SYLLABUS

Professor: Jonathan R. Siegel
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Office Hours: Tuesdays, 2:45 - 3:45 pm; Thursdays, 2:30 - 3:30 pm.

Class Schedule: Mondays, Tuesdays, and Thursdays, 12:05 - 1:00 pm. Classes will begin promptly at the appointed time.

Required Texts:
1. Friedenthal, Miller, Sexton & Hershkoff, CIVIL PROCEDURE (11th ed.)
3. Supplementary Materials (get from the Records Office or my website)

Assignments: An initial list of reading assignments is attached. You should read each assignment before the class in which the assigned material is discussed, think carefully about the reading, and be prepared to participate in class discussion. The assignment numbers do not correspond to class periods; you will know which assignment you should be on from announcements made during class. However, if at the end of a class we have made substantial progress on the reading assigned so far and no announcement is made, read the next assignment. For the first class, please read assignment 1 (that’s “1”, not “I”).

Requirements: The requirements for all students are: read the assignments in a timely fashion, attend class, participate in class discussion, and take the final exam. Grades will be based primarily on the exam, with classroom participation also considered. Students who are persistently and excessively absent will not receive a positive class participation adjustment and may receive a negative class participation adjustment or a grade of No Credit. Occasional, isolated absences do not directly affect a student’s grade; students should not seek approval for such absences.

Taping of Classes: All requests regarding class taping must be made through the Office of Student Affairs. Students should not ask me about taping of classes. I will not approve taping if the Student Affairs Office has denied it or has referred a student to the professor for permission. I will usually approve taping when the Student Affairs Office has determined that the taping request falls within the Law School’s class taping policy. Taping of classes by students is not permitted. I am always happy during my office hours or by other appointment
to discuss any topics a student may have missed.

Class Participation: Students will be called on at random during class. Volunteer participation is also encouraged. Students should be prepared to participate each day.

Electronic Devices: All cell phones and other devices that might make noise must be turned off (or otherwise set so as not to make noise) during class. The “vibrate” setting is allowed. Computers that sound music or make other noise on start-up may not be started once class has begun. Students whose devices violate this rule may be asked to leave the classroom.

The use of computers to take notes in class is permitted. Students should, however, be aware that studies suggest that taking notes by hand promotes better learning and that students who take notes by computer should particularly avoid attempting to transcribe the class. See Susan Dynarski, Laptops Are Great. But Not During a Lecture or a Meeting, N.Y. Times, Nov. 22, 2017, and studies cited therein.

The use of computers for any other purposes during class, such as playing games, surfing the Internet, or reading or sending messages, is distracting to other students and is therefore prohibited. Students are on their honor to comply with this rule.

The use of electronic means to transmit answers to students being asked questions during class is prohibited. Violation of this rule constitutes academic dishonesty.

The use of computers in taking the final examination is strongly encouraged. Students who choose to handwrite their exams are cautioned that words that are not readily legible may be disregarded.

Communication: I sometimes send important messages relating to the course to students by e-mail. This may occur before the first day of class. Students are responsible for checking their official GW e-mail accounts daily throughout the term.

Examination: The examination will be open book. It may contain a mixture of essay and multiple choice questions.

Student Names: During the first week of class, I will ask students what they would like to be called. Until then, I will call on students using their official, registered names. Students who would like to be called on by a different name may notify me in advance by e-mail.

Learning Outcomes: A student who completes this course should have knowledge and understanding of the American system of civil procedure. The student should
understand the steps in a lawsuit, particularly including discovery, pre-trial motions (particularly the motions to dismiss for failure to state a claim upon which relief can be granted and for summary judgment), the right to jury trial, post-verdict and post-judgment motions, appeal, and the preclusive effect of judgments. The student should understand the rules relating to these topics, the doctrines and policies that underlie the rules, and strategic considerations that arise when these topics come up in actual practice.

READING ASSIGNMENTS -- Part 1

Assignments are given by page number in the Casebook and by reference to the statute or rule to be read in your statute/rule book. Make sure you have the Eleventh Edition of the casebook; earlier editions will not do. A used copy is fine. You will also need a current version (i.e., a 2017-2018 version) of the Federal Rules of Civil Procedure that includes relevant sections of Title 28 of the United States Code. I will use the Carolina Academic Press version that some of you used last semester and I recommend that you use that version. If you need to economize, you could get by with a different version or even with a used edition from a recent year, but you should realize that the differing page numbers will cause some inconvenience to you.

In general, when the assigned reading refers to a statute or a rule from the Federal Rules of Civil Procedure, you should also read that statute or rule. Usually, this is indicated in the assignments below, but you should do it even if it is not so indicated.

Further reading assignments will be distributed as the term progresses.

Abbreviations used below:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>FMSH</td>
<td>Friedenthal, Miller, Sexton &amp; Hershkoff, CIVIL PROCEDURE (11th ed.)</td>
</tr>
<tr>
<td>SM</td>
<td>Supplementary Materials</td>
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<tr>
<td>F.R.</td>
<td>Federal Rule(s) of Civil Procedure</td>
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I. Discovery

Scope of Discovery

1. **Read this syllabus**, particularly the first two pages and the top of this page. The syllabus contains important information you will need to know throughout the semester.
   
   FMSH 40-44
   
   F.R. 1, 26, particularly F.R. 26(b)(1), (b)(2), (c)

2. FMSH 831-834, 838-850
   
   Note: The *Kelly* case (p. 838) was decided under Ohio state discovery rules, not the federal rules. Also, the case was decided under old rules—the rules have changed in Ohio since the case was decided. So we don’t read this case to learn a particular rule about discovery. We read it because it has a good discussion of general policies relating to discovery.
Mechanics of Discovery and Disclosure

3. FMSH 851-866
   F.R. 26(a)(1), 26(d), 26(f), 28(a), 29-31, 33, 45(a).

4. FMSH 866-881 (through end of “duty to supplement”)
   FMSH 835-838
   F.R. 26(e), 27(a), 34-36

Protected Materials

5. FMSH 885 (last ¶) - 898
   F.R. 26(b)(3)

6. FMSH 897 (last ¶) - 907 (first ¶)

Experts; Use of Discovery

7. F.R. 26(a)(2); (b)(4); FMSH 907-909
   F.R. 32, 33(c), 36(b); FMSH 881-885; SM 1

Sanctions

8. F.R. 26(g), 37; FMSH 909-916

II. Case Management

9. F.R. 16
   FMSH 917-931
   SM 2-9

III. The Applicable Law

10. 28 U.S.C. § 1652
    FMSH 397-409
    (Although the main case in this assignment is Erie, pay attention also to Swift v. Tyson)

11. FMSH 409-422
    F.R. 3; U.S. Const. amend VII

12. FMSH 423-434
    F.R. 4(e); 28 U.S.C. § 2072; U.S. Const. art. VI
13. FMSH 434-446
   (Pay attention to the note case of Burlington Northern v. Woods)

14. FMSH 456-469
   F.R. 23(a), (b)
   SM 10
   FMSH 469-473 plus the following notes on 474-478: 1-5, 9-10.

IV. Adjudication Other than by Trial

Summary Judgment

15. F.R. 12(b), 56
   FMSH 947-966 (through end of note 3)

16. FMSH 966 (starting with note 4) - 976 (first ¶)

Judgment as a Matter of Law; New Trial

17. FMSH 1054 (last ¶)-1061 (first ¶); 1070-1072
   F.R. 50; U.S. Const., amend. VII

18. SM 11-17
   FMSH 1111 (last ¶)-1116
   F.R. 59

Dismissal and Default

19. FMSH 976-984
   F.R. 41, 55