

**Required Casebook & Materials:**

1. Hazard, Tait, Fletcher & Bundy, Pleading and Procedure: State and Federal Cases and Materials (9<sup>th</sup> ed., Foundation 2005).
2. Federal Rules of Civil Procedure (2007-08 educational ed., West) – it should have a purple cover. Older editions will not work – the rules were amended on December 1, 2006 and will be amended again on December 1, 2007.
3. Grossman & Vaughn, A Documentary Companion to A Civil Action (3rd. ed., Foundation 2006) – a used version of the revised edition is also acceptable.
4. Jonathan Harr, A Civil Action (1995).
5. TWEN postings – some materials will be available through the TWEN site.

We will not be relying as heavily as we did last semester on A Civil Action or A Documentary Companion, so I have noted pages of optional reading of ADC where appropriate. In addition, I have indicated pages that I will try to cover in class discussion. If you found these to be a helpful supplement last semester, you can continue to use them.

**Optional Materials:**

1. 2007 Supplement to Hazard, Tait & Fletcher, Cases on Pleading and Procedure, State and Federal (we will not use this but it is available). The relevant cases in this supplement will be available on the TWEN site.
2. TWEN postings – From time to time, additional materials and web links will be made available on the class TWEN site. Please feel free to forward relevant material to me if you think that your classmates would enjoy reading it.

**Basic References:**

Same as fall semester. See also the TWEN posting on study aids.

**Fall Exam Review and Spring Evaluation:**

Fall exam review instructions will be posted at the appropriate time on the TWEN site. Exam review will begin approximately the beginning of February.

As in the fall, your spring civil procedure grade will consist of an open book take home final examination. Again, one reflective essay is required, but will be factored

into your final grade only if it is *not* handed in. And I will take attendance mostly to stay aware of any life circumstances that prevent you from doing your best in class. You are required to attend at least 80% of the classes; more than eight unexcused absences will result in a lowering of your grade. If you have an excuse (such as sickness or urgent family matters) for an absence, please send it to me by e-mail, not by voice-mail; I will need a written record. As mentioned in the fall syllabus, Socratic dialogue is extremely important. Class participation is important but not graded aside from attendance. Keep in mind that part of what you are honing this semester is the skill of thinking “on your feet” as if you are in front of a judge or having a conversation with any more experienced lawyer about a critical part of a case.

### **Office Hours:**

My office is in room 454 and my spring 2008 office hours are Tuesdays 4-5 and Thursdays 3-4. If you need to make an appointment outside my regularly scheduled office hours, please feel free to contact me ([mchon@seattleu.edu](mailto:mchon@seattleu.edu); (206) 398-4042). **Please do not disturb me in the hour just before class unless it is a true emergency.** My assistant is Junsen Ohno and she is located on the 4<sup>th</sup> floor ([ohnoj@seattleu.edu](mailto:ohnoj@seattleu.edu); (206) 398-4283). She'll know where to reach me in case of an emergency.

Your TAs for the spring will be Joe McCarthy ([mccarth2@seattleu.edu](mailto:mccarth2@seattleu.edu)) and Jeffrey Keddie ([keddiej@seattleu.edu](mailto:keddiej@seattleu.edu)). Both can be reached through the TWEN e-mail function. They will announce their office hours during the first two weeks of class.

### **Assignments:**

All references to page numbers are to the casebook unless otherwise indicated. We'll be going at a slightly faster pace this semester, covering an average of one and a half to two cases and/or problem sets per class. When preparing for class, please try to review cases that were assigned for but not fully discussed in the previous class. I will try to let you know if we are going significantly faster or slower than the pace indicated by the syllabus.

From last semester's syllabus:

ADC 625-33 (focus on all questions)

*Tanner v. United States*

PP 1114-25

ACA 401-92 (optional)

ADC 551-554 (focus on questions 551-1, 552-4 and 553-7)

**POST-TRIAL MOTIONS, concluded**

(This concludes our discussion from last semester and simultaneously introduces the concept of due process, which we will cover in detail this semester.)

**Jurisdictional Grounds for Relief and Default Judgment**

Const. Amt. XIV § 1	<b>Rules Book</b>
FRCP 55, 60	<b>Rules Book</b>
<i>Aguchak v. Montgomery Ward Co.</i>	<b>TWEN</b>
Note on Entering and Enforcing the Judgment	<b>1151-53</b>
Note on Extraordinary Relief From Judgments	<b>1153-57</b>
ADC (fyi only)	<b>691-94</b>

**DUE PROCESS IN AN ADVERSARY SYSTEM**

(We will bookend our spring semester with a look at this foundational concept in our justice system and its relation to social justice overall.)

Const. Amt. XIV § 1	<b>Rules Book</b>
<i>United States v. Kubrick</i>	<b>47-64</b>
<i>Fuentes v. Shevin</i>	<b>64-82</b>

**CHOOSING THE PROPER COURT: TERRITORIAL JURISDICTION**

(This area of the law concerns itself with the court's authority to bring persons and property into the forum. The cases cover the historical approach and the modern formula, which are all based upon the due process clause of the fourteenth amendment. We will examine the various theories of the courts' authority and how the theories are applied.)

<i>Boumediene v. Bush</i>	<b>TWEN</b>
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(We will not read this case but please listen to the Dec. 5, 2007 oral argument on oyez.org, under web links in TWEN)

**Territorial Jurisdiction: Notice**

Const. Amt. XIV § 1	<b>Rules Book</b>
<i>Mullane v. Central Hanover Bank &amp; Trust Co.</i>	<b>281-293</b>
<i>Jones v. Flowers</i> , 126 S.Ct. 1708 (2006)	<b>TWEN</b>
<i>Aguchak v. Montgomery Ward (review)</i>	<b>TWEN</b>
Note on Service of Process	<b>293-303</b>
ADC (fyi only)	<b>11-14</b>

**Territorial Jurisdiction: Historical Formulae**

Preliminary Note on Territorial Jurisdiction	<b>145-47</b>
<i>Burnham v. Superior Court of California, County of Marin</i>	<b>266-81</b>
<i>Pennoyer v. Neff</i>	<b>147-58</b>
<i>International Shoe Co. v. State of Washington</i>	<b>163-72</b>
Note on General and Specific Jurisdiction	<b>172-76</b>
<i>World-Wide Volkswagen v. Woodson</i>	<b>176-88</b>
<i>Helicopteros Nacionales De Columbia, S.A. v. Hall</i>	<b>188-96</b>
<i>Burger King Corp. v. Rudzewicz</i>	<b>196-211</b>
Note and Questions on <i>Burger King</i> and the Possible Reformation of “Minimum Contacts:	<b>211-12</b>
<i>Asahi Metal Industry Co. v. Superior Court of California</i>	<b>212-22</b>
Notes and Questions on Asahi and the Possible Reformulation Of Minimum Contacts	<b>222-24</b>
Notes and Questions on Purposeful Availment and Purposeful Direction	<b>224-27</b>

**Territorial Jurisdiction: Long-Arm Statutes**

<i>Bensusan v. King</i>	<b>227-35</b>
Note on Internet Jurisdiction	<b>235-39</b>
<i>Omni Capital Int'l v. Rudolf Wolff &amp; Co.</i>	<b>239-46</b>
Note on Foreign Defendants, etc.	<b>246-49</b>
<i>Yahoo! Inc. v. La Ligue Contre Le Racisme</i> (9th Cir. 2006)	<b>TWEN</b>

**Territorial Jurisdiction: Presence**

<i>Shaffer v. Heitner</i>	<b>250-66</b>
<i>Burnham v. Superior Court of California, County of Marin</i> (revisited)	<b>266-81</b>

**Consent to Jurisdiction**

<i>Carnival Cruise Lines, Inc. v. Shute</i>	<b>303 – 316</b>
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**Objecting to Jurisdiction**

FRCP 12(b)(2), 12(g), 12(h)(1)	<b>Rules Book</b>
<i>Insurance Corp. of Ireland v. Compagnie de Bauxites de Guinea</i>	<b>317-24</b>
Note on <i>Insurance Corp. of Ireland</i> and Special Appearance	<b>324-27</b>
Note on Limited Appearance	<b>327</b>

<b>CHOOSING THE PROPER COURT: SUBJECT MATTER JURISDICTION.</b>
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(This area concerns itself with the court's competence to hear and determine cases of a particular subject matter.)

Const. Art. III § 2; 28 U.S.C. § 1331; FRCP 12(b)(1), 12(h)(3)	<b>Rules Book</b>
Preliminary Note on Subject Matter Jurisdiction	<b>346-49</b>

**Federal Question Jurisdiction**

<i>Louisville &amp; Nashville Railroad Co. v. Mottley</i>	<b>349-51</b>
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Note on the Constitutional Scope of Federal Question Jurisdiction, and the Well-pleaded Complaint Rule	<b>351-55</b>
<i>Merrell Dow Pharmaceuticals Inc. v. Thompson</i>	<b>355-62</b>
Further Note on 28 U.S.C. § 1331	<b>362-64</b>
<i>Grable &amp; Sons Metal Products, Inc. v. Darue Engineering</i>	<b>TWEN</b>
<b><u>Diversity Jurisdiction</u></b>	
28 U.S.C. § 1332(a), (c)	<b>Rules Book</b>
<i>Mas v. Perry</i>	<b>364-67</b>
Note on <i>Mas v. Perry</i> and Assorted Problems of Diversity Jurisdiction	<b>364-72</b>
Note on the Origin and Purposes of Diversity Jurisdiction	<b>372-76</b>
Diversity jurisdiction problems	<b>in class</b>
<b><u>Supplemental Jurisdiction</u></b>	
28 U.S.C. § 1367	<b>Rules Book</b>
<i>United Mine Workers v. Gibbs</i>	<b>376-80</b>
<i>Owen Equipment &amp; Erection Company v. Kroger</i>	<b>381-93</b>
<i>Exxon Mobil Corp. v. Allapattah Services, Inc.</i> 125 S.Ct. 2611 (2005)	<b>TWEN</b>
<b><u>Removal</u></b>	
28 U.S.C. § 1441(a), (b)	<b>Rules Book</b>
<i>Caterpillar Inc. v. Williams</i>	<b>400-04</b>
Note on Removal	<b>404-10</b>
Note on Direct Challenge to Federal Subject Matter Jurisdiction	<b>410-12</b>

ADC (If there's time, we will discuss this in class) **15-30**

**Tribal Jurisdiction**

Rion Ramirez, Doing Business in Indian Country **TWEN**

*Hornell Brewing Co. v. Rosebud Sioux Tribal Court.*  
133 F.3d 1087 (8<sup>th</sup> Cir. 1998) **TWEN**

**OTHER JURISDICTIONAL DOCTRINES**

**Venue**

28 U.S.C. §§ 1391, 1404(a), 1406 **Rules Book**

Note on Venue in State Courts **412-14**

Note on Venue in Federal Courts **414-17**

*Ferens v. John Deere Co.* **417-28**

Note on *Ferens v. John Deere*, Change of Venue, etc. **428-35**

**Forum Non Conveniens**

*Piper Aircraft v. Reyno* **435-43**

Note on *Forum non Conveniens* **443-48**

**THE ERIE PROBLEM**

(This area concerns itself with the principles and theories of Federalism. The cases address the issue of Federal versus State authority.)

**The Law Applied in Federal Court**

Introductory Note On The Law Applied in Federal Courts **449-55**

28 U.S.C. §§ 1652, 2072 **Rules Book**

*Erie RR v. Tompkins* **455-62**

Notes on *Erie* **462-66**

*Guaranty Trust Co. v. York* **466-73**

<i>Byrd v. Blue Ridge Rural Electric Cooperative</i>	<b>473-79</b>
<i>Hanna v. Plumer</i>	<b>479-88</b>
Notes on <i>Erie</i> , <i>Hanna v. Plumer</i> , and the FRCP	<b>488-91</b>
<i>Gasperini v. Center for Humanities</i>	<b>491-514</b>

<b>PRECLUSIVE EFFECT OF PRIOR ADJUDICATION</b>
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**Res Judicata and Collateral Estoppel**

Introductory Note on Res Judicata and Collateral Estoppel	<b>1158-59</b>
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**Preclusion Between the Same Parties**

Note on Res Judicata (Claim Preclusion) (notes 1 and 2)	<b>1171-72</b>
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<i>Federal Dept. Stores v. Moitie</i>	<b>1159-66</b>
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**Res Judicata (Claim Preclusion)**

<i>Davis v. Dallas Area Rapid Transit</i>	<b>1166-71</b>
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Note on Res Judicata (Claim Preclusion) (all)	<b>1171-77</b>
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<i>Staats v. County of Sawyer</i>	<b>1177-81</b>
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Further Note on Res Judicata (Claim Preclusion)	<b>1181-83</b>
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**Collateral Estoppel (Issue Preclusion)**

Introductory Note on Collateral Estoppel	<b>1183-84</b>
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<i>Levy v. Kosher Overseers Association of America</i>	<b>1184-89</b>
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Note on Identical Issue Actually Litigated and Decided	<b>1189-91</b>
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<i>Jacobs v. CBS Broadcasting, Inc.</i>	<b>1191-95</b>
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Note on Full and Fair Opportunity to Litigate And Necessary to the Judgment	<b>1195-98</b>
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<i>Gonzalez v. Banco Central Corp.</i>	<b>1198-1208</b>
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Note on Preclusion of Non-Parties in “Privity”  
With Parties **1209-1211**

**Preclusion Against Other Parties**

*Parklane Hosiery Co. v. Shore* **1211-25**

Note on Nonmutual Collateral Estoppel **1225-28**

ADC (fyi only) **703-19**

**Recognition of Judgment from Other Jurisdictions**

Const. Art. IV, Sec. 1 **Rules Book**

*Fauntleroy v. Lum* **1229-32**

Note on Full Faith and Credit **1232-35**

**Federal-State Recognition of Judgments**

*Marrese v. American Academy of Orthopaedic Surgeons* **1235-42**

Note on Interjurisdictional Preclusion **1246-51**

<b>REVIEW OF JOINDER and SUBJECT MATTER JURISDICTION</b>
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Note on Subject Matter Jurisdiction and Joinder **650-51**

**Joinder of Claims**

*Fairview Park Excavating v. Al Monzo* **665-669**

**Joinder of Parties**

*Owen Equipment & Erection Co. v. Kroger* **700-02**

<b>DUE PROCESS IN AN ADVERSARY SYSTEM revisited</b>
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*Van Harkin v. City of Chicago* **95-106**

*Lassiter v. Department of Social Services* **106-112; 124-44**

***Don't forget to hand in your reflective essay on the last day of class!***