

LEARNING CIVIL PROCEDURE

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David Dittfurth
ST. MARY'S UNIVERSITY

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to Amirra, in appreciation

for my happiness

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PREFACE

Learning civil procedure is not an easy task, and the materials may lack the glamour or the emotion of, say, a course in constitutional law. Nevertheless, the rules, laws, and practices of civil procedure provide vitally important information for lawyers.

Civil procedure is about litigation, and lawyers are all about litigation. Some may brag that they never go to court, but even they must study what the courts do. They must, because the law is molded in courts, in litigation. The raw material of the Constitution, or of federal statutes, must be refined and given human-sized meaning. That's what courts do, and do on a daily basis.

In order to better learn about courts, one needs to watch how the procedural machinery guides their operations. And one of the best ways of understanding that machinery is to watch it while it works with the substantive law that is its fuel. In this book, I talk much about causes of action and their elements, and about how one goes about presenting or defeating them. It is this interplay between substance and procedure that gives shadow and depth to a course in Civil Procedure.

It's empowering when you realize that you're beginning to understand how the basic judicial machinery works, and that you know how to use it. As you read more cases in Civil Procedure, you will begin to notice the moves and countermoves of lawyers attempting to gain leverage through procedural devices or through just plain tricks. In the adversarial system of our courts, most of the work of litigation is left to the advocate, and your job is to become one of those advocates. You are also learning how to be a competent lawyer because competence, supplemented by diligence, is your first ethical obligation to a client.

The Civil Procedure course is a good place to begin your journey to professional competence. Good luck with that, and I hope this book helps you along.

David Dittfurth
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