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■ A Contemporary Approach ■

A. Benjamin Spencer

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THE INTERACTIVE CASEBOOK SERIES

CIVIL PROCEDURE

A Contemporary Approach

By

A. Benjamin Spencer

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THE UNIVERSITY OF RICHMOND SCHOOL OF LAW

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PREFACE

THIS CASEBOOK HAD ITS ORIGINS in my desire to provide students with a learning resource more in tune with the ways that law student's think and learn today. The current generation of law students has come of age in a highly technologically-sophisticated environment, with the heavy use of laptop computers and the Internet dominating the educational experience. Today it is commonplace to see 100% of the students in a classroom typing away at their computers as professors give their lectures (although many are using their computers for other distractions). The vast majority of legal research resources are now online, meaning students are much more accustomed to using electronic materials downloaded into their computers than they are with fumbling through clunky physical texts. Thus, although it is necessary for law schools to continue to inculcate in students the ability to consult hard copy materials when appropriate, it is also necessary to update the manner in which reading material is transmitted to students within law school courses.

This book was designed with the contemporary law student in mind. That focus is reflected in the content and style of the book as well as in its features. The primary purpose of a casebook is to serve as an effective learning tool for students, not as a hornbook for budding practitioners or a comprehensive treatise on the subject. Thus, here you will find a focused presentation of the core concepts central to a basic first-year education in federal civil procedure. The information is presented in a manner that is clear and easy to understand. Rather than masses of undifferentiated text, you will find the material identified and separated by headings and various text boxes that help bring the material off the page. The online version of the book should be particularly useful

in enabling you to engage the material. It is extensively hyperlinked to a vast range of online resources that will enhance your learning experience such as Westlaw® legal materials, special documents, and informational Web sites. I hope that you find this book to be extremely user-friendly and facilitative of developing a full understanding and appreciation of this subject matter. If you come up with suggestions for how this book can be even more useful for students or more effective in fulfilling its mission, please do not hesitate to contact me with your thoughts.

I must thank my wife, Marlette, for tirelessly taking care of our household while I was compelled to spend increasing amounts of time away working on the completion of this book. I also must thank my mother and father for their moral support for this project. More directly, this book would not have been possible without the able research assistance of David Killion, Lesley McCall, Capri Miller, and Briton Nelson. My wonderful assistant, Elizabeth Garrett, was also amazing in providing me with editorial and administrative assistance every step of the way. Special thanks to my Dean, Rod Smolla, for giving me the encouragement and resources I needed to produce this casebook. Finally, I am indebted to all of my colleagues at Richmond and elsewhere who took the time to review these materials or simply to support me through this process; I hope that one day I am able to repay the favor.

A.B.S., March 2007

EDITOR'S NOTE

The cases presented in this book have been edited. A set of asterisks (* * *) appear where I have removed material from the text of an opinion. Footnotes have been largely removed from the opinions. However, where footnotes appear their original numbering is retained. Footnotes of my own creation are indicated by a raised asterisk (*) and followed with a bracketed notation of authorship ([Ed.]). Where the author of an opinion uses a raised asterisk to refer to a footnote, the asterisk will be retained and bracketed information regarding authorship of the footnote will follow to distinguish these notes from the notes that I insert.

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