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Understanding Civil Procedure

SIXTH EDITION

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Preface to Sixth Edition

This text treats the entire subject of civil procedure. It is primarily intended as a reference for law school civil procedure students. However, its treatment of continuing developments in areas like electronic discovery, personal jurisdiction, and pleading may make it useful to some practitioners as well.

If the law of contracts, torts or property reflects the substantive values of our society, civil procedure is the process for making those values real. The law of civil procedure governs the manner in which cases enter, transit, and leave the judicial process. It establishes the authority of courts to hear cases, opportunities for litigants to create and use a record of decision, and the force and effect of judgments.

We believe that the key to understanding the principles of civil procedure is knowing why: why they were created and why they are invoked. To these ends we have used a variety of means. History is the key to personal jurisdiction and the *Erie* doctrine, and we have explained them accordingly by tracing their historical evolution. Pragmatic concerns chiefly shape the civil procedure of pretrial discovery and motion practice, as well as trial practice, and we start discussion of these subjects by assessing why a lawyer is interested in them.

We have followed the practice of almost all civil procedure courses in using the Federal Rules of Civil Procedure as our model. However, we have also referred to different state rules and doctrines where appropriate, striving to use a representative cross-section of state models. We have also referred frequently to major civil procedure treatises, using a short form for citations explained in § 1.06.

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