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CIVIL PROCEDURE
A Coursebook



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ASPEN CASEBOOK SERIES

Civil Procedure

A Coursebook

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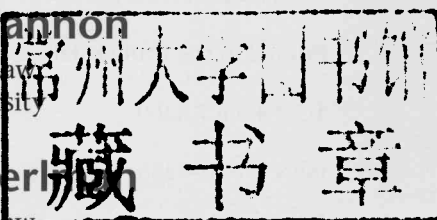
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*I dedicate this book to Carol McGeehan of Aspen Publishers.
Without her advice, encouragement and unfailing support over
more than a decade, it would not have come to pass.*

—J.W.G.

*To Lisa, Maya, Brynne, and Talia
—A.M.P.*

*To Winnie, Erik, and Anna
—P.R.H.*

■ PREFACE

After decades of teaching Civil Procedure, we became convinced that students need a text that offers more than a series of cases followed by dense post-case notes and questions. Simply put, we concluded that students need a *coursebook*, not simply a *casebook*.

Based on this premise, we developed a number of features in this book that should help you to place the material in context. For example, each chapter begins with a brief summary of contents to orient you to the topics covered in the chapter. Moreover, each case begins with an introduction that provides context for the opinion and offers factual and legal background to make the case more accessible. The case introductions also pose questions for you to consider *before* you read each case to help you focus on the important aspects of the opinion.

Following each case, we provide textual notes and questions, but, unconventionally, *we answer almost all of the questions we pose*. We believe that the typical unanswered casebook question is ineffective. If you think that you know the answer, you have no way of confirming it. If you do not know the answer, the authors have lost an opportunity to educate you. Unanswered questions and dense post-case notes that require you to consult outside authorities often produce more frustration than understanding, so we have largely avoided them.

We also have adopted a number of other techniques that make this book more user-friendly. We have written short chapters of manageable scope. We have used a different font and a shaded border for the text of opinions, so you will know when you are reading original material as opposed to our text. For some especially difficult cases, we have inserted bracketed editorial guidance into the case itself. We include multiple choice questions to test your understanding of new concepts and, in keeping with our pedagogical approach, we include our analyses of these questions. We also have adopted another simple feature that our students appreciate: a summary of key concepts at the close of each chapter.

The coursebook will also improve your capacity for legal analysis. For example, by highlighting the subtle distinctions between the best answer to a multiple choice question and “near misses,” the coursebook will help you to develop the ability to make fine distinctions in applying complicated concepts. We also offer several detailed questions for more in-depth treatment, after which we offer a sample “issue analysis” so that you can see how to analyze a sophisticated problem.

Finally, because the book provides a clear introduction to basic doctrine, your professor can reinforce basic principles conveyed in the text and then quickly move to the many delicious complexities our subject offers, including additional challenging hypotheticals and examples.

We are confident that you will learn a great deal from this coursebook and find it a more effective learning tool than the traditional casebook. We expect

that the coursebook will hone your analytical skills, give you a rich understanding of civil procedure, and provide important insights into the role that procedure plays in the American system of justice.

Joseph W. Glannon
Andrew M. Perlman
Peter Raven-Hansen

March 2011

■ BOOK FEATURES AND CONVENTIONS

This book uses several unique features and conventions, including the following:

Q / A — These icons flag questions and answers for your consideration. We recommend that you try to answer these questions on your own before reading the answers that we supply.

Case reading guidance — We include a boxed, shaded guide to reading each case, which provides important background material and questions that you should try to answer while reading the opinion.

Italicization of terms of art — When we mention a term of art for the first time, we place the word or phrase in italics. Some Latin phrases also consistently appear in italics.

Shaded borders — We use a shaded border to the left of the principal cases to highlight when you are reading the text of a case rather than our own text and to make it easier for you to locate case excerpts during class.

Bracketed editorial inserts — We occasionally include our own explanatory material in the body of an opinion. This material, which appears in the case itself or in an asterisked footnote, is set off in brackets and, if it is more than two lines long, begins with “Eds.—” to make clear that you are reading our text rather than the text of the case.

Internal case citations — We regularly omit internal case citations that appear in the body of an opinion without noting the omission. We have retained citations (without parallel citations) when needed to identify the source of a quotation, and we indicate textual omissions (other than internal case citations) through the use of ellipses.

Footnotes — When we have retained a footnote in a case, we have kept its original Arabic number. We have omitted all other case footnotes without noting the omission. Our own footnotes have asterisks.

Short forms for commonly cited books and treatises — We have adopted short citation forms for certain books and treatises frequently cited in the text, including:

Richard D. Freer, *Civil Procedure* (2d ed. 2009) is referred to as *Freer*.

James W. Moore et al., *Moore’s Federal Practice* is referred to as *Moore*.

Gene R. Shreve & Peter Raven-Hansen, *Understanding Civil Procedure* (4th ed. 2009) is referred to as *Shreve & Raven-Hansen*.

Charles Alan Wright & Mary Kay Kane, *Law of Federal Courts* (6th ed. 2002) is referred to as *Wright & Kane*.

Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* is referred to as *Wright & Miller*.

■ ACKNOWLEDGMENTS

Writing a book of this size and scope is a major undertaking. We were fortunate to receive invaluable assistance from many people during the nearly ten years that this book was in production.

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Professors Brian Foley, William Rhee, and Jennifer Smith adopted a pre-publication version of this book and gave us valuable feedback that reaffirmed our commitment to the book's pedagogical approach. Professor Linda Simard also read and gave us feedback on early portions of this book.

It is common for authors to thank their spouses and families, and after writing this book it is clear why they do so. A project of this sort requires efforts above and beyond the usual demands of academic life, and we want to thank our families for their support, patience, and encouragement and especially our spouses Ann Glannon, Lisa Aidlin, and Winnie Raven-Hansen.

Civil Procedure

■ SUMMARY OF CONTENTS

<i>Contents</i>		<i>xi</i>
<i>Preface</i>		<i>xxvii</i>
<i>Book Features and Conventions</i>		<i>xxix</i>
<i>Acknowledgments</i>		<i>xxxi</i>
Part I. Introduction		1
<hr/>		
Chapter 1	An Introduction to American Courts	3
Chapter 2	A Description of the Litigation Process and Sources of Procedural Law	19
Part II. Subject Matter Jurisdiction		37
<hr/>		
Chapter 3	Diversity Jurisdiction in the Federal Courts	39
Chapter 4	Federal Question Jurisdiction	89
Chapter 5	Removal of Cases from State to Federal Court	121
Part III. Personal Jurisdiction		143
<hr/>		
Chapter 6	The Evolution of Personal Jurisdiction	145
Chapter 7	Specific In Personam Jurisdiction	177
Chapter 8	Other Constitutional Bases for Personal Jurisdiction	243
Chapter 9	Long Arm Statutes	299
Chapter 10	The Constitutional Requirement of Notice and Methods of Service of Process	319
Part IV. Venue		353
<hr/>		
Chapter 11	Basic Venue: Statutory Allocation of Cases Within a Court System	355
Chapter 12	Challenges to Venue: Transfers and Dismissals	373
Part V. Pleading		405
<hr/>		
Chapter 13	Basic Pleading	407

Chapter 14	Responding to the Complaint (or Not?)	461
Chapter 15	Care and Candor in Pleading	511
Chapter 16	Amending Pleadings	545

Part VI. Joinder and Supplemental Jurisdiction 589

Chapter 17	Joinder of Claims and Parties	591
Chapter 18	Complex Joinder: Intervention, Interpleader, and Required Parties	633
Chapter 19	Class Actions	671
Chapter 20	Supplemental Jurisdiction in the Federal Courts	713

Part VII. Discovery 757

Chapter 21	Informal Investigation and the Scope of Discovery	759
Chapter 22	Discovery Tools	801
Chapter 23	Discovery Control and Abuse	843

Part VIII. Choice of Law 861

Chapter 24	State Law in Federal Courts: The <i>Erie</i> Doctrine	863
Chapter 25	Substance and Procedure Under the <i>Erie</i> Doctrine	903

Part IX. Trial and Pretrial 959

Chapter 26	Pretrial Case Management	961
Chapter 27	Dispositions Without Trial	977
Chapter 28	The Right to Jury Trial	1015
Chapter 29	Judgment as a Matter of Law (Directed Verdict and JNOV)	1049
Chapter 30	Controlling the Jury	1079
Chapter 31	New Trial and Relief from Judgment	1105

Part X. After Final Judgment 1135

Chapter 32	Appeals	1137
Chapter 33	Claim Preclusion	1183
Chapter 34	Issue Preclusion: Further Limits to Relitigation	1217

<i>Table of Cases</i>	1261
<i>Table of Statutes and Rules</i>	1267
<i>Index</i>	1275

■ CONTENTS

<i>Preface</i>	xxvii
<i>Book Features and Conventions</i>	xxix
<i>Acknowledgments</i>	xxxi

PART ONE ■ INTRODUCTION

Chapter 1. An Introduction to American Courts	3
I. Some Introductory Comments	3
II. The Two American Court Systems	4
III. The Structure of State Court Systems	5
IV. The Structure of the Federal Court System	8
V. The Subject Matter Jurisdiction of State Courts: General Principles	11
VI. The Subject Matter Jurisdiction of Federal Courts: General Principles	13
VII. American Courts: Summary of Basic Principles	18
Chapter 2. A Description of the Litigation Process and Sources of Procedural Law	19
I. Introduction	19
II. A Description of the Process of a Civil Case	19
A. The Pleading Phase	20
B. Early Motion Practice	22
C. The Discovery Phase	23
D. Judicial Conferences	25
E. Motions for Summary Judgment	26
F. Trial	27
G. Post-Trial Motions	28
H. Appeal	28
I. The Effect of a Judgment on Later Litigation	30
III. Sources of Civil Procedure Regulation: Constitutions, Statutes, and Rules	31
IV. The Litigation Process: Summary of Basic Principles	35

PART TWO ■ SUBJECT MATTER JURISDICTION

Chapter 3. Diversity Jurisdiction in the Federal Courts	39
I. Introduction	39
II. State Citizenship of Individuals: The Domicile Test	41
<i>Gordon v. Steele</i>	42
III. The Complete Diversity Rule	50
<i>Mas v. Perry</i>	51
IV. State Citizenship of Corporations and Other Entities	57
<i>Hertz Corp. v. Friend</i>	60
V. The Amount-in-Controversy Requirement	72
<i>Diefenthal v. C.A.B.</i>	74
VI. Aggregating Claims to Meet the Amount Requirement	79
VII. The Constitutional Scope of Diversity Jurisdiction Compared to the Statutory Grant of Diversity	83
VIII. Diversity Jurisdiction: Summary of Basic Principles	87
Chapter 4. Federal Question Jurisdiction	89
I. Introduction	89
II. The Constitutional Scope of Federal Question Jurisdiction	90
III. The Statutory Scope of Federal Question Jurisdiction: The Well-Pleaded Complaint Rule	91
<i>Louisville & Nashville Railroad Co. v. Mottley</i>	92
IV. Applying <i>Mottley</i> : Justice Holmes's Creation Test	100
V. Beyond the Holmes Test: State Law Claims Involving Substantial Questions of Federal Law	106
<i>Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing</i>	108
VI. Article III and Supreme Court Jurisdiction: <i>Mottley</i> , Round II	118
VII. Federal Question Jurisdiction: Summary of Basic Principles	120
Chapter 5. Removal of Cases from State to Federal Court	121
I. Introduction: Concurrent Jurisdiction of the State and Federal Courts	121

II. The Standard for Removal	122
<i>Avitts v. Amoco Production Co.</i>	123
III. Removal of Diversity Cases: An Interesting Example	128
<i>Piper Jaffray & Co. v. Severini</i>	129
IV. Procedure for Removal and Remand	136
A. The “Who, When, Where, and How” of Removal	136
B. The Process of Removal	138
C. Motions to Remand	139
V. Removal: Summary of Basic Principles	141

PART THREE ■ PERSONAL JURISDICTION

Chapter 6. The Evolution of Personal Jurisdiction 145

I. An Introduction to Personal Jurisdiction	145
II. Early History: <i>Pennoyer v. Neff</i>	146
<i>Pennoyer v. Neff</i>	148
III. Social Change and Doctrinal Rigidity: Problems with the <i>Pennoyer</i> Doctrine	158
A. Dealing with Interstate Businesses: Stretching the Concept of Consent and Presence	158
B. Dealing with a Mobile Public: <i>Hess v. Pawloski</i> and the Fiction of Consent	159
C. Other Doctrinal Modifications	161
IV. The Modern Era Begins: <i>International Shoe Co. v. Washington</i>	161
<i>International Shoe Co. v. Washington</i>	162
V. The Evolution of Personal Jurisdiction: Summary of Basic Principles	175

Chapter 7. Specific In Personam Jurisdiction 177

I. Refining the Test for Specific Jurisdiction	177
A. Defining Contacts: <i>McGee v. International Life Insurance Company</i>	177
<i>McGee v. International Life Insurance Company</i>	178
B. The Relationship Between Contacts and Reasonableness: <i>World-Wide Volkswagen v. Woodson</i>	182
<i>World-Wide Volkswagen v. Woodson</i>	183
C. Elaborating on the Definition of “Contact”	199
D. Contracts as Contacts: <i>Burger King v. Rudzewicz</i>	201
<i>Burger King v. Rudzewicz</i>	202