CIVIL PROCEDURE I
SYLLABUS PART I

SIU Law
Professor Andrew Pardieck
Spring Semester 2018, Law 505-3, §002
Mon/Wed 9:00 - 10:15 am, Rm. 202

I. COURSE INTRODUCTION

This three-hour course is an introduction to the process of litigation and its alternatives. It covers topics fundamental to the practice of law and use of the civil justice system. Whether one litigates or does deals, works in the private sector or government, understanding how lawsuits get filed and resolved is necessary. What does a complaint look like? What information do you have to produce when you sue or get sued? What claims are resolved before trial, during trial, on appeal? This course covers all of that. After the introduction, it starts with the complaint, answer, and related motions; then addresses discovery; then resolution without trial; the decision-making process at trial; and finally appeals. The goals for this course are that all leave with a basic conceptual understanding of these topics and a familiarity with the tools that are used, i.e. the pleadings, discovery devices, and motion practice through which these issues are resolved.

II. COURSE MATERIALS

A. Required Texts

1. S. YEAZELL, CIVIL PROCEDURE (Aspen 9th edition);
3. Materials posted to TWEN.

You are required to bring a printed copy of the rules to class. You may fulfill this requirement by purchasing the Yeazell statutory supplement or any another current statutory supplement for civil procedure. In the alternative, you may print, from an online resource, the rules we will study this semester and create your own statutory supplement.

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 through, mark-up, and place in context.

C. Recommended Secondary Reading

1. J. GLANNON, THE GLANNON GUIDE TO CIVIL PROCEDURE (most recent edition);
2. J. GLANNON, EXAMPLES AND EXPLANATIONS: CIVIL PROCEDURE (most recent edition);

Professor Glannon’s work provides a helpful series of problems to work through, along with answers. Professor Shreve’s work is a concise treatise that provides further explanation of basic concepts.

D. TWEN

The TWEN site for this course contains required reading, including a current copy of the syllabus, case excerpts, instructions, and supplementary materials for this course.

The supplementary materials will include the PowerPoint slides used in class and portions of UPCHURCH, GILLES & HO, CLICK & LEARN: AN INTERACTIVE GUIDE TO CIVIL PROCEDURE (forthcoming Carolina Press).

Professor Upchurch’s text is an interactive guide not yet published. We will use portions of it in static form that I will post to TWEN. You have access to this without charge. This material is, however, copyrighted. You may not distribute any portion of it to any other person without the written permission of Professor Upchurch.

III. GRADES

Grades are based on a final exam (60%); other written work product (30%); and classroom attendance and participation (10%).

A. Attendance & Participation (10%)

It is incumbent upon you to read the material, come to class well prepared, and participate. Every student who does so will receive five (5) attendance & five (5) 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.

With regard to absences, this course adheres to SIU Law’s attendance policy: attendance is required in all classes. As this class is a required first-year course and it meets in seventy-five (75) minute time blocks, if you accumulate more than four (4) class absences, you will be subject to the sanctions set out in the law school rules.

Please note, neither the law school nor the ABA’s attendance rules recognize “excused absences.” Save your absences for sick days and work conflicts.

Also note, students who attend, but come in late will be counted absent. If you come in after class has started, you may not sign the attendance sheet. Similarly, students who attend but are not prepared for class and have not provided a valid reason in advance will be counted absent.

I emphasize preparation and attendance here because we will explore Civil Procedure through the Socratic Method. The goal for each discussion is to further your understanding of the law, and then practice applying it to different fact-patterns and articulating well-reasoned legal arguments. None of that happens without adequate preparation and a meaningful discussion.

This emphasis on attendance and participation is also consistent with the ABA’s attendance requirements and empirical studies showing that those who regularly prepare for and attend class learn more of the material and get better grades.

If you have a disability requiring accommodation for these or other policies, they must be arranged in advance with Disability Support Services. For more information about SIU’s Disability Support Services, see infra Part VIII.

B. Written Work Product (30%)

1. The writing-across-the-curriculum component of your grade will be based on a graded midterm exam. The exam will consist of one (1) issue-spotting essay question. The exam is worth twenty percent (20%) of your grade.

The goal of the midterm is to encourage you to outline and review the material as we progress—not wait until the end of the semester. It is also an opportunity to practice writing an exam. That practice has
broader application: the practice of law depends, in large part, on the ability to produce persuasive written work product under a deadline.

2. The second component of the writing portion of your grade will be based on the **review exercises** assigned throughout the semester. Combined this work product will be worth ten percent (10%) of your grade.

3. When completing the above assignments, please bear in mind the law school’s rules regarding plagiarism. The Honor Code defines **plagiarism** as:

   passing off another’s ideas, words, or work as one’s own, including written, oral, multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author’s work with quotation marks, footnotes, or other appropriate designation in such a way as to make clear the true author of the work.

   Plagiarizing another’s work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must be reported to the Bar Examiners, even if you are cleared of any violation.

   Again, if you require an accommodation for these assignments, it must be arranged in advance with Disability Support Services. For more information regarding SIU’s Disability Support Services, see **infra** Part VIII.

C. **The Final Exam (60%)**

The final exam will be an in-class, closed book, final exam. You will **not** be provided a rules excerpt. The bar exam is closed book, and the goal here is that you begin preparing for it. You do that by developing the skills necessary to remember and apply relevant legal norms. This does not require memorizing the rule book. It does require understanding, in plain English, the standards the courts apply.

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. Grading

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

E. Laptop and Cell Phone Policy

1. Laptops

Laptops are not banned in this class. But I encourage you to consider bringing your text, printed supplements, a pen and paper to class—and leaving the laptop at home. In April of 2016, the Wall Street Journal reported on the latest of many studies demonstrating that students who take handwritten notes outperform students who type their notes on a computer. Robert Lee Hotz, *The Power of Handwriting*, WALL ST. J. D1 (Apr. 5, 2016). Students who write their notes out longhand “appear to learn better, retain information longer, and more readily grasp new ideas.” *Id.* Those who write their notes longhand think more intensely about the material, in part, because writing is slower and forces one to choose what is important. *Id.*

2. Mobile Phones

Cell phone use is prohibited in class except when used as part of an instructor-directed class exercise, e.g. completion of an online quiz.

Whether you are using a laptop or cell phone, sending text messages, hanging out on Facebook, and the like distracts you and others around you. Some research also suggests that it makes you stupid. See Rochelle Garner, *Your smartphone makes you stupid, study shows* (June 26, 2017), https://www.cnet.com/news/smartphone-makes-you-stupid-university-of-texas/

IV. CONTACT INFORMATION

If I’m 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 Monday from 2:30 p.m. to 4:30 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. COURSE ASSIGNMENTS & EXPECTATIONS

Please note:

- 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.
- If you are struggling with the material, come talk to me.
- Finding your way will take work. The traditional wisdom is that preparing for each hour of class requires three hours of preparation outside of class. ABA standards establish minimums incorporating two hours of out-of-class work per week for fifteen weeks.1

V. COURSE OUTLINE, PART I

A. An Overview of Procedure (Chapter 1)

1. Introduction, Jurisdiction & Service of Process [Wednesday, 1/17]
   - 9th Edition Text 1-14
     a. Hawkins
     b. 28 USC 1331, 1332

2. Introduction to Pleadings, Parties, Discovery [Monday, 1/22]
   - 9th Edition Text 14-38
     a. Bridges
     b. Bell
     d. Butler

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1 If we assume three hours, you should plan on spending twelve hours working on civil procedure each week (3 x 3 hours of preparation + 3 classroom hours). If we assume two hours, you should plan on spending nine hours working on civil procedure each week (3 x 2 hours of preparation + 3 classroom hours).
3. Introduction to Summary Judgment, Trial, Former Adjudication & Appeals [Wednesday, 1/24]
   - 9th Edition Text 38-59
     a. Houchens
     b. Norton
     c. Ison v. Thomas
     d. E.H.Reise v. Board of Regents

4. Review Assignment [Friday, 1/26]
   - Submit Litigation Timeline via TWEN by end of day.

Course Outline Continued in the Syllabus, Part II which will be posted to TWEN

VI. EXAMS

The midterm is currently scheduled for:

WEDNESDAY, MARCH 7, 2018 FROM 8:15 TO 9:50 A.M.

The final exam is currently scheduled for:

THURSDAY, MAY 10, 2018 FROM 8:15 A.M. TO 11:15 A.M.

Be sure to check the exam schedules posted prior to exam period for any changes.

VII. LEARNING OBJECTIVES

At the end of this course, students who do the work will be able to identify the different stages of litigation, place the issues presented in an appropriate chronological context, and analyze accordingly.

Following study of pleadings, students will be able to apply the relevant rules and case law to analyze the types, sufficiency, and timing of pleadings; defenses; amendments; and the certification requirements for all documents filed with the court.

Following study of the discovery process, students will be able to identify both formal and information discovery devices. Applying relevant rules and case law,
students will be able to analyze the scope of mandatory disclosures, expert disclosures, relevancy, and proportionality. Students will be able to identify and analyze the protections against disclosure found in the attorney-client privilege and work product doctrine. Students will understand what constitutes sanctionable discovery misconduct and the sanctions available.

Following study of pre-trial adjudication, students will be able to identify the basic types of alternative means of dispute resolution and understand the basic contours of the law relating to binding arbitration. For cases filed in the civil justice system, students will be able to determine when a defendant has defaulted and when voluntary and involuntary judgment are available. Applying relevant rules and case law, students will be able to analyze standards for entry of summary judgment and apply those standards to varying fact patterns.

Following study of the trier and trial, students will be able to identify when there is a right to trial by jury and what questions are decided by the jury. Applying the relevant rules and case law, students will be able to analyze issues relating to choosing a jury, including when prospective jurors may be stricken and when those strikes may be challenged. Students will be able to analyze whether a challenge to the presiding judge is possible.

For the post-trial phase of litigation, students will understand and be able to apply the legal standards for motions for a new trial and motions for judgment as a matter of law. Students will also be able to understand the basic rules governing appeal, including the final judgment rule, and interlocutory exceptions, as well as the scope of appellate review for decisions made by judge and jury.

VIII. FINAL NOTES

Make-Up Classes: Courses that meet on Monday must hold an additional class to make up for the class missed as a result of Martin Luther King Jr. day. The make-up class may take the form of another class or an out-of-class assignment. Time, date, location, and method for the make-up to be announced.

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.

Disability Policy. Disability Support Services provides the required 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/. 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.

Class Recording Policy: This class is not being recorded. Absent a disability-related accommodation, 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.

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.