepared for the final. I will take class time to give you more of a sense of what will be expected (and focused on) with the final.

**Remember:**

If there are things that you are not grasping, please reach out to me better sooner than later. The fact is that you have a Progress Test and a Final. That is not a lot of opportunity to “get it right.” Use the TWEN exercises to explain ideas and broaden your understanding. Remember, you want to ask yourself “how does THIS case fit into the larger scheme of California Civil Procedure?” You need the nuances of the case to fortify your 35,000 foot view of California Civil Procedure.

**VII. OFFICE HOURS**

Monday-prior to or after class by appointment

You are welcome to contact me by email or telephone. Email is [joespeak@gmail.com](mailto:joespeak@gmail.com), and phone number is 909.855.4497

**VIII. STUDENTS WITH DISABILITIES**

Students with disabilities should refer to the policies described at the University of La Verne Disabled Student Services Handbook which can be found on the website of the University of La Verne Disabled Student Services website (<https://sites.laverne.edu/>) or at their office. Temporary accommodations are offered on a case by case basis. All required documentation must be submitted by the student before any formal accommodations and should be made directly to the Director of Student Affairs.

Any student eligible for and requesting academic accommodations due to a documented disability (or a suspected disability) is asked to contact the College of Law Director of Student Affairs and Americans with Disability Act Compliance Officer, Akita Mungaray by email at [amungaray@laverne.edu](mailto:amungaray@laverne.edu) or by phone at (909) 460-2017. Her office is located on the first floor of the College of Law, Office # 107. You can also contact Cynthia Denne at the University of La Verne Disabled Student Services office at (909) 448-4441. The office is located at the La Verne campus Health Center. In order to be considered for accommodations, disabilities must be documented and the proper medical evaluations must be submitted. The office is here to help you succeed in law school. Visit it online at <https://sites.laverne.edu/disabled-student-services/>.

## **IX. COURSE SCHEDULE**

Please complete all assigned readings before attending class. I reserve the right to modify the schedule in order to accommodate class needs. If you are absent, please confirm the assignment for the following class.

### **Week 1:** June 3-9

Jurisdiction, Venue, Conflict of Laws  
Pages 1-129

### **Week 2:** June 10-16

Pleadings and Joinder (Complaint, Responses, Cross-Complaint)  
Pages 131-227

### **Week 3:** June 17-23

Pleadings and Joinder (Amendments, Truth in Pleading, Special Joinder)  
P. 228-255; P. 291-327

### **Week 4:** June 24-June 30

Discovery (Philosophy, Scope, Devices)  
P. 329-417

### **Week 5:** July 1-7

Discovery (Experts, Systematic Oversight); Disposition Without Trial (Mediation, Settlement)  
P. 418- 479, P. 531-541, P. 585-623

### **Week 6:** July 8-14

Disposition Without Trial; (Summary Judgment); Trial (Trial by Jury), Securing and Enforcing Judgments (Provisional Remedies)  
P. 625-657, P. 659-723, P. 765-784

### **Week 7:** July 15-21

Costs and Attorney's Fee; Appellate Review  
P. 800-832, P. 835-867

### **Week 8:** July 22, 23 Appellate Review/Test Prep Session July 25, 26 Final Exam