

Civil Procedure

Fall 2025

Cardozo Law School
Sections E & F

Professor Yablon

Introduction to the Course and First Assignment (8/20/25) (subject to revision)

The casebook is Linda J. Silberman, Allan R. Stein, Tobias Barrington Wolff & Aaron Simowitz, *Civil Procedure: Theory and Practice* (6th Ed. 2022) (“Casebook”). The Sixth Edition was published in 2022. Used copies of the Sixth Edition may be found more cheaply on line. Citations in the Syllabus listed as “CB” are to the Sixth Edition. It may also be possible to purchase online e-book versions or rent copies of the Sixth Edition.

The Fifth Edition, published in 2017, has most of the same main cases as the Sixth Edition. The pagination is different, so it is somewhat harder to use, but it is likely to be a much lower cost alternative.

If money is not too tight, I also recommend purchasing a 2025 copy of the *Federal Rules of Civil Procedure*, compiled by Kevin Clermont and published by Foundation Press (“Rules Pamphlet”). I recommend rather than require it because it is possible to download the current Federal Rules and relevant federal statutes without charge (and without copyright violation) from websites such as www.uscourts.gov/RulesAndPolicies/FederalRulemaking/RulesAndForms.aspx and www.law.cornell.edu/rules/frcp/. These websites are somewhat more unwieldy and harder to use than the Rules Pamphlet, but they are free. You should have the casebook, a complete set of the Federal Rules of Civil Procedure and all statutes and additional required materials cited in the Syllabus close at hand during classes.

At some time **prior to Oct. 22, 2025**, you should also have read *A Civil Action* (1995), by Jonathan Harr. We will discuss various aspects of *A Civil Action* in conjunction with our consideration of pleadings, discovery and summary judgment in later parts of the course. The original pleadings and many other documents filed in the Woburn litigation, the subject of *A Civil Action*, will be made available online.

Many topics in Civil Procedure (and many of the cases in the casebook) involve consideration of various Federal Rules of Civil Procedure as well as federal and/or state statutes. Whenever the casebook deals with a topic covered by the Federal Rules or statute, (and particularly when you see a reference to a Rule or statute in a case discussed in class) you should read – and re-read – the Federal Rules and/or statutes involved.

The Syllabus lists specific Rules and statutes which are most relevant to particular assignments. You must read and develop an understanding of those Rules and statutes as

part of the assignment. You should also feel free to review any of the Rules or statutes at any time (preferably many times).

All the Federal Rules of Civil Procedure, and most of the relevant federal statutes, including many portions of the Judiciary Act, 28 U.S.C. *et seq.* are included in the Rules Pamphlet. You should familiarize yourself with the general structure and format of the Federal Rules **before the first day of class**. The assignment sheet also contains references to statutes and rules which should be reviewed in connection with particular legal topics.

1. Calling on People During Class Sessions

Yablon will call on students to answer questions and discuss the materials related to each day's assignments. Every week (usually on Sunday) Yablon will post on Canvas, in a file called "Notes and Questions for Class," questions that Yablon is likely to ask during the class discussions in the coming week. Students may find this information useful in analyzing the assignments and preparing for class.

For the first few weeks of the course, Yablon will call on all the students on the class roster in alphabetical order. After all the students have been called on once, the students will be assigned to one of four groups (organized alphabetically) and each group will be assigned to a particular weekly class session. All students in that group will be "on call" for the day they have been assigned and should be prepared to answer questions in class on that day. Yablon will randomly choose which students in the assigned groups to call on each day until the end of the semester.

2. Additional Materials to Be Posted at the Beginning of each Week

Every Sunday or early Monday, Yablon will post on Canvas a weekly newsletter which will briefly discuss the readings for the week and will have suggestions on how to best study the assigned materials. Some newsletters will also contain a "Skills Exercise," a series of questions related to that week's materials, designed to help you understand and apply the legal rules you are learning. The skills exercises will not be graded or reported. You can do them at any time you like, individually or in groups. Yablon will usually post answers to them on Canvas at some point during the following week. He will also post the "Notes and Questions for Class" for the coming week.

3. Office Hours

Yablon expects to hold office hours every week on Mondays, 10-11 and Wednesdays, 11 – 12 in Room 516. Any student can attend and no appointments are necessary.

Yablon is also happy to hold private meetings with any student who thinks they would like one. Such meetings can be arranged by sending Yablon an e-mail suggesting

available times. Most private meetings will be conducted over Zoom, usually on Sunday mornings.

Assignment for First Day of Class

For the first class session, Wednesday, Aug. 20 at 9:00 A.M. in Room 206

- 1) Read pages 1- 11 in the Casebook (CB).
- 2) Review the Rules Pamphlet (or the relevant websites) to familiarize yourself with the structure and content of the Rules. You should be able to locate the Advisory Committee notes to the various Rules, the selected portions of the Judiciary Act and U.S. Constitution, and you should read Federal Rule of Civil Procedure (FRCP) 1, as well as sections 41, 44, 132, 133, 1331 and 1332 of the Judiciary Act, (28 U.S.C. §§ 41, 132, 133, 1331, 1332).
- 3) As you read these materials, consider and be prepared to discuss the following questions:
 - a) What is the basic structure of the federal judiciary?
 - b) How do federal courts differ from state courts?
 - c) What are pleadings and what purpose do they serve?