

CASEBOOK SERIES

CALIFORNIA  
CIVIL PROCEDURE

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## PREFACE

The immediate purpose of these materials is to provide a vehicle for upperclass law students to explore the complexities of civil procedure as practiced in the California state courts. The ultimate goal is to increase the competency of future California attorneys with respect their office and courtroom practice. California Civil Procedure is a intricate series of topics, spanning the spectrum from broad theories to detailed precepts. This book attempts to achieve a balance between general principles and specific rules, with emphasis on those areas of most importance to practitioners.

The organization and methodology employed are mostly traditional. Authorities were selected for reproduction based on their coverage of essential concepts whose application to future cases will require resolution of significant analytical and policy conflicts. Extensive textual analysis places each reproduced case or statute into broader context, as do frequent questions, notes, and observations. The purpose here is two-fold: to enhance coverage of the area under consideration and, more importantly, to stimulate both individual student reflection and classroom discussion.

Although students should find these materials quite helpful in understanding topics to which they were previously exposed, this book is not intended primarily as a review of first year civil procedure. The emphasis instead is often on those areas where California procedure departs from the general or federal rules. These materials do, however, make frequent comparisons to analogous Federal Rules of Civil Procedure and federal practice.

The arrangement of the topics largely reflects the sequence of considerations likely encountered in taking a typical civil case from the stages of initial client contact to commencement of the action in court, through pretrial preparation, trial proceedings, post-trial motions, and appellate review. This sequence need not be followed. Each chapter was developed as an independent topic, and can be assigned in whatever sequence seems appropriate to the instructor.

This book contains far more material than can comfortably be covered in a typical three-credit, one-semester course. The intent is to permit each teacher to structure his or her course by choosing among the full panoply of available topics. Some schools have limited their required civil procedure course to one semester. Those schools may wish to offer a more extensive upperclass California Civil Procedure courses, perhaps one focusing on pretrial procedures and another on trial and appellate procedures. This book contains sufficient material for such comprehensive courses.

Chapters 1 and 2 are short chapters designed as the initial assignment for an introductory class. After that, several sequencing options are available for a one semester course. Instructors who wish to emphasize those areas of California Civil

Procedure that are unique should assign Chapters 4 (Statutes of Limitations), 5 (Conflict of Laws), 8 (Preclusive Effects of Prior Judgments), sections of Chapter 9 discussing "Doe" defendant practice, sections of Chapter 10 dealing with new party cross-complaints and equitable indemnity, sections of Chapter 12 covering default judgments and arbitration, the new trial portions of Chapter 13, and Chapters 14 and 15. Instructors who desire to add some practical professional responsibility issues may add Chapter 3 to the beginning of this list.

Instructors who wish to emphasize more basic aspects of California civil procedure may find the following sequence to their liking: Chapters 1 and 2, followed by assignments from Chapters 4 (Statutes of Limitations), 6 (The Proper Court), 8 (Preclusive Effects of Prior Judgments), 9 (Pleadings), 10 (Joinder), 11 (Discovery), and 13 (Trials). Instructors with the luxury of more than three credits or of two semesters may pick and choose among all these chapters as appropriate.

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June, 1996

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## CHAPTER 7

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## CHAPTER 8

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## CHAPTER 9

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