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Theory and Practice

*Fourth  
Edition*



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ASPEN CASEBOOK SERIES

# Civil Procedure Theory and Practice

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**Fourth Edition**

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To my father, Alfred Silberman (1914–1996), who made all things possible for me.  
I wish he could have seen this book.

—L. J. S.

To my father, Victor Stein, whose passion for justice and reverence for the rule of  
law drew all his children to follow his path.

—A. R. S.

To Samuel Emerson Wolff, born December 22, 2005, with the hope that fairness  
and justice will expand and thrive in the world he is entering.

—T. B. W.

## PREFACE TO THE FOURTH EDITION

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Because of the two recent Supreme Court decisions, *Goodyear Dunlop Tires Operations, S.A. v. Brown* and *J. McIntyre Machinery, Ltd. v. Nicaastro*, Chapter 2 has been restructured. After a basic introduction to the concepts of general and specific jurisdiction, the chapter takes up the Supreme Court's specific jurisdiction cases chronologically, culminating in *McIntyre*. We then move to general jurisdiction, discussing *Perkins* and *Helicopteros* in note material and use *Goodyear* as the principal case. We also review changes made in the 2011 Federal Jurisdiction and Venue Clarification Act. This edition integrates the Supreme Court's decisions in *Shady Grove Orthopedic Assocs. v. Allstate Ins. Co.*, a major ruling on the Rules Enabling Act; *Ashcroft v. Iqbal*, the latest installment in the Court's new doctrine of plausibility pleading; and *Wal-Mart v. Dukes*, the Court's most recent major statement on the requirements of Rule 23 for the certification of class actions. It also restructures and expands the discussion of arbitration in the chapter on ADR to account for major developments in the area of class-wide arbitration. And, responding to feedback from our adopters, we have tightened several chapters and added further social science perspectives throughout.



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Linda J. Silberman  
Allan R. Stein  
Tobias B. Wolff

May 2013

# Civil Procedure

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