

CIVIL PROCEDURE CASES AND PROBLEMS

Second Edition

Allan Ides

Loyola Law School

Professor of Law and William M. Rains Fellow

Christopher N. May

Loyola Law School

James P. Bradley Professor of Constitutional Law

ASPEN
PUBLISHERS

111 Eighth Avenue, New York, NY 10011
<http://lawschool.aspenpublishers.com>

© 2006 Aspen Publishers, Inc.
a Wolters Kluwer business
<http://lawschool.aspenpublishers.com>

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher. Requests for permission to make copies of any part of this publication should be mailed to:

Aspen Publishers
Attn: Permissions
111 Eighth Avenue, 7th Floor
New York, NY 10011

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 0-7355-5889-2

Library of Congress Cataloguing-in-Publication Data

Ides, Allan, 1949-

Civil procedure : cases and problems / Allan Ides and Christopher N. May. — 2nd ed.

p. cm.

Includes index.

ISBN 0-7355-5889-2

1. Civil procedure—United States. I. May, Christopher N. II. Title.

KF8839.I34 2006
347.73'5—dc22

2005036049

EDITORIAL ADVISORS

Erwin Chemerinsky

Alston & Bird Professor of Law
Duke University School of Law

Richard A. Epstein

James Parker Hall Distinguished Service Professor of Law
University of Chicago
Peter and Kirsten Bedford Senior Fellow
The Hoover Institution
Stanford University

Ronald J. Gilson

Charles J. Meyers Professor of Law and Business
Stanford University
Marc and Eva Stern Professor of Law and Business
Columbia University

James E. Krier

Earl Warren DeLano Professor of Law
University of Michigan

Richard K. Neumann, Jr.

Professor of Law
Hofstra University School of Law

Kent D. Syverud

Dean and Garner Anthony Professor
Vanderbilt University Law School

Elizabeth Warren

Leo Gottlieb Professor of Law
Harvard University

EMERITUS EDITORIAL ADVISORS

Geoffrey C. Hazard, Jr.

Trustee Professor of Law
University of Pennsylvania
Distinguished Professor of Law
Hastings College of the Law, University of California

Bernard Wolfman

Fessenden Professor of Law
Harvard University

E. Allan Farnsworth

On January 31, 2005, Aspen Publishers lost a great author, colleague, and friend with the death of E. Allan Farnsworth, the Alfred McCormack Professor of Law at Columbia Law School and author of the seminal student treatise, *Contracts*, Fourth Edition, by Aspen Publishers.

About Aspen Publishers

Aspen Publishers, headquartered in New York City, is a leading information provider for attorneys, business professionals, and law students. Written by preeminent authorities, our products consist of analytical and practical information covering both U.S. and international topics. We publish in the full range of formats, including updated manuals, books, periodicals, CDs, and online products.

Our proprietary content is complemented by 2,500 legal databases, containing over 11 million documents, available through our Loislaw division. Aspen Publishers also offers a wide range of topical legal and business databases linked to Loislaw's primary material. Our mission is to provide accurate, timely, and authoritative content in easily accessible formats, supported by unmatched customer care.

To order any Aspen Publishers title, go to <http://lawschool.aspenpublishers.com> or call 1-800-638-8437.

To reinstate your manual update service, call 1-800-638-8437.

For more information on Loislaw products, go to www.loislaw.com or call 1-800-364-2512.

For Customer Care issues, e-mail CustomerCare@aspenpublishers.com; call 1-800-234-1660; or fax 1-800-901-9075.

Aspen Publishers
a Wolters Kluwer business

Preface

Most first-year law students find Civil Procedure to be one of their most challenging courses. While other first-year courses such as Contracts, Torts, Property, and Criminal Law present their own difficulties, they at least address roughly familiar turf—the making of enforceable agreements, the vindication of personal injuries, the ownership of property, and the commission and punishment of crimes—areas to which many of you have been exposed on television or at the movies, if not in real life. Civil Procedure, on the other hand, introduces us to a new language of process, and in a sense a new way of thinking, premised on rules and principles that occur and recur daily, but within the much less visible realms of judicial litigation and formal dispute resolution. Because it has no “real world” counterpart, Civil Procedure is in some ways like a foreign language, possessing a linguistic culture of its own. As a student, your first challenge is thus to learn the basics of this new language—one in which you will soon find yourself to be surprisingly fluent.

While the doctrines of Civil Procedure may at times seem highly technical or more than moderately perplexing in their application, don’t despair! The fog of one’s initial encounter with procedure is natural, yet it is neither permanent nor impenetrable. To succeed at Civil Procedure, you need patience, discipline, and a willingness to appreciate the inherent play of some of the underlying doctrines. In our over 50 years of combined teaching experience, we have found that students who accept this challenge often, and to their surprise, find Civil Procedure to be one of their most enjoyable and rewarding courses. What at first glance might appear to be a subject that is dry and far removed from human experience may, with patience and effort on your part, turn out to be rich in its intellectual and practical possibilities. You might think of Civil Procedure as a series of puzzles, each with its own special rules and nuances. Like an intricate game, as you master one level, you will move on to a new and more challenging stage. If you learn to take one step at a time, you will proceed nicely to the finish.

We have, frankly, loved teaching Civil Procedure. There is a deep pleasure in watching students learn to navigate an initially mysterious but almost always fascinating labyrinth. This casebook reflects our rich and satisfying experience. It embodies the thousands of hours we’ve spent in the classroom and in our offices—working with students, learning what works and what doesn’t, trying new approaches. One thing of which we’re certain is this: The only way to learn Civil Procedure is through an active process of applying the doctrines to the solution of real problems. It is for this reason that this book contains more than 200 problems interspersed throughout the text. We urge students who use the book to do the problems as they appear in their assignments. Given the amount of material that must be covered, it is unlikely your professor will be able to cover all of the problems in class. Yet this is a boon for you, for by doing the problems yourself you will reap tremendous benefits. Make a habit of doing all of the problems, either by yourself or with a small group of your fellow students. Then take the time to review the actual cases on which many of the problems are based, the citations to which appear at the end of the problem. If the court took a different approach than you did, ask yourself why. In short, make a habit of first learning the language of Civil Procedure by

doing the reading and listening to your professor. Then practice using that language by applying it to the problems as they appear in the book. This process of reading, thinking, doing—and sometimes redoing—is the one sure way to master Civil Procedure.

The Table of Contents provides a detailed outline of this book. As such, it serves as an overview of the course in Civil Procedure. You might want to skim the Table of Contents before you begin the course and then refer back to it periodically as you proceed. This may help give you a sense of where you've been and where you're going. In addition, Chapter I, part B, provides a narrative overview of the Civil Procedure course from the perspective of a hypothetical civil litigation problem. The "Hypothetical Case," which appears at pages 8-19, takes you through each of the major topics in this course, some of which you may not cover due to time constraints. This hypothetical should give you a good sense of what is covered in Civil Procedure and how the separate components of the course interact with one another. We strongly urge you to read the Hypothetical Case before embarking on your study of the specific doctrines found in later chapters. By doing so, you'll have a sense of "the big picture" into which the issues covered by this course all fit.

Good luck to you on this new adventure. We hope that these materials will serve as a useful learning tool, and that they will provide you with the knowledge and the confidence necessary to use the civil litigation system as a means of furthering justice.

*Allan Ides
Christopher N. May*

February 2006

Acknowledgments

First, we would like to thank Dean David Burcham of Loyola Law School, whose friendship, leadership, and support have made the successful completion of this project a reality. We also express our gratitude to Professors Georgene Vairo and Lawrence Solum, both of whom read and provided helpful comments on draft chapters of this casebook, and to the Hon. Wm. Matthew Byrne, Jr., for his invaluable insights into the pretrial litigation process. Professor Michael Wolfson deserves special thanks for his contributions to the materials on discovery. Thanks also go to our research assistants, Gabriel Avina, Kasha Harshaw, Kate Ides, Amy Lerner, Susy Li, Ian Mackinnon, Meegan Moloney, Dara Tang, and Monica Vu for their many helpful contributions in preparing the First Edition of this book, and to Mary Adams, Robert Briseno, Caitlin Comstock, Jamie Crute, Melissa Daghighian, Nina Kim, Jessica Levinson, Megan Moore, Tony Sain, and Jasmine Shoukry for their assistance in preparing this Second Edition. Thanks, too, to our secretary, Ruth Busch, whose patience and skills helped us on many occasions. We are grateful to Pam Buckles and all the members of Faculty Support for their willingness to pitch in whenever asked. We also acknowledge and thank the National Center for State Courts for giving us permission to reprint the chart that appears on page 3.

Finally, we would thank the thousands of wonderful students who over many years have given us inspiration and a better understanding of the learning process, and without whom we would never have undertaken such a project.

SUMMARY OF CONTENTS

| | |
|---|---------------|
| <i>Contents</i> | <i>xi</i> |
| <i>Preface</i> | <i>xxxi</i> |
| <i>Acknowledgments</i> | <i>xxxiii</i> |
| I. Modern Dispute Resolution: Litigation and Its Alternatives | 1 |
| II. Acquiring Jurisdiction over the Parties to a Lawsuit | 49 |
| III. Service of Process and Notice | 217 |
| IV. Subject Matter Jurisdiction | 279 |
| V. Venue, Transfer, and Forum Non Conveniens | 393 |
| VI. The <i>Erie</i> Doctrine and Related Problems | 441 |
| VII. Pleadings and Discovery | 529 |
| VIII. Joinder of Claims and Parties | 653 |
| IX. Class Actions | 767 |
| X. Adjudication Without Trial | 867 |
| XI. Trial | 937 |
| XII. Appellate Review | 1015 |
| XIII. The Binding Effect of a Final Judgment | 1097 |
| <i>Table of Cases</i> | <i>1185</i> |
| <i>Table of Citations to the Judicial Code (28 U.S.C.)</i> | <i>1197</i> |
| <i>Table of Citations to the Federal Rules of Civil Procedure</i> | <i>1199</i> |
| <i>Table of Authorities</i> | <i>1203</i> |
| <i>Index</i> | <i>1209</i> |

CONTENTS

| | |
|--|----------|
| <i>Preface</i> | xxxi |
| <i>Acknowledgments</i> | xxxiii |
| Chapter I. Modern Dispute Resolution: Litigation and Its Alternatives | I |
| A. Overview: The State and Federal Legal Systems | 1 |
| 1. State Judicial Systems | 2 |
| 2. The Federal Judicial System | 4 |
| B. The Civil Litigation Process: A Hypothetical Case | 8 |
| 1. A Lawyer's Ethical Obligation | 9 |
| 2. Jurisdiction over Defendants | 9 |
| 3. Service of Process on Defendants | 10 |
| 4. Subject Matter Jurisdiction | 11 |
| 5. Venue and Change of Venue | 11 |
| 6. Governing Law | 12 |
| 7. Pleading and Discovery | 13 |
| 8. Joinder of Claims and Parties | 14 |
| 9. Class Actions | 15 |
| 10. Adjudication Without Trial | 16 |
| 11. Trial | 17 |
| 12. Appellate Review | 17 |
| 13. Binding Effect of a Judgment | 18 |
| C. State and Federal Court Caseloads | 19 |
| 1. State Court Caseloads | 19 |
| 2. Federal Court Caseloads | 22 |
| D. Alternatives to Civil Litigation | 24 |
| 1. Private Alternative Dispute Resolution | 25 |
| <i>Emeronye v. CACI International, Inc.</i> | 26 |
| Notes and Questions | 31 |
| 2. Court-annexed alternative Dispute Resolution | 32 |
| <i>Johnson v. Saenz</i> | 34 |
| Notes and Questions | 37 |
| E. The Lawyer's Responsibility in Procedure | 39 |
| 1. Professionalism and Procedure | 39 |
| 2. Self-interest: Avoiding Sanctions | 41 |
| <i>Mendez v. Draham</i> | 42 |
| Notes and Questions | 46 |

| | |
|---|-----|
| Chapter II. Acquiring Jurisdiction over the Parties to a Lawsuit | 49 |
| A. Overview and Introduction | 49 |
| B. <i>Pennoyer v. Neff</i> and the Rule of Territoriality | 51 |
| <i>Pennoyer v. Neff</i> | 51 |
| Notes and Questions | 59 |
| Problems | 61 |
| C. Traditional Bases of Jurisdiction | 62 |
| 1. Personal Jurisdiction | 62 |
| a. Physical Presence and Transient Jurisdiction | 62 |
| b. Voluntary Appearance in Court | 63 |
| c. Consent to Service on an Agent: Express and Implied Consent | 64 |
| d. Domicile | 65 |
| 2. In Rem and Quasi In Rem Jurisdiction | 66 |
| <i>Harris v. Balk</i> | 68 |
| Notes and Questions | 70 |
| Problem | 71 |
| 3. Corporations and the Traditional Bases of Jurisdiction | 72 |
| D. Long-Arm Jurisdiction | 73 |
| 1. <i>International Shoe</i> and the “Minimum Contacts” Test | 73 |
| <i>International Shoe Co. v. State of Washington</i> | 73 |
| Notes and Questions | 79 |
| An Approach to Long-Arm Jurisdiction and the “Minimum Contacts” Test | 80 |
| 2. Statutory Limits on the Assertion of Long-Arm Jurisdiction | 82 |
| a. Tailored or Specific-Act Statutes | 83 |
| Problems | 84 |
| b. Due-Process-Type Statutes | 85 |
| c. Federal Courts and State Long-Arm Statutes | 86 |
| 3. “Minimum Contacts”: The “Purposeful Availment” Requirement | 87 |
| a. Contractual Relationships | 88 |
| <i>Hanson v. Denckla</i> | 88 |
| Notes and Questions | 93 |
| <i>Burger King Corporation v. Rudzewicz</i> | 94 |
| Notes and Questions | 102 |
| Problem | 103 |
| <i>Chalek v. Klein</i> | 104 |
| Notes and Questions | 106 |
| Problems | 107 |

| | | |
|----|---|-----|
| b. | The “Stream of Commerce” Theory | 108 |
| | <i>World-Wide Volkswagen Corporation v. Woodson</i> | 108 |
| | Notes and Questions | 118 |
| | <i>Asahi Metal Industry Co., Ltd. v. Superior Court of California</i> (Part I) | 120 |
| | Notes and Questions | 126 |
| | Problems | 128 |
| c. | The “Effects Test” | 129 |
| | <i>Kulko v. Superior Court</i> | 129 |
| | Notes and Questions | 132 |
| | <i>Calder v. Jones</i> | 132 |
| | Notes and Questions | 134 |
| | Problem | 136 |
| | <i>Revell v. Lidov</i> | 136 |
| | Notes and Questions | 142 |
| | Problems | 145 |
| 4. | “Minimum Contacts”: The Relatedness Requirement | 146 |
| a. | General Jurisdiction | 147 |
| | <i>Perkins v. Benguet Consolidated Mining Co.</i> | 147 |
| | Notes and Questions | 149 |
| | <i>Helicopteros Nacionales de Colombia, S.A. v. Hall</i> | 150 |
| | Notes and Questions | 157 |
| | Problems | 161 |
| b. | The Scope of Specific Jurisdiction | 163 |
| | <i>Nowak v. Tak How Investments, Ltd.</i> (Part I) | 163 |
| | Notes and Questions | 169 |
| | Problems | 171 |
| 5. | The Reasonableness Requirement | 172 |
| | <i>Asahi Metal Industry Co., Ltd. v. Superior Court of California</i> (Part II) | 172 |
| | Notes and Questions | 175 |
| | <i>Nowak v. Tak How Investments, Ltd.</i> (Part II) | 176 |
| | Notes and Questions | 178 |
| | Problems | 178 |
| E. | “Minimum Contacts” and the Traditional Bases of Jurisdiction | 179 |
| 1. | In Rem and Quasi In Rem Jurisdiction | 179 |
| | <i>Shaffer v. Heitner</i> | 179 |
| | Notes and Questions | 189 |
| | Problems | 192 |

| | | |
|----|---|---------|
| 2. | Physical Presence | 193 |
| | <i>Burnham v. Superior Court</i> | 193 |
| | Notes and Questions | 201 |
| F. | Exercising Jurisdiction Under Federal Long-Arm Provisions | 201 |
| 1. | Federal Long-Arm Provisions | 202 |
| 2. | “Minimum Contacts” at the National Level | 203 |
| 3. | Service Within the United States | 204 |
| 4. | The 100-Mile-Bulge Rule | 206 |
| | Problems | 207 |
| G. | Challenging Lack of Jurisdiction over the Defendant | 208 |
| 1. | The Burden of Proof | 208 |
| 2. | Direct Attack | 209 |
| 3. | Collateral Attack | 211 |
| 4. | Sanctions Under FRCP 11 | 212 |
| | Problems | 213 |
| H. | Review Problem | 214 |
| | Chapter III. Service of Process and Notice | 217 |
| A. | Overview and Introduction | 217 |
| B. | Mechanics of Service: Rule 4 | 219 |
| 1. | Request for Waiver of Service | 219 |
| | Problem | 220 |
| 2. | Formal Service of Summons and Complaint | 221 |
| a. | Individuals | 221 |
| | Problem | 222 |
| b. | Corporations, Partnerships, and Associations | 222 |
| | <i>American Institute of Certified Public</i> | |
| | <i>Accountants v. Affinity Card, Inc.</i> | 223 |
| | Notes and Questions | 227 |
| c. | Defendants Served in a Foreign Country | 227 |
| d. | Substantial Compliance | 228 |
| | Problem | 229 |
| 3. | Time Limit for Effecting Service: Rule 4(m) | 229 |
| C. | The Due Process Right to Notice | 231 |
| | <i>Mullane v. Central Hanover Bank</i> | |
| | & Trust Co. | 231 |
| | Notes and Questions | 237 |
| | Problems | 239 |
| | <i>Mennonite Board of Missions v. Adams</i> | 240 |
| | Notes and Questions | 244 |
| | Problems | 247 |
| | A Note on Challenging Service of Process | 248 |
| | You’ve Got Mail | 248 |

| | | |
|----|---|------------|
| D. | Prefiling Waiver and Consent | 250 |
| | <i>Underwood Farmers Elevator v.</i> | |
| | <i>Leidholm</i> | 250 |
| | Notes and Questions | 253 |
| E. | Policy-Based Immunities and Exemptions | 254 |
| 1. | Witness Immunity | 254 |
| | <i>Fun-Damental Too, Ltd. v. Hwung</i> | 255 |
| | Notes and Questions | 258 |
| 2. | Trickery or Fraud | 259 |
| | <i>May Department Stores Co. v.</i> | |
| | <i>Wilansky</i> | 259 |
| | Notes and Questions | 262 |
| | Problems | 263 |
| F. | Notice and Hearing When Property Is Attached | 264 |
| | <i>Connecticut v. Doebr</i> | 265 |
| | Notes and Questions | 272 |
| | Problem | 275 |
| | A Note on Attachment to Satisfy a | |
| | Judgment | 276 |
| | Problem | 278 |
| | | |
| | Chapter IV. Subject Matter Jurisdiction | 279 |
| A. | Overview: General Principles of Subject Matter Jurisdiction | 279 |
| B. | Subject Matter Jurisdiction in Federal Courts | 281 |
| 1. | The Constitutional and Statutory Dimensions | |
| | of Subject Matter Jurisdiction in Federal Courts | 281 |
| 2. | Federal Question Jurisdiction | 282 |
| a. | Article III “Arising Under” Jurisdiction | 283 |
| | Problems | 284 |
| b. | Statutory “Arising Under” Jurisdiction: The Federal | |
| | Question Jurisdiction of U.S. District Courts | 285 |
| | Notes and Questions | 287 |
| | Problems | 289 |
| | <i>Grable & Sons Metal Products, Inc. v.</i> | |
| | <i>Darue Engineering & Manufacturing</i> | 291 |
| | Notes and Questions | 297 |
| | Problems | 299 |
| | A Note on Protective Jurisdiction | 300 |
| | <i>Louisville & Nashville Railroad Co. v.</i> | |
| | <i>Mottley</i> | 301 |
| | Notes and Questions | 302 |
| | Problems | 304 |
| | A Note on Declaratory Judgments and | |
| | the Well-Pleaded Complaint Rule | 304 |

| | | |
|----|---|-----|
| | Problems | 305 |
| | A Note on Concurrent and Exclusive Federal Jurisdiction | 306 |
| c. | The Statutory Jurisdiction of the Supreme Court and the U.S. Courts of Appeals | 307 |
| 3. | Diversity Jurisdiction | 308 |
| a. | Introduction | 308 |
| b. | Diversity of State Citizenship | 310 |
| | <i>Lundquist v. Precision Valley Aviation, Inc.</i> | 311 |
| | Notes and Questions | 313 |
| | Problem | 315 |
| | <i>Tubbs v. Southwestern Bell Telephone Company</i> | 315 |
| | Notes and Questions | 319 |
| | Problems | 320 |
| | A Note on the Form Doctrine | 321 |
| | Problem | 322 |
| | Statutes Allowing for Minimal Diversity | 322 |
| c. | Cases Involving Aliens | 323 |
| | <i>Eze v. Yellow Cab Co. of Alexandria, Va., Inc.</i> | 324 |
| | Notes and Questions | 325 |
| | <i>Grupo Dataflux v. Atlas Global Group, L.P.</i> | 326 |
| | Notes and Questions | 330 |
| | Problem | 333 |
| | A Note on U.S. Citizens with Dual Nationality | 333 |
| | A Note on Foreign Corporations Whose Principal Place of Business Is in the United States | 334 |
| | A Note on U.S. Corporations with Their Principal Place Business Abroad | 335 |
| | Problems | 336 |
| d. | Amount in Controversy | 337 |
| | <i>Coventry Sewage Associates v. Dworkin Realty Co.</i> | 339 |
| | Notes and Questions | 345 |
| | A Note on Aggregation of Claims | 346 |
| | Problems | 348 |
| | A Note on Computing the Amount in Controversy in Suits for Declaratory or Injunctive Relief | 348 |
| | Problem | 350 |

| | |
|---|------------|
| 4. Supplemental Jurisdiction | 350 |
| a. Overview and Introduction | 350 |
| b. Pendant and Ancillary Jurisdiction | 351 |
| <i>United Mine Workers of America</i> | |
| <i>v. Gibbs</i> | 351 |
| Notes and Questions | 355 |
| <i>Owen Equipment and Erection</i> | |
| <i>Co. v. Kroger</i> | 357 |
| Notes and Questions | 362 |
| A Note on “Pendent Party” Jurisdiction | 364 |
| c. Supplemental Jurisdiction: §1367 | 365 |
| A Note on “Pendent Personal | |
| Jurisdiction” | 368 |
| Problems | 369 |
| 5. Removal Jurisdiction | 370 |
| a. Overview | 370 |
| b. Removal Under §1441(a) and (b) | 370 |
| <i>McCurtain County Production Corp. v.</i> | |
| <i>Cowett</i> | 371 |
| Notes and Questions | 373 |
| Problems | 374 |
| A Note on Devices to Prevent | |
| Removal in Diversity Cases | 374 |
| Problems | 376 |
| c. Removal Under §1441(c) | 377 |
| <i>Eastus v. Blue Bell Creameries, L.P.</i> | 378 |
| Notes and Questions | 381 |
| Problems | 383 |
| C. Challenging a Court’s Subject Matter Jurisdiction | 384 |
| 1. Direct Attack | 384 |
| 2. Collateral Attack | 386 |
| Problems | 388 |
| D. Subject Matter Jurisdiction Review Problems | 389 |
| E. A Note on Alternative Dispute Resolution | 391 |
| | |
| Chapter V. Venue, Transfer, and Forum Non Conveniens | 393 |
| A. Overview and Introduction | 393 |
| B. Venue in State Courts | 395 |
| Problems | 396 |
| C. Venue in Federal Courts | 397 |
| 1. The General Venue Statute: 28 U.S.C. §1391 | 397 |
| <i>First of Michigan Corp. v. Bramlet</i> | 399 |
| Notes and Questions | 402 |

| | | |
|---|--|------------|
| | Problems | 404 |
| | Problem | 406 |
| | Problems | 408 |
| | Notes and Questions | 409 |
| | Problem | 409 |
| 2. | Transfer of Venue in Federal Court | 410 |
| | <i>Smith v. Colonial Penn Insurance Co.</i> | 410 |
| | Notes and Questions | 412 |
| | Problems | 415 |
| | A Note on Multidistrict Litigation | 416 |
| | A Note on Forum Selection Clauses | 417 |
| | <i>Jones v. GNC Franchising, Inc.</i> | 418 |
| | Notes and Questions | 420 |
| | Problems | 421 |
| D. | Forum Non Conveniens | 422 |
| | <i>Piper Aircraft Co. v. Reyno</i> | 422 |
| | Notes and Questions | 430 |
| | A Note on an Available Alternate Forum | 430 |
| | <i>Shiley, Inc. v. Superior Court</i> | 431 |
| | Notes and Questions | 436 |
| | Problems | 436 |
| E. | Review Problems | 438 |
| Chapter VI. The Erie Doctrine and Related Problems | | 441 |
| A. | Overview: The Law to Be Applied in Federal and State Courts | 441 |
| B. | The Erie Doctrine: The Law to Be Applied in Diversity and Supplemental Jurisdiction Cases | 443 |
| 1. | A Brief History of the Pre-Erie Landscape | 443 |
| 2. | The Demise of “Federal General Common Law” | 446 |
| | <i>Erie Railroad Co. v. Tompkins</i> | 446 |
| | Notes and Questions | 451 |
| | Problems | 453 |
| C. | Three Tracks of Analysis: Procedural Statutes, Rules, and Judge-Made Laws | 454 |
| 1. | Track One: Federal Statutes and the Supremacy Clause | 455 |
| a. | The Standard Model | 455 |
| | <i>Stewart Organization, Inc. v.</i> <i>Ricoh Corp.</i> | 456 |
| | Notes and Questions | 461 |
| | Problems | 462 |