

EXAMPLES & EXPLANATIONS

Civil Procedure

Fourth Edition

Joseph W. Glannon



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CIVIL PROCEDURE

Examples and Explanations
Fourth Edition

Joseph W. Glannon

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*I dedicate this book to my parents,
Edward and Helen Glannon.*

Preface to Students

Everyone comes to law school with some idea of what a contract is or of the meaning of assault and battery, but who ever heard of supplemental jurisdiction, impleader, or res judicata? Abstract concepts such as these make civil procedure the most unfamiliar and intimidating of the basic law school courses.

However, civil procedure can also be fascinating if you can get by the initial strangeness. Many of the topics covered in the course appear baffling upon first acquaintance but begin to make sense when you see how they apply in particular cases and how they relate to other topics in the course. The goal of this book is to demystify civil procedure by providing concrete examples of procedural doctrines and rules in operation, together with full explanations of how these abstract concepts apply to each example.

Most case books contain major or representative cases but provide little discussion of what the cases mean or “what the law is” on a particular topic. I hope that you will find, as my students have, that the discussion in this book helps to tie the cases together into a coherent picture of the law. In addition, the opportunity to try your hand at the examples and then to compare your answers with mine will provide an incentive to analyze the examples and make that process more rewarding—perhaps even enjoyable.

Each chapter (except for the pleading chapters in Part Six) includes an introduction that gives a basic explanation of the relevant procedural concept followed by a series of examples. The “Explanations” section of each chapter presents my analysis of the examples in that chapter. The most effective way to use the book is to read each chapter when that topic is covered in your civil procedure course and to try to answer the questions yourself, based on my introductions and your reading for class. To keep yourself honest, write out your own analysis of each example, if only in a few sentences, before comparing it to mine. You may also want to review the chapter again after class coverage or discuss with your civil procedure professor any issues that you don’t fully understand.

One of my principal frustrations as a first year law student was that the questions posed in the casebooks were too hard. (Many are still beyond me, even after teaching procedure for twenty years.) I think you will find that the examples in this book are geared to cover the basics as well as more sophisticated variations; you really will be able to answer many of them, and the explanations will help to deepen your understanding of the issues.

You certainly will want to use *Civil Procedure: Examples and Explanations* for reviewing your civil procedure course at the end of the year. My students have found that these chapters are an excellent way to test their understanding of each topic and to fill in any gaps in class discussion or case reading. The examples provide an efficient means of learning the material because they help you to actively apply the concepts. You will

learn a lot more by doing that than by passively rereading cases. In addition, the process will give you a sense of mastery of the material. As the year progresses, you will find that your ability to analyze the examples improves markedly, and that this positive feedback will help you feel more confident about your analytical skills. Surely every first year law student will be thankful for that.

March 2001

Joseph W. Glannon

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Special Notice

For several frequently cited treatises I have used shortened versions after the initial citation to the work. These are as follows: Casad, *Jurisdiction in Civil Actions* (2d ed. 1991), cited as Casad; Friedenthal, Kane, and Miller, *Civil Procedure* (3rd ed. 1999), cited as Friedenthal, Kane, and Miller; James, Hazard, and Leubsdorf, *Civil Procedure* (4th ed. 1992), cited as James, Hazard, and Leubsdorf; Moore's Federal Practice, cited as Moore's; Wright, *Federal Courts* (5th ed. 1994), cited as Wright; and Wright and Miller, *Federal Practice and Procedure*, cited as Wright and Miller. (My apologies to supplementary co-authors of the Moore's and Wright and Miller treatises.) For multi-volume treatises (Moore's and Wright and Miller) the volume numbers have been retained before the authors' names.

**CIVIL
PROCEDURE**

Examples and Explanations

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