

CIVIL PROCEDURE I- COURSE OVERVIEW & SYLLABUS
Professor Michele DeStefano
Fall 2019

Welcome to the University of Miami School of Law! I am excited about introducing you to Civil Procedure, a subject that examines the framework through which society resolves many of its most important disputes in the U.S. The first half of the course will address one critical question: where can a lawsuit properly be brought? The question may seem simple, but the answer depends on the court's authority over the defendant (personal jurisdiction), the court's authority to hear the topic of the dispute (subject matter jurisdiction), and the appropriateness of the court's location within a particular jurisdiction (venue). We will also address how courts determine which law (federal or state) should apply to a case. The second half of the course will focus more heavily on the Federal Rules of Civil Procedure—which are quite similar to the rules used in many state courts. We will deal with topics such as what a complaint looks like, how defendants must respond to complaints, how parties learn about the facts (discovery), and how courts resolve cases without a trial.

I. CONTACT AND COURSE INFORMATION

Office: G476
Email: md@law.miami.edu
Office Hours: Tuesdays 2:00-3:20pm
Class Time: M/W 11:00am-12:20pm **RM: TBD**

Prescheduled Make-up Class Time

- Friday, October 25th @ 2:00-5:00pm in room F309.
- Class extended to 1:00pm on 11/18 if needed

Cloud/Web Course: Google Drive (see below for more info)
Faculty Assistant: Alina Hernandez (305) 284-4438
ahernandez@law.miami.edu
G477

II. REQUIRED TEXT

1. Stephen Yeazell, Civil Procedure (10th ed.) [**CB short for CaseBk**]
2. Stephen Yeazell, **F**ederal **R**ules of **C**ivil **P**rocedure (2019) [**FRCP**]
3. Supplemental Readings available on Google Drive [**Supp**]

I recommend (but do **not** require) that you purchase Joseph Glannon, Civil Procedure: Examples & Explanations. I do not recommend that you use other hornbooks or commercial outlines. ***Please bring the casebook [CB], Fed Rules of Civil Procedure FRCP, and Supplemental [Supp] to class.***

III. COURSE EXPECTATIONS AND INFORMATION

A. Class Preparation, Attendance, and Participation

I want you to think of our class as a safe place to try out your voice and to participate. I ask for volunteers but I also cold call on students randomly—especially those who do not voluntarily participate. You may have read Scott Turow’s *1L* or seen *Paper Chase*, this is not how our class will feel. I am a “gentle Socratic” and do not intend for this process of questioning to be a painful experience. That said, I expect a good faith effort to answer the question asked. And I expect everyone to have read the materials before class and to be “present” and engaged in class each day. In the first year, first semester, the best way to be fully prepared is to “brief” the assigned cases. These briefs should be short and serve as a refresher during class. That said, not every case, note, problem, or question will be discussed in class; there simply is not enough time. Class time will be used to highlight the most important cases and materials, to consider some topics in more detail, and to give you an opportunity to raise questions regarding issues about which you are confused or concerned.

I understand that occasionally things come up in our lives. Law school is not (and should not be) your entire life. However, I expect you to treat class with me like you would a meeting with a law firm partner. Thus, if you cannot attend a class session or if you were unable to prepare the assigned readings, please provide me with sufficient notice by emailing my assistant Alina Hernandez (ahernandez@law.miami.edu) before 9am the morning of that class to let me know you will not be attending or that you will not be able to answer questions. There is no need to explain why you need to miss class or why you are unprepared. This is your choice and your business. However, I have a strict policy that you may only be absent in class **three times total during the semester to avoid having it negatively affect your grade.** *Note: the ABA and Miami Law require class attendance. Poor class attendance or inadequate class preparation may result in withdrawal from the course, a lowered or failing grade, or referral to the Dean of Students.*

B. Examination & Grading

Students’ grades will be determined by performance on a final exam—which will be a 3.5 hour, open book, open notes, in-class examination that includes an essay (or two) and multiple choice questions. Students who make quality (not quantity) contributions to class discussions (whether called upon or volunteering) *may* receive an increase in their grade when their final exam grade falls on the margin between two grades (e.g., if the point total on the final examination is a high “B” and just below a “B+”, the student may be bumped up to a “B+” based on class participation.) However, I cannot guarantee that I will call equally on students during the semester. Therefore, it is your responsibility to volunteer relevant and thoughtful contributions to class discussions in order to positively affect your class participation grade.

C. Technology

As you likely know from visiting my bio page and reading about LawWithoutWalls (<http://www.lawwithoutwalls.org>), I am a big believer in using technology to change the way we practice and teach law. Therefore, in our class I will use technology not only in an attempt to engage you but also to introduce you to some new tools e.g., clickers. To that end, we will use/do the following:

Google Drive: Our course materials (syllabus, supplemental readings, and slides from class) will be in a class folder on Google Drive. This will serve as our “class website.” **In order to access our materials, if you have a gmail or an email associated with a google account, please email it to Alina. Otherwise, you will need to set up a Google account. Note: A Google account is simply a unified sign-in system that gives you access to Google products, including Drive, Docs, Sheets, and Slides. You can associate any email address with a Google account. Please spend a little time learning about Google Drive, how it works, how to upload and download documents, etc. (Click [here](#) to set up a google account).** Our Civ Pro Class folder can be accessed from any computer or phone anywhere as long as you have an internet connection.

Virtual Classes: I may hold one or more of our classes online in the LWOW Adobe Connect virtual room (click [here](#)). You can attend the class from anywhere where it is quiet and there is strong wifi. You can also sit in our classroom during the virtual class (but that sort of defeats the purpose). We will do a quick training in class so that everyone knows how to enter the virtual room and participate. I would like everyone to review this instructional video ([here](#)) and click [here](#) to see tech requirements. This is important because if we have a hurricane season like last year, virtual class is a great alternative.

LinkedIn: I would like each of you to start thinking about your future and your network. Our class is a great place to start. Therefore, please consider creating a LinkedIn profile (if you do not already have one) and then it would be great if you sent me LinkedIn request. Please be sure to add a personal note such as “Hi Prof DeStefano, so excited about being a 1L”—feel free to get creative with the note. Obviously, this is not a required act, but one that I hope you will do.

Laptop policy—No Laptops allowed: Perhaps this is counter-intuitive given my emphasis on technology, but other than during our virtual classes, I do not allow laptops in class. However, the good news is that I post my slides after class. My slides are numbered and you can take notes and refer to the slide numbers.

Email: I will use email periodically to communicate with the class (e.g. update you on class assignments or scheduling). I ask that you use email only for administrative matters. **Please do not ask substantive questions via email.** Save those questions for class, review time, and office hours.

D. Office Hours and Other Appointments

Please DO come to office hours OFTEN!! Office hours are a great time to follow up on questions we couldn't cover in-depth in class. Although I take drop-ins during my office hours, it is better if you sign up. Click [here](#) to access my calendar to sign up for office hours. If you need a different time/day, please email me directly. I really would like to get to know you, so please come visit during office hours.

The calendar link is: <https://calendly.com/mdestefano/office-hours>

E. Miscellaneous

Students with Disabilities

If you have a disability, or suspect that you may have a disability, the Law School encourages you to contact The Office of Disability Services for information about available opportunities, resources, and services. You may also visit the Office of Disability Services website at www.law.miami.edu/disability-services.

Dean's Fellow

Macy Nix is my Dean's Fellow. Macy will not be holding regular meetings nor serve the same role as other Dean's Fellows. Instead, she will hold office hours and serve as a civ-pro mentor to you for your basic questions and also to help you review the multiple choice questions and hypos you are assigned for the review sessions. Macy may also lead some of those review sessions. Macy's email address is mkn29@law.miami.edu.

IV. ASSIGNMENTS AND SYLLABUS

The class topics and reading assignments are set forth on the next page. I will revise the syllabus as we move through the semester based on our progress. **Also please note I have pre-reserved two makeup class times/dates in case my travel schedule changes.** You are expected to hold these dates so that you can attend these make-up classes if they are needed.

Civ Pro 1st Assignment

Before our first class, you have the following assignments to complete:

1. Technology
 - Send Alina an email that identifies the email you will use that is associated with your Google account. If you do not have an account, **Click [here](#) to set up a google account**). Alina will share our [2019 Civ Pro Class Folder \(click here\)](#) with you as soon as she gets your email. Note: that link will not work until you send Alina your gmail. You can access the syllabus and 1st assignment reading because it is open to anyone with the link ([click here](#)).
 - (Optional): Send me a LinkedIn request (create a LinkedIn profile if you do not have one)
2. Readings for the first day of class
 - a. Class Syllabus (provided in a folder called [2019 Civ Pro 1st Assignment Supp Reading click here](#))
 - b. Torres v. Scavenger (Supp) ([provided in 2019 Civ Pro 1st Assignment Supp Reading click](#))
 - c. Federal Rule of Civil Procedure Rule #1 and Articles III & IV of the US Constitution (found in your Federal Rules of Civil Procedure (FRCP) book)
 - d. Scalia, The Rule of Law (Supp) ([provided in 2019 Civ Pro 1st Assignment Supp Reading click here](#))
 - e. An Intro to the Civil Action (Supp) ([provided in 2019 Civ Pro 1st Assignment Supp Reading click here](#))

Note: The first reading assignment is somewhat longer than future assignments as it includes background material and covers some topics that are likely familiar to you. Also, on the first day of class, please sit where you want to sit for the rest of the semester as a seating chart will be created so I can learn your names.

SEGMENT	CLASS DATE	KEY MATERIAL	READINGS
I. General Intro			
1. An Introduction to Civil Procedure	8/12	Torres v. Scavenger Scalia, <i>The Rule of Law</i> Other To-Do Items See above for first class assignments	<u>FRCP 1</u> 28 U.S.C. §§ 1-132, 651 (Skim) (FRCP book) <u>US Const.</u> Art III Sec 1&2 & Art IV Sec 1; 14 th Amend Sec. 1 (FRCP bk) <u>Supp/Google Drive:</u> An Intro to the Civil Action (1-19) Torres v. Scavenger Scalia, <i>The Rule of Law</i> (skim)
THE REST OF THE SYLLABUS WILL BE PROVIDED THE FIRST WEEK OF CLASS			