

St. Thomas University School of Law
Civil Procedure I, Fall 2014
Section 2 (Law-600-02)

Professor Ira Steven Nathenson

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Class time: Mon. & Wed. 2-3:15PM, Rm. 113 (Center for Professional Development)
Office hours: Mon. & Wed. 3:30-5:30PM, Thurs. 4-6PM, and by appointment.
Course website: Instructions for enrolling in the Lexis Blackboard webcourse are on page 5. Students should enroll as soon as they receive their Lexis passwords.

SYLLABUS

Please read this syllabus carefully, before the first class, to understand the course requirements. Prepare the first-day assignment on page 5 below **before** the first class. Please be aware that laptops, tablets, or other electronics are not permitted to be used in class.

ABOUT CIVIL PROCEDURE

In this year-long course, we will study the procedures, principles, and rules that courts in the United States use to resolve civil disputes (not criminal cases). We will focus primarily on federal courts, examining the Federal Rules of Civil Procedure (the “FRCP”), Title 28 of the United States Code (the “Judicial Code”), the United States Constitution, and Supreme Court opinions construing them. Beyond learning procedural law, we will examine strategic, ethical, professional, and economic considerations pertinent to United States civil litigation.

BOOKS

It is essential that you obtain the **current** editions of the books listed below. Civil Procedure is changing constantly, and older materials differ not just in content, but will also contain outdated law. **Always** bring the required books to class. Reference and study materials will be listed in the RESOURCES section of the Lexis Blackboard webcourse.

1. **REQUIRED CASEBOOK:** *Civil Procedure: A Coursebook (Second Edition)*, by **Joseph W. Glannon, Andrew M. Perlman, and Peter Raven-Hansen (2d ed. 2014)**. Be certain to purchase the new edition, which is available from the bookstore or from other vendors. The bookstore has a for-purchase copy that you may keep for later reference or which you may later resell. Aspen also offers a rental, or “Connected” version of the casebook through <http://www.barristerbooks.com>. The rental casebook includes extras such as lifetime access to a digital copy of the book as well as access to an interactive study center. See <http://www.barristerbooks.com/wk> for further info. **Important:** if you purchase the rental from Barrister Books, be sure to check the box in the checkout cart indicating that you will need the book for a **year-long course**.

2. **REQUIRED RULES SUPPLEMENT: *Civil Procedure: Rules, Statutes, and Other Materials*, 2014**, by Joseph W. Glannon, Andrew M. Perlman, and Peter Raven-Hansen (2014). Available from the bookstore or from other vendors. Do not purchase previous editions, which may contain outdated rules or statutes.
3. **RECOMMENDED HORNBOOK/PROBLEMS BOOK: Joseph W. Glannon, *Civil Procedure: Examples & Explanations* (7th ed. 2013)**. The hardbound edition of this book is available from the bookstore or from other vendors. Aspen is offering a package deal by which you can buy Glannon's *Examples & Explanations* book along with his *Glannon Guide to Civil Procedure*. Make sure to use ISBN **9781454850366** at the bookstore and make sure that you are getting both titles for the package price. (Note: ISBN listed in earlier version of syllabus was updated by Aspen.)

GRADING

Anonymous exam. There will be a single closed-book final examination administered on an anonymous basis at the conclusion of the course. It will consist of multiple-choice and essay questions. I will provide you with relevant provisions of the Federal Rules of Civil Procedure and other materials for use during the examination. Laptops will be permitted for answering essay questions, subject to law school policy as detailed in the Student Handbook.

Comprehensive Spring exam. Please be aware that St. Thomas University School of Law requires comprehensive final examinations for its Spring semester first-year courses. This means that the final examination next Spring will include materials from both the Fall and Spring semesters.

CLASS PREPARATION

In general. Each student should be well prepared for class discussion each day. Thus:

- Please bring your Casebook and your Rules Supplement to each and every class.
- Reading the Glannon Casebook alone is not enough. If you have not carefully read the assigned rules, statutes, or constitutional provisions in your Rules Supplement, you are not prepared for class.
- Being prepared includes carefully reading the assigned materials more than once, looking up unfamiliar words in a dictionary (legal or otherwise), briefing assigned cases, re-reviewing the assigned materials immediately prior to class, and perhaps consulting one of the study aids listed on the course website. An online legal dictionary is available at <http://dictionary.law.com>.
- If you do not know if you are preparing enough, a good rule of thumb is that you should spend **at least** twice as much time preparing before class as you spend in class. In other

words, for a 75-minute class, you should prepare an absolute minimum of two and a half hours. Many students prepare much more than that.

Passes. One time per semester, if you are unprepared, you may tell me **before class begins** and I will not call on you. However, if you do not tell me in advance, and I call on you and determine in my sole and absolute discretion that you are unprepared, you may be marked as absent. If this happens more than once, your final grade may be lowered.

Day-to-day overlap. If we do not finish the materials assigned for a particular day, you should re-review those materials again for the next class. Additionally, even if we do not complete discussion of an assignment in class, you must still read any new materials assigned for the next class. **We are not “behind” until I tell you so expressly.**

Basics of case recitation. Early in the semester, we will spend time discussing briefing and how to recite a case. As a starting point for the first week, you should be able to answer the following basic questions when called upon to discuss any assigned case:

1. What are the material facts of this case?
2. In what trial court was this case filed? State or federal? What was the disposition of that court? If there was an appeal, to what appellate court? What was the disposition of the appellate court? (Same questions if there are further appellate proceedings.)
3. Who were the plaintiffs and defendants in the trial court? On appeal, which parties are the appellants/appellees or petitioners/respondents?
4. What are the legal issues?
5. What are the arguments that each side makes?
6. What is the holding? How does the court justify its holding?

Moreover, these questions are merely *preliminary* to deeper exploration of the materials. But if you are not prepared to answer these basic questions, you are likely unprepared for class.

ATTENDANCE

Class attendance. Class attendance is mandatory. In accordance with St. Thomas Law’s absence policy, you may only miss 20% of the classes. However, I do not recommend that you miss that many classes. Anything I say or we discuss in class is fair game on the final exam, even though it might not be in your written materials.

Excessive absences. *If you are deemed absent from class more than five times, you will be dropped from the course with a failing grade, and will not be allowed to take the final exam.* If you contact me to tell me that you are ill, your car broke down, or a loved one had surgery, I

always like to hear from you. Please do not hesitate. However, there is **no such thing** as an “excused” absence—whether for the above-listed or any other reasons—and I have no discretion in this regard. It is your responsibility to monitor your absences, and if you anticipate missing more than 20% of any class, you are strongly advised to contact Dean Hernandez regarding the possibility of withdrawal before it is too late to do so.

Sign-in sheet. Attendance is taken by roll sheet passed around in each class. It is each student’s responsibility to personally sign the sheet (i.e., to *certify* their presence). I provide the Registrar with a roll sheet for each class, and this is the **exclusive** measure of your attendance for that day. Do not come to me later and tell me you forgot to sign the roll sheet. Further, be aware that it is a serious violation of the Academic Integrity policy to sign in other people or to have others sign you in. The reason goes to the paramount value of *honesty*, which is one of the most important qualities of an aspiring attorney. In fact, we will study Fed. R. Civ. P. 11(b) regarding honesty in certification later this academic year.

CLASSROOM POLICIES

No computers, tablets, phones. Computer or phone usage of any type (laptop, iPad, iPhone, etc.) is **not allowed** in class. Turn off every device that could conceivably beep, buzz, ring, or otherwise emit sound in class. Because such devices are prohibited, please print out hard copies of any briefs, notes, assignments, or other items you may need for class discussion.

No recording devices. Recording by audio or video is prohibited unless approved in advance in writing by me, and will be permitted only for exceptional reasons or required accommodations.

Starting time. I begin class using the time on the classroom clock on the wall. You are **not allowed** to enter the classroom once I have started class. Please do not disturb class by trying to do so.

Leaving class, no re-entry. If you leave class early without permission or without a genuine emergency, you may be counted absent. In addition, you may not reenter the room until class is over.

Quiet place for shared discussion and focus. Please speak up when you ask questions or you are called on. Lawyers persuade for a living. You cannot persuade if you cannot be heard. Similarly, unless you are called on or are volunteering in the classroom discussion, do not talk in class. It is distracting and discourteous to your classmates and to me. I will ask you to leave class if necessary, and you may be counted absent.

ACCESSING THE COURSE WEBSITE

The most up-to-date resource for course information, class materials, and assignments is our Lexis Blackboard webcourse. You may obtain your Lexis ID from the law library and should do so as soon as possible. Once you have access to Blackboard, you should enroll in the webcourse to obtain future assignments and additional course information.

- 1) Go to <http://www.lexisnexis.com/lawschool>, log on with custom LexisNexis ID.
- 2) Click on MY WEB COURSES (left-hand side of webpage).
- 3) Click on the COURSES link (upper left).
- 4) Click on ST. THOMAS UNIVERSITY SCHOOL OF LAW (right-hand side).
- 5) Browse through the courses until you find CIVIL PROCEDURE (Nathenson). Alternatively, search for INSTRUCTOR as NATHENSON.
- 6) Click on ENROLL.

FIRST WEEK ASSIGNMENTS

Readings. All assignments should be read carefully and critically. As you'll quickly realize, one read-through is never enough. Future assignments will be posted on the Lexis Blackboard webcourse. In addition to reading the Casebook assignment, you must carefully read all assigned rules, statutes, and constitutional provisions. Such materials will be found in the Rules Supplement or posted to the Lexis Blackboard site.

CB = Casebook (includes cases and other readings)

RS = Rules Supplement (includes Federal Rules, statutes, and Constitution)

MONDAY, AUG. 18

- This syllabus.
- CB, pp. 3-36.
- You will complete a seating chart on the first day of class. Please make a note of where you sit for future reference.

WEDNESDAY, AUG. 20

- CB, pp. 39-57.
- RS, United States Constitution, Article III, Sections 1 and 2.
- RS, 28 U.S.C. § 1332(a), (b), (c), and (e).

Last revised Aug. 8, 2014

Aug. 8: updated ISBN for Aspen problem-books package
July 24: added info regarding Aspen Connected Casebook