Welcome back. I hope you had a safe and restful winter break.

GOALS AND EXPECTATIONS

What You Will Learn

Last semester, you mastered the Rules. You learned about the life cycle of a civil suit in federal court from start to finish, from chose in action to judgment. Now you know what belongs in a complaint, how to analyze a motion to dismiss, what evidence suffices to survive a motion for summary judgment, and how to determine the preclusive effect of a prior judgment.

You also saw how the Rules drawn upon deeper values, most notably due process. Our civil justice system aims at the ideal that every litigant should get one, but only one, chance to air her claims in court. Most often, that principle demands notice and an opportunity to be heard. But as we have seen, striking the appropriate balance between accuracy and efficiency requires constant tradeoffs—tradeoffs embedded in nearly every Rule in the book.

This semester we will take a step back and focus on two prior questions. First, which court or courts are competent to decide a given dispute? This is the question of jurisdiction, the power of a court to proceed to judgment. Without proper jurisdiction, a putative judgment isn't worth the paper it's printed on. To issue a valid judgment, then, a court must have jurisdiction over both the parties and the subject matter of the dispute.

Second, which body of law should a court of competent jurisdiction apply once it has agreed to hear a case? Our system of judicial federalism often tasks federal courts with deciding disputes traditionally governed by ordinary common law. Should federal courts deciding such cases make their own common law, or should they instead apply substantive state law? And how do the Rules we learned last semester fit into that question? This is the nub of the Erie doctrine, a vexing choice-of-law puzzle that forces us to confront the role of federal courts in a constitutional order that prizes both federalism and the separation of powers.

As with last semester, we will at times turn our gaze upward to high theory or downward to the doctrinal details. We must not lose sight of either, as we can learn
much about the political theory undergirding our system of judicial federalism by focusing on how courts have disposed of narrow legal questions. And a proper resolution of complex edge cases requires a deeper understanding of the larger aims of our civil justice system.

I look forward to exploring these fascinating and complex topics with you.

Preparing for Class

There will be reading assigned for every class. You should do the reading and be prepared to talk about it in class. Sometimes, when the material is dense or difficult, you will have to read it more than once. Thorough preparation for every class is essential to learning this material. For that reason, class participation may factor into your final grade.

I will call on students without warning during class. I understand that you will sometimes be unable to prepare for class. In those cases, you should email me no later than 8am on the day of class. If you do so, I will not call on you that day and you will not be penalized. If you are unprepared for class and have not emailed me in advance, it may hurt your final grade. I will set aside time during each class session for questions. I ask you to hold most questions for those times.

COURSE MATERIALS

As in the fall, many of our readings will be in Stephen C. Yeazell & Joanna C. Schwartz, Civil Procedure (10th ed. 2018). We will also continue to rely on the supplement containing the Federal Rules of Civil Procedure along with relevant statutory and constitutional provisions.

I have also posted a coursepack containing additional materials on Canvas. Copies of the coursepack may be acquired for a modest printing fee through the bookstore. If you prefer to use the coursepack electronically or to print your own, you may do that instead.

COMMUNICATION, ACCOMMODATION, AND PIVOT PLAN

Class Meetings

Our class meets on Tuesdays and Thursdays in Room 6 from 12:00pm to 12:50pm. Please be on time. If you need to enter or leave the room while class is in session, please do so as quietly as possible. We will use the same seating chart as in the fall. For your reference, it is available on Canvas. Please sit in your assigned seat.
If I need to cancel a class session for any reason, we will schedule a make-up session as soon as possible.

**Illness**

I cannot stress this enough: if you are not feeling well or have any symptoms of illness, do not come to class. Alternative modes of attendance and participation are described below. You should wear a mask in class and take appropriate health precautions. Please be considerate of those around you and comply with all local and University regulations about public health.

**Technology**

Every class will be broadcast live on Zoom. The link will be provided on Canvas. If you cannot be present in the classroom for any reason, the best alternative is to participate in the Zoom meeting for class in real time. If you are participating in the Zoom meeting, you should be prepared to be called on just as you would be if you were in the classroom. Please make your best effort to turn on your video. (It will be a pleasant surprise if pets, children, or other guests make an appearance.)

Each class will also be recorded. If you can neither attend class nor participate via Zoom, you should watch the recording as soon as possible, and certainly before the next class session. Watching the recorded class is an imperfect substitute for real-time participation. Nevertheless, the recorded classes may be useful for purposes of review.

**Office Hours**

My office hours this semester are from 3:45 to 5:15 on Tuesdays and Thursdays in Hulston 216. Please also feel free to email me to schedule another time to meet outside of my normal office hours. I encourage you to attend office hours.

If you need to contact me for any reason, feel free to email me at thomas.bennett@missouri.edu. If you email me a question, I may share your question and my answer with the entire class. If you would not like me to share your question, or you would like your identity to remain anonymous, please indicate as much in your email to me.
Pivot Plan

Circumstances outside my control may force this course to pivot to a fully online format during the semester. If that happens, we will meet at our regular time by Zoom, as we did in the fall.

ASSESSMENT

Your grade will be determined based on class participation and a final exam. There will also be a practice midterm, given out shortly after we complete our unit on pleading. This midterm exam will be ungraded, but there will be a review session to discuss it.

Class Participation

Class discussion is a critical part of this course. We will all be worse off if each of you does not assume responsibility for sharing in the project of learning together. For that reason, 10% of your grade will be determined by your class participation. The main thing you should do to ensure a good participation mark is to do the assigned reading and come prepared to discuss it.

Final Exam

The final exam will be comprehensive and will comprise the remaining 90% of your unadjusted grade. You may use any resources you wish during the exam (notes, outlines, casebook, hornbook, Westlaw, Wikipedia, the Hitchhiker’s Guide to the Galaxy, tea leaves, aлуроманча, brute force, sheer luck, etc.), subject to the restriction that you may not discuss the exam with any other person before you have handed it in. Failure to abide by this restriction may result in a lower grade or automatic failure.

READING ASSIGNMENTS

I. Personal Jurisdiction

A. Origins
   Casebook pp. 62–66 (constitutional framework)
   Casebook pp. 67–77 (Pennoyer v. Neff)

B. Long-Arm Statutes
   Coursepack pp. 7–10 (Hess v. Pawloski)
C. The Modern Framework: Minimum Contacts

Casebook pp. 77–86 (International Shoe)
Casebook pp. 88–99 (Shaffer v. Heitner)
Casebook pp. 148–55 (Burnham v. Superior Court)

D. Specific Personal Jurisdiction

Casebook pp. 99–109 (World-Wide Volkswagen Corp. v. Woodson) (stop after note 2)
Coursepack pp. 24–42 (Burger King v. Rudzewicz, Asahi Metal Indus. Co. v. Superior Court)
Casebook pp. 111–21 (J. McIntyre Mach., Ltd. v. Nicastro)
Coursepack pp. 42–46 (Walden v. Fiore)

E. General Personal Jurisdiction

Coursepack 69–84 (Perkins v. Benguet Consolidated Mining Co., Helicopteros v. Hall)
Casebook pp. 133–39 (Daimler AG v. Bauman)

F. The Future of Personal Jurisdiction

Casebook pp. 140–48 (Bristol-Myers Squibb Co. v. Superior Court)
Coursepack pp. 46–68 (Ford Motor Co. v. Montana Eighth Judicial District)

G. Personal Jurisdiction of Federal Courts

Casebook pp. 158–63
Fed. R. Civ. P. 4(k)
Coursepack pp. 85–87 (Letter from Prof. A. Benjamin Spencer to Hon. John D. Bates, Chair, Advisory Committee on Civil Rules)

H. Notice

Casebook pp. 163–72 (Mullane v. Cent. Hanover Bank & Trust Co.)
I. Consent
Casebook pp. 158–63 (Carnival Cruise Lines, Inc. v. Shute)

II. Subject-Matter Jurisdiction
Casebook pp. 205–208

A. Federal Question
U.S. Const., Art. III, § 2
Coursepack pp. 89–90 (Osborn v. Bank of the United States)
28 U.S.C. § 1331
Coursepack pp. 100–115 (Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg., Gunn v. Minton)

B. Diversity of Citizenship
Coursepack p. 116–118 (Strawbridge v. Curtiss)
28 U.S.C. § 1332(a)–(c)
Casebook pp. 218–20
Coursepack pp. 118–121 (Mas v. Perry)
Casebook pp. 225–29 (Hertz Corp. v. Friend)
Casebook pp. 229–32

C. Supplemental
Casebook pp. 232–35
Coursepack pp. 136–53 (Owen Equip. & Erection Co. v. Kroger, Finley v. United States)
28 U.S.C. § 1367(a)
Coursepack pp. 154–62 (Exxon Mobil Corp. v. Allapattah Servs., Inc.)

D. Removal
28 U.S.C. § 1441(a)–(c)
28 U.S.C. § 1447
III. **Venue, Transfer, and Forum Non Conveniens**

A. **Venue & Transfer**
   - Casebook pp. 181–83
   - 28 U.S.C. §§ 1391, 1404, 1406

B. **Forum Non Conveniens**
   - Casebook pp. 187–95 (*Piper Aircraft v. Reyno*)
   - Coursepack pp. 164–74 (*Iragorri v. United Techs. Corp.*)

IV. **The Erie Doctrine: Ascertaining Applicable Law**

A. **State Law in Federal Courts**
   - 28 U.S.C. § 1652

B. **Ascertaining State Law**
   - Review *Semtek v. Lockheed Martin*

C. **Federal Supremacy**
   - Coursepack pp. 180–89 (*Stewart Organization, Inc. v. Ricoh Corp.*)

D. **Identifying Conflict**
   - Casebook pp. 267–81 (*York, Byrd, Hanna*)

E. **Accommodating State Law**
   - Coursepack pp. 191–206 (*Gasperini v. Center for Humanities, Inc.*)