

Civil Procedure

Cases, Text, Notes, and Problems

THIRD EDITION

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Preface

This third edition of *Civil Procedure: Cases, Text, Notes, and Problems* continues the philosophy and fundamental features of the first two editions. We have updated this edition to reflect all current amendments of the Federal Rules of Civil Procedure as well as federal statutes, including the “Federal Courts Jurisdiction and Venue Clarification Act of 2011.” The new edition also includes the latest decisions of the U.S. Supreme Court on subject-matter and personal jurisdiction, the Erie Doctrine, class actions, pleadings, joinder, and preclusion. The new edition also continues to cover all Federal Civil Procedure bar examination topics.

At the level of introductory Civil Procedure, law school curricula typically provide from three to six credit hours within which to cover the wide range of topics relevant to civil litigation. We have constructed this casebook to accommodate the demands and opportunities presented by “short” and “long” courses alike. It carefully integrates both basic and more complex issues of federal and state civil procedure. This material is presented in a “user friendly” format. Throughout the book, explanatory text has been interwoven with illustrative cases, notes, questions, and figures to make the presentation of the material more efficient for the professor and more understandable for the student. As an additional teaching feature, all of the chapters contain carefully drafted problems following each topic section. The problems are designed to provide maximum teaching flexibility—enabling a professor to utilize the problems in each section to teach all or part of the material.

The casebook is also organized to facilitate a variety of teaching approaches. Chapter 1 provides background and introduction to all topics germane to the civil litigation process. Professors then have the option to commence more in-depth treatment beginning with Jurisdiction and Venue in Chapters 2 through 4 or with Pleadings and Joinder in Chapters 6 and 7.

In all of the chapters, we have selected cases with regard to each topic that will optimize students’ understanding of the important issues pertaining to the topic. We have included traditional cases when we believe they are the best vehicles with which to produce a clear understanding of a topic. However, we include a significant number of recent cases when they are better learning tools.

The text, notes, and questions accompanying the cases are designed to help students read the cases effectively and critically. The explanatory text also provides historical material that bears on the evolution of the procedures being studied when necessary for a clear understanding of the topic. The notes and questions accompanying the cases raise other matters related to the issues explored in the cases. The notes and questions also address other issues of real concern in the general procedural area under study, but which may be a step beyond the material directly covered by the case. This array of material thus allows individual professors to select the best way in which to achieve comprehension of the subject of Civil Procedure.

As is true with virtually all Civil Procedure casebooks, the materials primarily focus on federal practice, especially the Federal Rules of Civil Procedure. However, we have also included materials on state practice and highlighted the contrast with federal practice when it is important for a full understanding of particular procedural topics. The traditional mainstays of Civil Procedure—personal and subject-matter jurisdiction, the Erie doctrine, pleadings, and joinder—receive comprehensive treatment. Furthermore, with the ever-increasing emphasis in modern practice on pre-trial litigation, special treatment is afforded discovery, including “e-discovery.”

We owe a significant debt to the people who supported and encouraged us in the preparation of this third edition. Particular mention should be made of the support provided by Creighton University School of Law and Seton Hall University School of Law. Professors Teply and Whitten wish to thank Creighton law librarian, Kay Andrus, and the staff of the Klutznick Law Library for their research support. They also wish to thank the efficient and helpful secretarial assistance provided by Pat Andersen and Pam Flint as well as the copying services provided by Colleen Kelly-Firmature.

Professor McLaughlin wishes to thank his research assistant, Nicole M. Magdziak, and Seton Hall reference librarian, Jeanne O’Connor, for their invaluable assistance.

Special thanks are also due to our Civil Procedure students at Creighton and Seton Hall for their helpful comments and suggestions. We also appreciate the excellent assistance of Joellen Craft and Tim Colton of Carolina Academic Press.

Finally, more than thanks is due to our families who have suffered through multiple editions of this casebook. Professor Teply wishes to dedicate this casebook to his grandchildren: Anna Louisa Teply, Nicholas Benjamin Teply, Lydia Beatrice Teply, and Clara Elizabeth Teply. Professor McLaughlin also wishes to dedicate this casebook in loving memory of his parents, Marie and William McLaughlin, and with heartfelt thanks to his wife, Barbara, and his children, Kathleen and Kevin.

Larry L. Teply
Ralph U. Whitten
Denis F. McLaughlin
June 2013