I. COURSE INTRODUCTION

This three-hour course continues the first semester’s introduction to civil litigation. After discussing the basics of pleadings, discovery, and dispute resolution in Civil Procedure I, we turn here to topics including jurisdiction, venue, joinder, and preclusion. Where can you file a lawsuit? What claims can or must you join in the suit? What parties can or must you join? When is a claim or issue precluded because it was or could have been raised earlier? As set out in more detail below, the goals for this course are that all leave with a basic conceptual understanding of how the federal courts answer these questions. While the focus will be on the federal courts, we will look at other jurisdictions, primarily Illinois, to provide a point of comparison. We will also look at the tools used, including pleadings and motion practice, in resolving these issues.

II. COURSE MATERIALS

A. Required Texts

1. S. Yeazell, Civil Procedure (8th ed. 2012);
2. Supplementary Materials posted to TWEN.

B. Optional But Strongly Recommended

1. S. Yeazell, Federal Rules of Civil Procedure with Selected Statutes (most recent version);

The rules and statutes contained in the above volumes are
available online from various sources. You are not required to purchase statutory supplements for that reason. I do, however, strongly recommend that you use a printed compilation of the rules and statutes that we will study this semester. This is a course about rules—learning them and applying them. You will have a much easier time doing so with a physical copy of the rules that you can read, mark-up, and place in context. Whether you read the rules online, print them out, or purchase a statutory supplement, it is your responsibility, both in this class and for the bar exam, to learn and apply them.

C. Recommended Secondary Reading

1. J. GLANNON, THE GLANNON GUIDE TO CIVIL PROCEDURE (3rd ed. 2013);
2. J. GLANNON, EXAMPLES AND EXPLANATIONS: CIVIL PROCEDURE (6th ed. 2008);

D. TWEN

The TWEN site for this course contains required reading, including a current copy of the syllabus, additional writing instructions, and supplementary materials for this course. The PowerPoint slides used in class will also be posted periodically throughout the semester.

III. GRADES

Grades are based on a final exam, worth up to 70 points; other written work product, worth up to 20 points; and classroom attendance and participation, worth up to 10 points. In addition, you may complete an optional, extra-credit project worth up to five (5) points.

A. Attendance & Participation (10 points)

It is incumbent upon you to read the material, come to class well prepared, and participate. Every student who does so will receive all ten (10) attendance & participation points; those who do not will receive fewer or no points.
For the purposes of the participation grade, I will take illness or other work commitments explained in advance into consideration in evaluating lack of preparation.

Students who attend but are not prepared for class and have not provided a valid reason in advance will be counted absent. Similarly, students who attend, but come in late will be counted absent.

With regard to absences, this course adheres to SIU Law’s attendance policy: attendance is required in all classes. If you accumulate more than nine (9) class absences, you will be subject to the sanctions set out in the law school rules. Those sanctions include mandatory withdrawal from the course.

Neither the law school nor the ABA’s attendance rules recognize “excused absences.” Save your absences for sick days and work conflicts. If you have a disability requiring accommodation see Disability Support Services. See also the Disability Statement infra Part VI.

B. **Written Work Product (20 points)**

There will be two different types of writing exercises this semester. The first, worth up to five (5) points, will include concept-mapping or briefing exercises assigned periodically throughout the semester.

The second requires you to prepare a legal brief, or memorandum of law, that is worth up to fifteen (15) points. You will need to divide yourself up into two-person law firms to work on the assignment. You may not discuss your work with anyone other than co-counsel until after you file your brief.

Factual and procedural information for the brief will be distributed after we have covered the relevant legal material in the text. Additional research (beyond reviewing the cases in the textbook) will also be required in order to properly complete the assignment.
Further instructions for both writing exercises will be posted to TWEN and provided in class.

C. The Exam (70 points)

The exam will be an in-class, closed-book, final exam, in which you will be permitted to use a Federal and Illinois Rules excerpt provided to you by the exam proctor. Use of any other materials during the exam will be prohibited.

The exam itself will likely consist of some combination of multiple choice, short answer, and essay questions. The subject matter will include both material from the assigned readings and material discussed in class. If you have to miss a class for whatever reason, get notes from a friend or acquaintance.

D. Extra Credit Project

You may complete an optional, extra credit project worth up to five (5) bonus points. For this project you may work in groups of up to four (4) students. The object is to develop and present a creative or artistic means of understanding a difficult concept covered in this course.

You may explain these concepts using whatever medium you want. The assignment is bounded only by your creativity and the dictates of common courtesy. The due date for your final project will be the end of the semester.

Your colleagues will assist in anonymously scoring the creative value of the presentations. I will consider this class input in conjunction with evaluating the substantive merit in assigning a grade to the project.

Additional instructions for the project will be posted to TWEN and provided in class.

E. Grading

This course follows SIU Law’s grading policy. It will be graded on a curve, and, of necessity, subject to mandatory medians.
IV. CONTACT INFORMATION & OFFICE HOURS

If I am in my office and the door is open, you and your questions are welcome. After class is usually a good time to catch me. Or you can email apardieck@law.siu.edu to set up a time. I will also have regular office hours on Wednesday from 2 p.m. to 4 p.m.

For those emailing, please note my response may not come immediately and it may be brief. The ulnar nerve in my left hand periodically objects to typing. Email aside, you have options. If you have questions, by all means ask.

V. LEARNING OBJECTIVES

At the end of this course, students who do the work will be able to identify issues relating to personal jurisdiction, distinguishing between general and specific jurisdiction; subject matter jurisdiction; service of process; waiver and contractual issues; and venue. Students will be able to identify basic choice of laws issues, distinguishing between cases applying state and federal law. Students will be able to identify issues relating to res judicata, distinguishing between claim and issue preclusion, and, finally, identify the joinder issues that determine who the appropriate parties to the litigation are. For each of the issues identified, students will be able to set out the correct legal standard, analyze varied fact patterns, and apply the law to those facts.

VI. NOTES ON COURSE ASSIGNMENTS

- The readings vary in length.
- Understanding the material will require reading the assignments more than once.
- We will not always cover one unit per class.
- If you have questions about what to read for the next class, ask.
- The assignment for the first class is to read and be prepared to discuss the material found on pp. 59-76.

VII. COURSE OUTLINE & ASSIGNMENTS
A. OVERVIEW

1. Approaching Civil Procedure & Constitutional Limits in Litigation
   Text, pp. 59-64

B. PERSONAL JURISDICTION (CHAPTER 2)

1. The History & Origins of the Personal Jurisdiction Doctrine
   14th Amendment
   Text, 65-76
   *Pennoyer v. Neff*
   Supp. 1-2

2. The Mechanics of Jurisdiction: Challenge and Waiver
   Fed.R.Civ.P. 12(b),(g),(h); 735 ILCS 5/2-301
   Text, 76-79
   Supp. 2-5

3. The Modern Constitutional Formulation of Power
   Fed. R. 4(k); 735 ILCS 5/2-209
   Text, 79-89
   *International Shoe Co. v. Washington*
   Supp. 5

4. Jurisdiction Based On Property (In Rem Jurisdiction)
   Text, 91-103
   *Shaffer v. Heitner*
   Supp. 5-6
   Problem Set #2

5. Specific Jurisdiction
   Text 89-91, 103-112
   *Hanson v. Denkla*
   *World-Wide Volkswagen v. Woodson*
   Supp. 6
   Problem Set #3

6. Specific Jurisdiction & Contract Cases
   Text, 112-18
Burger King Corp. v. Rudzewicz
Supp. 7-13

Bolger v. Nautica Int’l, Inc.
Madison Miracle Productions LLC v. MGM Distribution Co.
Empress Int’l, Ltd. v. Riverside Seafoods, Inc.
Chalek v. Klein
Problem Set #4

7. Specific Jurisdiction In Tort Cases (I)
   Text, 124-131
   J. McIntyre, Ltd. v. Nicastro
Supp. 13-33
   Russell v. SNFA

8. Specific Jurisdiction In Tort Cases (II)
   Walden v. Fiore on TWEN
Supp. 34-41
   Saia v. Scripto-Tokai Corp.
   Sabados v. Planned Parenthood (Specific Jurisdiction Discussion Only)
   Hendry v. Ornda Health Corp. (Specific Jurisdiction Discussion)
   Adams v. Harrah’s Maryland Heights Corp.
   Zazove v. Pelikan, Inc.

9. Outer Limits of General Jurisdiction
   735 ILCS 5/§2-209(b)
   Text, 132-138
   Goodyear Dunlop Tires Operations, S.A. v. Brown
   Read Daimler v. Bauman Excerpt on TWEN

10. The Service of Process Rule
    735 ILCS 5/2-201 & 2-301
    Text, 139-147
    Burnham v. Superior Court
    Supp. 59, Note on Protective Orders against Service of Process

11. Waiver By Contract (Consent)
    Text, 148-154
    Carnival Cruise Lines
    Supp. 59-75
    Williams v. Ill. State Scholarship Comm.
12. The Constitutional Requirement of Notice
   Text, 154-64
   *Mullane v. Central Hanover Bank & Trust Co.*
   Supp. 75
   Problem Set #6

13. Service of Process & Self Imposed Restraints
   Fed. R. Civ. P. 4
   735 ILCS 5/§2-201 thru 2-213
   Ill. S. Ct. R. 101-04 & 283-84
   Text, 164-174
   *Gibbons v. Brown*
   Supp. 75-79
   Problem Set #7
   *Musgavero v. Kenzler*

14. Venue
   28 U.S.C. § 1390-1;
   735 ILCS 5/§ 2-101 through 108
   Text 174-180
   *Dee-K Enterprises, Inc. v. Hevafil SDN. BHD.*
   Supp. 80-85
   Problem Set #8
   *Stambaugh v. International Harvester Co.*

15. Forum Non Conveniens
   28 U.S.C. §1404(a)
   Ill. S.Ct. R. 187
   Text, 180-189
   *Piper Aircraft v. Reyno*
   *Atlantic Marine Constr. v. US syllabus on TWEN*
   Supp. 85-94
   *Fennel v. Illinois Cent. R. Co.*

C. SUBJECT MATTER JURISDICTION (CHAPTER 3)

1. Federal Question Jurisdiction
   28 USC § 1331
   U.S. Const. Art. III, sec. 1 & 2
Text 191-206
Louisville & Nashville RR v. Mottley
Supp. 95

2. Diversity Jurisdiction
28 USC § 1332(a)-(c)
Text, 207-221
Redner v. Sanders
Hertz Corp. v. Friend

3. Supplemental Jurisdiction
28 U.S.C. § 1367
Text, 221-229
In re Ameriquest Mortgage Co.
Szendrey-Ramos v. First Bancorp.

4. Removal
28 U.S.C. § 1441(a)-(c), 1446, 1447
U.S. Const. Art. III, sec. 1 & 2
Text, 229-238
Caterpillar, Inc. v. Lewis

D. STATE LAW IN FEDERAL COURTS (CHAPTER 4)

1. The Erie Problem
28 U.S.C. § 1652
Text, 239-250
Erie Railroad v. Tompkins

2. The Limits of State Power in Federal Courts/The Outcome Determination & Balancing Tests
Text, pp. 251-257
Guaranty Trust Co. v. York

3. De-Constitutionalizing Erie/The Hanna Limitation on Erie
28 U.S.C. §§ 2071-77
Text, pp. 258-66
Hanna v. Plumer
Supp. 96

4. Determining the scope of Federal Law: Recent Erie Problems
E. RESPECT FOR JUDGMENTS (CHAPTER 11)

1. **Claim Preclusion: Same Cause of Action**
   Text 47-52, 715-727
   Rush v. City of Maple Heights (in Ch. 1)
   Frier v. City of Vandalia
   Supp. 101-106
   River Park, Inc. v. City of Highland Park

2. **Claim Preclusion: Consistency, the Parties & Finality**
   Fed. R. Civ. P. 13
   Text 725-748
   Searle Brothers v. Searle
   Taylor v. Sturgell
   Gargall v. Merrill Lynch, Pierce, Fenner & Smith
   Supp. 106-117
   Evans v. General Motors Corp.
   In re Parentage of Rodgers
   DeLuna v. Treister

3. **Issue Preclusion: Same Issue; Litigated and Determined; Essential; Mutuality**
   Text 749-767
   Illinois Central Gulf RR v. Parks
   Parklane Hosiery Co. v. Shore
   Supp. 117-124
   Kessinger v. Grefco, Inc.

4. **Issue Preclusion: Non-Mutual Issue Preclusion & the Borderlands**
   Text 767-778
   State Farm Fire & Casualty Co. v. Century Home Components
   Kovach v. District of Columbia
   Supp. 124
5. **Collateral Attack & Reopened Judgments**
   U.S. Const. Art. IV
   28 USC 1738
   Fed. R. Civ. P. 60
   Text 778-790
   *Durfee v. Duke*
   *United States v. Beggerly*
   Supp. 124-125

F. **JOINDER (CHAPTER 12)**

1. **Joinder of Claims: By Plaintiff & By Defendant.**
   Fed. R. Civ. P. 13, 18(a) & 42(b)
   28 USC 1367
   735 ILCS 5/2-405, 2-407, 2-608, 2-613, 2-614
   Text 791-806
   *Plant v. Blazer Fin. Services*
   Supp. 126-8

2. **Joinder of Parties by Plaintiff**
   Fed. R. Civ. P. 20, 21
   735 ILCS 5/2-404, 2-405, 2-407
   Text 806-812
   *Mosely v. General Motors Corp.*
   Supp. 128-130
   *Sommers v. Korona*
   *Schwartz v. Swan*

3. **Third-Party Claims**
   Fed. R. Civ. P. 14
   735 ILCS 5/2-406(b) & (c)
   Text 812-818
   *Price v. CTB, Inc.*
   Supp. 130-133
   *Laue v. Leifheit*

4. **More Complex Litigation**
   Fed. R. Civ. P. 13(g)-(h), 19, 20
   735 ILCS 5/2-608
   Text 818-829
   *Kroger v. Omaha Public Power District*
   *Owen Equipment & Erection Co. v. Kroger*
5. **Compulsory Joinder**  
Fed. R. Civ. P. 19  
735 ILCS 5/2-404, 2-406  
Text 829-839  
*Temple v. Synthes Corp.*  
*Helzberg’s Diamond Shops v. Valley West Des Moines Shopping Center*  
Supp. 134-137  
*Consolidated Cable Utilities v. City of Aurora*  

6. **Intervention**  
Fed. R. Civ. P. 24  
735 ILCS 5/2-408  
Text 839-852  
*Natural Resources Defense Council v. United States Nuclear Regulatory Commission*  
*Martin v. Wilks*  
Supp. 137-138  

7. **Interpleader**  
Fed. R. Civ. P. 22  
28 U.S.C. 1335, 1397, 2361  
735 ILCS 5/2-409  
Text 852-859  
*Paragon Molding Ltd. v. Safeco Insurance Co.*  
Supp. 138-140  

8. **Class Actions & the Constitution: Representative Adequacy & Jurisdiction**  
28 U.S.C. 1332(d), 1453  
Text 859-877  
*Hansberry v. Lee*  
*Phillips Petroleum v. Shutts*  

9. **Class Actions: Statutory Requirements & Recent Case Law**  
Fed. R. Civ. P. 23  
735 ILCS 5/2-801 thru 2-806  
Text 877-893  
*Wal-Mart Stores, Inc. v. Dukes*
10. **Settlement of Class Actions**
Fed. R. Civ. P. 23(e)
735 ILCS 5/2-806
Text 894-909

*Amchem Products Inc. v. Windsor*

**FINAL EXAM, DECEMBER 11, 2015, 1:15 P.M. TO 4:15 P.M.**

**VIII. FINAL NOTES**

**Make-Up Classes:** Classes that meet on Mondays and Wednesdays must hold make-up classes (or require out-of-class assignments) for the Labor Day and Veterans Day holidays. Details regarding the make-up will be announced in class.

**Class Recording Policy:** This class is not being recorded. Absent a disability-related accommodation arranged through the Associate Dean’s Office, you will not have access to a recording of the class. Absent advance approval of the instructor, audio or video recording by any student of any class is prohibited.

**Disability Policy:** Disability Support Services provides academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. [http://disabilityservices.siu.edu/](http://disabilityservices.siu.edu/). Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

**Saluki Cares.** The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students
and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

**Emergency Procedures:** Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you **become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program.** Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency. Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.