

Civil Procedure I  
Professor Michael Solimine  
Handout for the first class

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Comments about the course

**1. *Seating Chart***

A seating chart will be handed out in the second class. I'll ask you to stay in whatever seat you pick, so we all can get to know each other better.

**2. *Casebook and rules supplement***

The assigned (i.e., required) class materials are the casebook, Richard L. Marcus, et al., *Civil Procedure: A Modern Approach* (5th ed. 2009), and the 2010-11 Educational Edition of the Federal Rules of Civil Procedure. Due mainly to time constraints, we'll concentrate on procedure in federal courts. Each state has its own set of procedures for its own courts, but in most states the procedures are similar to those in federal court. Happily for those of you planning to take the Ohio bar exam, Ohio is one of those states. The Ohio Rules of Civil Procedure, adopted in 1970, were modeled after the Federal Rules, adopted (as we'll further discuss) in 1938.

**3. *Study Aids***

No study aids are required. There are many good aids, one of which I recommended (Gene R. Shreve & Peter Raven-Hansen, *Understanding Civil Procedure* (4th ed. 2009)). But it is not required, and I will not refer to this aid or any other in this class.

**4. *Main Syllabus***

I have posted on the UC website a one-page, main syllabus for the entire semester. This gives you an idea of what topics and pages we'll cover, and helps anyone who is in the mood to read far ahead. The topics we cover are coordinated with the teachers of Civil Procedure II in the spring semester.

**5. *Distribution of Mini-syllabi and TWEN***

I have prepared a mini-syllabus for every class session, which lists the assigned pages and has questions and comments on the material on those pages, for you to ponder before each class. I will create a site for this class on TWEN ([www.lawschool.westlaw.com](http://www.lawschool.westlaw.com)), and I'll post the mini-syllabi on TWEN before each class. I will also periodically post on TWEN other information and material relevant to the class.

**6. *Class Attendance***

The class attendance policy is that you are expected to attend every single class. If due to unavoidable circumstances, or for an important personal or professional reason, you are unable to attend a particular class, I will consider it a professional courtesy to myself and to your classmates if you tell me before the class or, if that's not possible, after the class. You don't need to tell the entire class; just contact me individually by email. I will also keep track of class attendance, and I will retain the right of taking class attendance into account with regard to the final grade (see below), or the taking of the final exam.

**7. *Grades***

The final grade for the course will be based primarily, though not exclusively, on the exam scheduled for the end of the semester. Unless I tell you otherwise, the exam will consist of some combination of multiple-choice, short-answer, and/or essay questions, and will be partial open-

book, meaning you may consult any materials in the exam room *except* for commercially-prepared study aids, nutshells, hornbooks, etc. (including the study aid I recommended). Late in the semester I will post on TWEN at least one example of a prior exam in this course. For the final grade, I will also take into account classroom attendance, participation, and performance. We have a recommended grading curve to follow for all first-year classes.

### **7. *Laptops and Internet Access in Class***

Laptops may be used in class, but I will ask you to use them (or other electronic devices) for note-taking and related activities, and not for use (i.e., surfing) of the internet during class, or other activities unrelated to the class. I'm making this request as a matter of professionalism, courtesy and civility to your classmates. If voluntary compliance proves impossible, I retain the right to forbid the use during class of laptops or any other device that can access the internet.

### **8. *Contacting Me***

I can be contacted at ([michael.solimine@uc.edu](mailto:michael.solimine@uc.edu)). I don't post formal office hours, because I'm usually in my office during most of the day all week. You are welcome to come by my office any time, with or without an appointment. That said, a good time to talk is immediately after one of our classes. Tuesday and Wednesday afternoons are generally not good times to talk, since I have my other class (Federal Courts) on those days.

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Preface (pp. iii-v)

Introduction (please read pp. 1-26 of the casebook)

1. Substance v. procedure; dangers of ad hoc procedure (p.1)

2. Band's Refuse Removal, Inc. v. Borough of Fair Lawn (p.3)

The substance (i.e., the merits) of this case is, well, extremely boring (unlike civil procedure itself). So, why did our casebook authors put an old, state court case like this in the introduction? Compare the notes on pp. 11-13.

3. Is a disinterested and passive judge an attribute (at least in theory) of the American judicial system? Of the Continental judicial system? pp. 13-18.

4. As note 4 on p.23 points out, the vast majority of civil cases settle (as opposed to what? what happens to the minority of cases that don't settle?). (You will address the settlement process, and so-called Alternative Dispute Resolution (ADR) generally, more directly in Civil Procedure II, and in other courses.) Almost all American trial judges proactively encourage civil litigants to settle--why? If that's a good thing for the judges to do (is it? see pp. 23-24 note 5), what did the trial judge in Kothe (p.19) do wrong?

5. Procedural complications of our federal system (pp. 25-26).