Cases and Materials on Civil Procedure
Cases and Materials on Civil Procedure

SEVENTH EDITION

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## Contents

Preface to the Seventh Edition  

### Chapter 1 · An Overview of the Procedural System  

I. What a Civil Procedure Course Is About  
II. The Stages in a Civil Suit: An Introduction  
   [A] The Pre-Litigation Phase of a Civil Dispute  
   [B] What Court Can Hear the Suit, and Where?: “Jurisdiction” and “Venue”  
      Problem A  
      Problem B  
      Problem C  
   [C] The “Size” of the Lawsuit: Multiple Parties and Claims  
      Problem D  
   [D] The “Suit Papers”: Pleadings and Motions  
      Problem E  
      Problem F  
      Problem G  
   [E] Discovery, Disclosures, Investigation, and Pretrial Conferences  
      Problem H  
      Problem I  
   [F] The Trial Itself  
      Problem J  
   [G] The Post-Trial Stage  
      Problem K  
   [H] A Side Issue: One Jurisdiction Applies Another’s Law  
      Problem L  
   [I] Appeals  
      Problem M  
      Brief Answers to Problems in This Section  

III. Jurisdiction: The Court’s Power to Act  
   How to Read the Case of *Strawbridge v. Curtiss*  
   *Strawbridge v. Curtiss*  
      Notes and Questions  
   How to Brief the Case of *Strawbridge v. Curtiss*  
   How to Read the Case of *Wyman v. Newhouse*  
   *Wyman v. Newhouse*  
      Notes and Questions
IV. Pleadings: The Complaint and Answer
   Note: The Federal Rules of Civil Procedure and Their Effects on Pleadings 21
   *Bell v. HCR Manor Care Facility*
   Notes and Questions 22

Litigation Document Example I.1: Pleadings and Decision in
   *Wytinger v. Two Unknown Police Officers*
   How to Read the Pleadings in *Wytinger v. Two Unknown Police Officers* 26
   Notes and Questions 28

V. Discovery
   Note on Methods of Discovery 33
   Note on the Breadth (or “Scope”) of Discovery 33
   *Rollins v. Cone Distributing, Inc.*
   Notes and Questions 36

VI. Disposition Without Trial: Summary Judgment
   Note on the Standards for Summary Judgment 37
   *Warren v. Medley*
   Notes and Questions 39

VII. Trial: Functions of the Judge and Jury
   [A] Jury Selection, Evidence, Verdict, and Judgment
   *Fein v. Permanente Medical Group*
   Notes and Questions 40
   [B] Instructing the Jury
   *Fein v. Permanente Medical Group*
   Notes and Questions 43

VIII. Taking the Case Away from the Jury: Motion for Judgment as a Matter
      of Law or New Trial
   Note on Standards and Procedures for Taking the Case Away
      from the Jury 45

Litigation Document Example I.2: An Example of Post Trial Motions,
   *from Wilcox Development Co. v. First Interstate Bank of Oregon*
   *Jordan v. Iverson Mall Ltd. Partnership*
   Notes and Questions 46

IX. Appeal
   Note About the Function of an Appellate Court 49
   *Fein v. Permanente Medical Group*
   Notes and Questions 50

Chapter 2 - The Court's Power Over Persons and Property 51
I. The Concerns Underlying Personal Jurisdiction and Venue
   Problem A: Chapter 2 Summary Problem 51
II. Jurisdiction Over Persons and Property
   [A] The Historical Development of Our Concept of Jurisdiction
   [I] Territoriality
      How to Read and Understand *Pennoyer v. Neff*
      *Pennoyer v. Neff* 54
CONTENTS

Notes and Questions 56
Grace v. MacArthur 57

[2] Implied Consent and Its History in Creating Jurisdiction 57
Hess v. Pawloski 57
Notes and Questions 58

[B] The Modern View of Personal Jurisdiction 59

[1] The International Shoe Decision and the “Contacts-Fairness” Test 59
Note on the Development of Long-Arm Jurisdiction
from Pennoyer to International Shoe 59
International Shoe Co. v. Washington 60
Notes and Questions 62

[2] The “Purposeful Availment” and “Reasonable Anticipation” Requirements 63
Note on “Purposeful Availment” 63
Hanson v. Denckla 64
Note on the “Reasonable Anticipation” Requirement 65
World-Wide Volkswagen Corporation v. Woodson 65
Note on the “Targeted Effects” Doctrine: Calder v. Jones
and Keeton v. Hustler Magazine 67
Problem B 67

[3] “General” and “Specific” Jurisdiction 68
Note: “General” Jurisdiction Versus “Specific” Jurisdiction 68
McGee v. International Life Ins. Co. 68
Perkins v. Benguet Consolidated Mining Co. 69
Notes and Questions 70

[4] Putting It All Together: Contacts-Fairness, Purposeful Availment,
Reasonable Anticipation, and General or Specific 70
Burger King Corp. v. Rudzewicz 70
Notes and Questions 76

[5] The Court Narrows General Jurisdiction 76
Note on the (Rejected) “Stream-of-Commerce” Theory 76
J. McIntyre Machinery, Ltd. v. Nicastro 77
Notes and Questions 79
Walden v. Fiore 81

[6] The “At Home” Limit on General Jurisdiction 81
Note on the Narrow Scope of General Jurisdiction 81
Goodyear Dunlop Tires Operations, S.A. v. Brown 82
Daimler AG v. Bauman 83
Notes and Questions 87

[7] Personal Jurisdiction in Family Law Cases 89
Kulko v. Superior Court 89
Note on Interstate Jurisdiction in Family Law Cases 89

[8] The Internet and Personal Jurisdiction 90
Caiazzo v. American Royal Arts 90

[C] “Long-Arm” Statutes: State Law Restrictions on Jurisdiction 91
Note on State “Long-Arm” Statutes 91
A “Laundry List” Long-Arm Statute 91

Gray v. American Radiator & Standard Sanitary Corp. 92

Notes and Questions 94

Feathers v. McLucas 95

The “Limits-of-Due-Process” Long-Arm Model 96

“Intermediate” Long-Arm Models 96

Hall v. Helicopteros Nacionales de Colombia, S.A. 96

Notes and Questions 97

[D] In Rem Jurisdiction: Power Over Property 98

Legitimate Uses of Power Over Property 98

Abuses of In Rem Jurisdiction: Harris v. Balk and Seider v. Roth 98

Shaffer v. Heitner 99

Notes and Questions 105

[E] “Tag” Jurisdiction or In-State Service on a Foreign Defendant: 106

Does “Fairness” Control or Does “Tradition” Control? 106

Burnham v. Superior Court 106

Notes and Questions 110


and “Nationwide Contacts” 110

[1] Implied Consent 110

Hess v. Pawloski 110

Notes and Questions 111

Gonzalez v. Gonzalez 112

[2] Private Contracts Fixing Jurisdiction 112

Carnival Cruise Lines, Inc. v. Shute 112

Notes and Questions 113

[3] Rule 4(k) and “Nationwide Contacts” 113

Note on Rule 4(k) and on Congressional Provisions 113

for Nationwide Service 113

[G] Challenging Personal Jurisdiction 114

[1] By Default Followed by Collateral Attack 114

Wyman v. Newhouse 114

[2] By Special Appearance or Analogous Procedures 115

Note on Special Appearance and Its Federal Analogue 115

Harkness v. Hyde 116

Baldwin v. Iowa State Traveling Men’s Association 117

III. Notice Requirements and Service of Process 117

[A] Due Process Notice Standards 117

Mullane v. Central Hanover Bank & Trust Co. 117

Notes and Questions 119

[B] The Ceremony of Service: Complying with the Rules 120

[1] Serving Individuals and Corporations: Rule 4(e) and 4(h) 120

Leigh v. Lynton 121

National Development Company v. Triad Holding Corporation 122

Notes and Questions 123

Note on Serving Corporations and Other Entities 124
CONTENTS

Waldman v. Palestine Liberation Organization 124

Notes and Questions 125

Note on the Requirement of Exact Compliance 126


Butler v. Butler 127

Note on Waiver of Service 128

Hunsinger v. Gateway Management Corp. 129

Notes and Questions 130

IV. Service of Process in International Litigation 131

Notes and Questions 132

Kumar v. Republic of Sudan 133

V. Venue and Forum Non Conveniens 135

[A] Venue 135


Note on Venue 135

Problem C 135

[2] Transfer of Venue 137

Note on Transfer of Venue Under Section 1404(a) 137

Atlantic Marine Construction Company, Inc. v. District Court 137

Notes and Questions 139

Note on Two Kinds of Places to Which Transfer Is Proper: (1) “Where It Might Have Been Brought” or (2) Where All Parties Consent 140

Notes and Questions About Transfer Procedure 142

[B] Forum Non Conveniens 143

Note on the Doctrine of Forum Non Conveniens 143

Piper Aircraft Co. v. Reyno 143

Notes and Questions 146

[C] Venue in State Courts 147

[1] The California Venue System 147

Carruth v. Superior Court 148

Wathen v. Superior Court 149


VI. How to Answer the Chapter Summary Problem: Some Suggestions 150

VII. Improving Our System of Personal Jurisdiction and Venue: Notes and Questions 152

Litigation Document Example 2.1: The Anatomy of a Forum Contest:

Litigation Documents in George Miller Co. v. CompuData, Inc. 155

[A] Background on the Dispute 155

[B] The Pre-Litigation Phase 156

Notes and Questions on the Demand Letter and Response 158

[C] Complaint, Service, and 12(b) Motions 159

Note on Service of Complaint and Summons 161

Notes and Questions on Pleadings and Service 163

[D] Discovery and Fact Development 163

Note on Fact Development by Stipulation and Affidavit 170

Notes and Questions on Discovery and Fact Development 170
Chapter 3 · Subject-Matter Jurisdiction: Power Over the Generic Type of Dispute 179

I. The Concept of Subject-Matter Jurisdiction 179
   Problem A: Chapter 3 Summary Problem 180

II. State Courts’ Subject-Matter Jurisdiction 181
   [A] The Allocation of Jurisdiction within State Court Systems 181
      Note on the California Trial Court System 181
      Leske v. Municipal Court 182
      Note on the Texas Court System 183
      Continental Coffee Products Co. v. Casarez 183
      Note on the Florida Court System 184
      Allexdex Corporation v. Nachon Enterprises, Inc. 184
      Notes and Questions 185
   [B] Federal Claims and Defenses in State Courts 185
      Testa v. Katt 185
      Haywood v. Drown 187
      Notes and Questions 187

III. Federal Subject-Matter Jurisdiction 188
   [A] Federal Question (“Arising Under”) Jurisdiction 188
      How to Read the Case of Louisville & Nashville RR. v. Mottley 188
      Problem B 189
      Louisville & Nashville Railroad v. Mottley 189
      Notes and Questions 191
      Merrell Dow Pharmaceuticals, Inc. v. Thompson 193
      Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing 194
      Note on the Constitutional Basis of “Arising Under” Jurisdiction:
      The Example of the Foreign Sovereign Immunities Act 197
   [B] Diversity Jurisdiction 198
         Strawbridge v. Curtiss 198
      Mas v. Perry 198
         Note on the Policy Basis for Diversity Jurisdiction 200
         Notes and Questions 201
         Note on Citizenships of Corporations or Associations 202
      Hertz Corporation v. Friend 203
         Grupo Dataflux v. Atlas Global Group, L.P. 204
         Problem C 205
      [2] Parties “Improperly or Collusively Made” 206
         Kramer v. Caribbean Mills, Inc. 206
CONTENTS

Notes and Questions 206

  Note on Ascertaining the Amount in Controversy 207
  Williams v. Kleppe 207
  Notes and Questions 208
[C] Supplemental Jurisdiction and Exceptions to the Exercise of Jurisdiction 209
[1] Supplemental Jurisdiction of the Kind Formerly Called “Pendent Jurisdiction”: Joining State and Federal Claims 210
  Note on the Gibbs Case: The Earlier Doctrine of Pendent Jurisdiction 210
  United Mine Workers v. Gibbs 210
  Notes and Questions 211
Litigation Document Example 3.2: Diversity Jurisdiction 212
  Order of Dismissal in Wytinger v. Two Unknown Police Officers 212
[2] Supplemental Jurisdiction over Counterclaims, Third-Party Claims, etc. (and the § 1367(b) Prohibition) 213
  Note on Different Kinds of Supplemental Claims 213
  Note on the Prohibition of Certain Kinds of Supplemental Claims by Plaintiffs: Owen v. Kroger 213
[3] Interpreting the Supplemental Jurisdiction Statute 214
  Note on Claims to Which the Statute Applies 214
  Exxon Mobil Corporation v. Allapattah Services, Inc. 215
  Note on Understanding Supplemental Jurisdiction 216
[4] Refusal to Exercise Jurisdiction 217
  [a] The Abstention Doctrines 217
  [b] The Domestic Relations and Probate Exceptions 217
[D] Removal: Defendant’s Key to the Federal Courthouse 218
  Problem D 218
  Note on Removal Jurisdiction, Procedure, and Policy 219
  Caterpillar Inc. v. Lewis 219
  Notes and Questions 223
  Notes and Questions on Removal Procedure 224
  Dart Cherokee Basin Operating Company LLC v. Owens 226
IV. Real Life as a Lawyer 227
  Note: Financial Judgment About Forum Contests 227
V. How to Answer the Chapter Summary Problem: Some Suggestions 227
VI. Improving Our Jurisdictional Systems 229
  [A] State Court Reorganization: Notes and Questions 229
  [B] Reform of Federal Jurisdiction 230
    Abolition of Diversity of Citizenship Jurisdiction 230
    Note on the Defeat of the Diversity Abolition Bill 231
  David Crump, The Case for Restricting Diversity Jurisdiction: The Undeveloped Arguments, from the Race to the Bottom to the Substitution Effect 233
  [C] Reform of “Arising Under” Jurisdiction: Notes and Questions 236
## Chapter 4 · The *Erie* Doctrine

### I. State Law in the Federal Courts: The *Erie* Doctrine

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>[A]</td>
<td>State Substantive Law</td>
<td>237</td>
</tr>
<tr>
<td></td>
<td>Note on How to Read the <em>Erie</em> Case</td>
<td>237</td>
</tr>
<tr>
<td></td>
<td><em>Erie Railroad v. Tompkins</em></td>
<td>239</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>243</td>
</tr>
<tr>
<td></td>
<td>Problem A: Chapter 4 Summary Problem</td>
<td>245</td>
</tr>
<tr>
<td>[B]</td>
<td>Federal Procedural Law</td>
<td>246</td>
</tr>
<tr>
<td></td>
<td>Note on the Federal Rules: Their Source and Legitimacy</td>
<td>246</td>
</tr>
</tbody>
</table>

### II. The Substance-Procedural Distinction

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>[A]</td>
<td>The “Outcome Determinative” Test</td>
<td>247</td>
</tr>
<tr>
<td></td>
<td><em>Guaranty Trust Co. v. York</em></td>
<td>248</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>250</td>
</tr>
<tr>
<td>[B]</td>
<td>Balancing State and Federal Interests</td>
<td>250</td>
</tr>
<tr>
<td></td>
<td><em>Ragan v. Merchants’ Transfer &amp; Warehouse Co.</em></td>
<td>250</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>250</td>
</tr>
<tr>
<td></td>
<td><em>Byrd v. Blue Ridge Rural Electric Cooperative, Inc.</em></td>
<td>251</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>253</td>
</tr>
<tr>
<td>[C]</td>
<td>Controlling Federal Rules and the Policies of <em>Erie</em></td>
<td>254</td>
</tr>
<tr>
<td></td>
<td>How to Read <em>Hanna v. Plumer</em></td>
<td>254</td>
</tr>
<tr>
<td></td>
<td><em>Hanna v. Plumer</em></td>
<td>254</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>258</td>
</tr>
<tr>
<td>[D]</td>
<td>The Two-Step Analysis: First, Follow the Rule</td>
<td>259</td>
</tr>
<tr>
<td></td>
<td><em>Shady Grove Orthopedic Associates v. Allstate Insurance Co.</em></td>
<td>259</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>263</td>
</tr>
<tr>
<td></td>
<td>Problem B: Procedure or Substance? A Difficult Distinction</td>
<td>263</td>
</tr>
</tbody>
</table>

### III. Determining What the State Law Is

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Note on Interstate Choice of Law</td>
<td>264</td>
</tr>
<tr>
<td></td>
<td><em>Pennington v. Dye</em></td>
<td>265</td>
</tr>
<tr>
<td></td>
<td><em>Klaxon Co. v. Stentor Electric Mfg. Co.</em></td>
<td>265</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>266</td>
</tr>
<tr>
<td></td>
<td>Problem C: A Three-Way Choice of Law Question</td>
<td>267</td>
</tr>
<tr>
<td>[B]</td>
<td>Unsettled State Law: The “<em>Erie</em> Educated Guess”</td>
<td>268</td>
</tr>
<tr>
<td></td>
<td>Note on “<em>Erie</em> Educated Guesses”</td>
<td>268</td>
</tr>
<tr>
<td></td>
<td>An Example of a Dubious “<em>Erie</em> Guess”: Elvis Presley’s Right of Publicity</td>
<td>268</td>
</tr>
<tr>
<td></td>
<td><em>Commerce Union Bank v. Coors</em></td>
<td>269</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>269</td>
</tr>
</tbody>
</table>

### IV. Filling the Gaps in Federal Law: Federal Common Law

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Note on the Justification for Federal Common Law</td>
<td>270</td>
</tr>
</tbody>
</table>

### V. How to Answer the Chapter Summary Problem: Some Suggestions

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Note on the Federal Rules: Their Source and Legitimacy</td>
<td>270</td>
</tr>
</tbody>
</table>

### VI. Improving the System of Federal-State Choice of Law: Notes and Questions

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>272</td>
</tr>
</tbody>
</table>
Chapter 5  ·  Pleadings

I. How Modern Pleading Developed

[A] Common Law Pleadings

[1] The Plaintiff’s Suit: Writ and Declaration

[2] The Defendant’s Pleading: Demurrer, Traverse, or Confession and Avoidance


Notes and Questions

[B] Forms of Action


Notes and Questions

[B] Equity: An Alternative System Develops

[C] “Code” Pleadings


City of Union City v. Murphy

Notes and Questions

[D] Modern State Practice Requiring the Pleading of a “Cause of Action”

II. The Functions Served by the Pleadings

Shipman, Common Law Pleading

Notes and Questions

Problem A: Chapter 5 Summary Problem

III. The Complaint in Federal Court

[A] What Kind of Information Must Plaintiff Include?


Note on “Notice Pleading”

Diguardi v. Durning

Notes and Questions

Conley v. Gibson

Notes and Questions


How to Read the Case of Bell Atlantic v. Twombly

Bell Atlantic Corp. v. Twombly

Notes and Questions

Ashcroft v. Iqbal

Notes and Questions


Chapman v. Yellow Cab Cooperative

Problem B

[B] Is There Really a “Claim”?: Substantive Sufficiency as Tested by Rule 12 Motions
Partridge v. Two Unknown Police Officers 308
McLane v. United States Inc. 308
Note on Rule 12 Motions 309
Fox v. Lummus Company 310
Notes and Questions 312
[C] Particularized Pleading: Fraud, Damages, and Other Special Matters 313
Haywood v. Massage Envy Franchising, LLC 313
Notes and Questions 314
Note: Pleading Requirements for “Special Damages” 315
Notes and Questions 316
[D] Alternate and Inconsistent Allegations 317
Lambert v. Southern Counties Gas Co. 317
Notes and Questions 318
[E] The Form of the Pleadings: No “Magic Words” 318
Faulkner v. Fort Bend Independent School Dist. 318
Notes and Questions 319
Litigation Document Example 5.1 320
Statement of the Claim, George Miller Co. v. Compudata 320
IV. The Answer in Federal Court 320
[A] Dilatory Pleas and Attacks on the Complaint 320
[B] Admissions and Denials 321
Note Contrasting the General Denial with Federal Practice 321
White v. Smith 322
Notes and Questions 324
[C] Affirmative Defenses 325
Note: What Is an Affirmative Defense? 325
Jones v. Department of Corrections 325
Problem C 327
Notes and Questions 327
[D] The Plaintiff’s Reply 328
Litigation Document Example 5.2 329
Answer in George Miller Co. v. Compudata 329
V. Devices for Deterring Abuse of Liberal Pleading Rules 329
[A] Older Approaches: Verification, etc. 329
Note on Verification: A Dubious Solution? 329
Surowitz v. Hilton Hotels Corp. 330
Notes and Questions 330
[B] Rule 11: Certifications and Sanctions 331
Note on the Modern Approach: Rule 11 331
Mandatory Sanctions under “Old” Rule 11 332
Eastway Construction Corp. v. City of New York 332
Business Guides, Inc. v. Chromatic Communications Enterprises, Inc. 333
Notes and Questions 333
CONTENTS

   “New” Rule 11 335
   Note on the 1993 Amendments to Rule 11: Is It Better — or Toothless? 335
   Hadges v. Yonkers Racing Corp. 336
   Muhammad v. Wal-Mart Stores East, L.P. 337
   Notes and Questions 338
   Problem D 339
[C] Beyond Rule 11: “Inherent” Power and Other Sanction Powers 340
   Note on Sanctions for Conduct Other than Filing
   or Advocating Pleadings 340
   Chambers v. Nasco, Inc. 341
   Notes and Questions 341
   Note: How Does the Lawyer Pay the Sanctions? 342
VI. Amendment of Pleadings 343
   [A] Amendment by Right or by Leave 343
   Beeck v. Aquaslide ’n’ Dive Corp. 343
   Notes and Questions 345
   [B] Amendment and the Statute of Limitations: Rule 15(c) 346
   Note on “Relation Back” to Avoid the Limitations Bar 346
   Krupski v. Costa Crociere, S.p.A 347
   Notes and Questions 347
   [C] Trial and Post-Trial Amendments 348
   Note on Rule 15(b) 348
   Cunningham v. Quaker Oats Company, Fisher-Price Division 348
   Notes and Questions 349
VII. State-Court Pleadings Today: Stating a “Cause of Action” Under Modern Rules 349
   [A] Texas: Fair Notice of Factual Contentions 349
   Willock v. Bui 350
   [B] California: Pre-Printed Official Complaints, Common Counts,
   and Fictitious “Doe” Defendants 351
   Scherer v. Mark 352
VIII. How to Answer the Chapter Summary Problem: Some Suggestions 354
IX. Improving the Rules of Pleading: Notes and Questions 355
Litigation Document Example 5.3 357
   Pleadings from Three Jurisdictions 357

Chapter 6 • Multiple Parties and Claims 359
I. An Overview of the Devices for Joining Multiple Parties or Claims 359
II. Adding or Subtracting Single Claims or Parties 365
   [A] Counterclaims 365
   Cavanaugh v. Western Maryland Railway Co. 365
   Notes and Questions 368
   [B] Cross-Claims 370
   Abramco, Inc. v. Bossclip B.V. 370
Notes and Questions 371
[C] Third-Party Practice (“Ipleader”) 371
Mitchell v. Hood 371
Notes and Questions 373
[D] Permissive Joinder of Parties and Claims by Plaintiff 374
Grogan v. Babson Brothers Co. 374
Notes and Questions 375
[E] Consolidation, Separate Trial, and Severance 376
Gittens v. School Board of Lee County 376
Notes and Questions 377
[F] Compulsory Joinder 378
How to Understand Rule 19 378
How to Read the Provident Tradesmens Case, Including Information About Insurance Law 379
Provident Tradesmens Bank & Trust Co. v. Patterson 380
Republic of the Philippines v. Pimentel 383
Notes and Questions 386
Understanding Intervention Under Rule 24 387
Commonwealth of Pennsylvania v. President [of the] United States of America 387
Notes and Questions 390
III. Devices for Handling Numerous Parties 392
[A] Interpleader: The “Stakeholder’s Remedy” 392
Note on Interpleader: A “Stakeholder’s Remedy” 392
State Farm Fire & Cas. Co. v. Tashire 393
Notes and Questions 396
[B] Class Actions 398
Note on Understanding Rule 23 398
Problem A 400
Eisen v. Carlisle & Jacquelin 402
Notes and Questions 403
Mullins v. Direct Digital, LLC 404
Notes and Questions 405
[C] The Judicial Panel on Multidistrict Litigation 406
Notes and Questions 406
Gelboim v. Bank of America Corporation 407
[D] The Multiparty, Multiforum Trial Jurisdiction Act of 2002 408
[E] Global Settlement Class Actions: May a Court Manage an Intractable Dispute by Cutting the Gordian Knot? 408
Amchem Products, Inc. v. Windsor 408
Notes and Questions 413
Chapter 7 · Discovery and Disclosure 415
I. The Objectives, Policies, and Planning of Discovery 415
[A] Objectives of Discovery 415
CONTENTS

Problem A: Chapter 7 Summary Problem 416
[B] The Policies behind Broad Discovery — and the Limits 417
[C] The Discovery Tools and the Concept of Required Disclosures 418
[D] Basics of Discovery Planning 420
  Problem B 421
  Problem C 421
  Morris, Strategy of Discovery 421
  Notes and Questions 429

II. The Scope of Discovery 430
[A] The Discovery Standard: Information That Is “Relevant” and “Proportional” 430
  Note on the Breadth (or “Scope”) of Discovery 430
  Cain v. Wal-Mart Stores, Inc. 431
  Notes and Questions 434
[B] Self-Initiated Disclosures 436
  Note on the Standard for Disclosures 436
[C] Information That Is “Not Privileged” 436
  Upjohn Company v. United States 436
  Notes and Questions 437
  Doe v. Old Dominion University 438
  Problem D 439
[D] Work Product and Related Exceptions 442
  [1] Trial Preparation Materials 442
    Hickman v. Taylor 443
    Bank of the Orient v. Superior Court 445
    Sporck v. Peil 446
    Notes and Questions 447
    Ager v. Jane C. Stormont Hospital & Training, Etc. 448
    Problem E 451
    Notes and Questions 452
[E] Protective Orders 453
  Note on Standards for Protective Orders 453
  In re Ohio Execution Protocol Litigation 453
  Problem F 456
  Notes and Questions 457
[F] “Umbrella” Confidentiality Agreements and Orders 458
  Scranton Products, Inc. v. Bobrick Washroom Equipment 458
  Notes and Questions 459

III. The Mechanics of Discovery 460
[A] Mandatory Self-Initiated Disclosures 460
  Harriman v. Hancock County 460
  Notes and Questions 466
  Nguyen v. IBP, Inc. 467
  Notes and Questions 468
CONTENTS

Litigation Document Example 7.1

[1] Plaintiff’s Initial Disclosures in Dynatech Corp. v. American Aerospace Partnership LLP 469

[B] The Discovery Devices 469
[1] Oral Depositions 469

Sun Capital Partners, Inc. v. Twin City Fire Ins. Co. 469

Notes and Questions: Setup of the Deposition 470
Notes and Questions: Taking the Deposition 471

Litigation Document Example 7.2 473

Deposition Practice, Including Sample Checklist, Advice to a Client About to Be Deposed, and Sample Deposition in Pringle v. Jim Dandy Fast Foods 473

Note on Depositions on Written Questions 474

[2] Interrogatories 474

Jackson v. Willoughby Eastlake School District 474

Note on Effects of the Proportionality Requirement 476
Sargent-Welch Scientific Co. v. Ventron Corp. 476
Notes and Questions 477
Note on Interrogatories in Practice: George Miller Co. v. Compudata, Inc. 478

Seitz, Get More Information and Less Indigestion from Your Interrogatories 478

[3] Requests for Admissions 480

Trevino v. Central Freight Lines, Inc. 480
Notes and Questions 483
Note on Requests for Admissions in Practice: George Miller Co. v. Compudata, Inc. 484

[4] Production of Documents (Including Electronic Documents) and Tangible Things 484

Judge Lee H. Rosenthal, Electronic Discovery: Is the System Broken? 484
Can It Be Fixed? 485

Note on How to Read the Major Tours Case 485

Major Tours, Inc. v. Colorel 486
Note on Sanctions for Nondisclosure of Electronic Records 489
Notes and Questions 490
Problem G 492

Brad Harris & Craig Ball, What’s There to Hold Onto?: An Enlightened Approach to Data Preservation in the Era of the Legal Hold 493

[5] Physical and Mental Examinations 495

Schlagenhauf v. Holder 496
Notes and Questions 498


Note on FOIA 499


Note on the Hague Convention 499
Societe Nationale Industrielle Aerospatiale v. United States District Court 500
Notes and Questions 500
CONTENTS

[C] The Duty to Supplement Responses 500
   Rigby v. Philip Morris USA Inc. 501
[D] The Use of Discovery in Hearings or Trials 501
   Frechette v. Welch 502
   Notes and Questions 504
IV. Discovery Abuse and Sanctions 504
   Note on Rules 26 and 37 504
[A] “Pushing” and “Tripping” 505
   Roesberg v. Johns-Manville Corp. 505
   Notes and Questions 506
[B] Discovery Certifications and the Discovery Conference 507
   Associated Radio Service Company v. Page Airways, Inc. 507
   Notes and Questions 507
[C] Sanctions 508
   Lew v. Kona Hospital 508
   Notes and Questions 509
   Note on Sanctions in Practice: Rule 37 Motion in
   George Miller Co. v. Compudata, Inc. 511
V. Discovery Under State Rules 511
VI. Real Life as a Lawyer 513
   What Do You Do in Discovery Against a So-Called “Rambo” Lawyer? 513
VII. How to Answer the Chapter Summary Problem: Some Suggestions 513
VIII. Improving the Discovery Rules: Notes and Questions 515

Chapter 8 · Pretrial Conferences and Case Management 519
I. Pretrial Conferences and Pretrial Orders 519
   [A] The Purposes of Pretrial Conferences 520
      Bell Atlantic Corporation v. Twombly 520
      Notes and Questions 520
   [B] The Effects of Pretrial Orders 521
      United States v. First National Bank of Circle 521
      Notes and Questions 524
   Litigation Document Example 8.1 525
      Pretrial Order in Bordelon v. Triangle J Company 525
II. The Trend Toward Judges as “Managers” 526
   [A] How the Rules Encourage Judges to Manage Cases 526
      Note on the Case Management Controversy:
         What the Opposing Advocates Say 526
      Notes and Questions 527
      Steven S. Gensler, Judicial Case Management: Caught in the Crossfire 527
   [B] Sanctions for Failure to Participate “in Good Faith” in Conferences and
      Settlement Negotiations 530
      Kothe v. Smith 530
      Notes and Questions 531
   [C] Reference to Magistrate Judges or Masters 532
Mathews v. Weber  532
Notes and Questions  533

III. Docket Control and Case Flow Management  533
[A] Trial Settings and Continuances  534
Oates v. Oates  534
Notes and Questions  534
[B] The Scheduling Order and Its Amendment  535
Kantsevoy v. LumenR LLC  535
Notes and Questions  536
[C] Rules Giving Judges Statistical Incentives  538
Notes and Questions  538
Note on Docket Management Techniques  539
Kakalik, et al., Just, Speedy and Inexpensive? An Evaluation of Judicial Case Management Under the Civil Justice Reform Act  540
Notes and Questions  541

IV. The Dismal Phenomenon of “Adjudication by Deadline”  542
Notes and Questions  544

V. Real Life as a Lawyer  544
How Can I Manage This Chaotic Schedule?  544

VI. Improving Pretrial Conferences and Case Management: Notes and Questions  545

Chapter 9 · Adjudication Without Trial: Summary Judgment, Dismissal, Default, and Related Procedures  547

I. Judgment on the Pleadings  547
Note on Judgment on the Pleadings  547
Unite Here Local 1 v. Hyatt Corporation  548

II. Summary Judgment  549
Warren v. Medley  549
Notes and Questions  549
Problem A: Chapter 9 Summary Problem  551

[B] The Relevance of the Ultimate Burden of Proof: Summary Judgment Because the Opponent “Can't Prove Her Case”  552
Dyer v. McDougall  552
Note on How to Read the Case of Celotex Corp. v. Catrett  552

Celotex Corp. v. Catrett  553
Notes and Questions  557
Note on Wider Acceptance of Summary Judgment  558

Litigation Document Example 9.1  558
Summary Judgment Motion in Jones v. [President] Clinton  558

[C] The “Summary Judgment Evidence”  559
McNeil v. Sonoco Products Company  559
Fein v. Permanente Medical Group 594
Notes and Questions 594
[B] Voir Dire Examination and Challenges 596
Note on How Jurors Are “Selected”: Previewing Flowers v. Flowers 596
[1] Challenges “For Cause” Versus “Peremptory” Challenges 597
Flowers v. Flowers 597
Cortez ex rel. Estate of Puentes v. HCCI-San Antonio, Inc. 599
Notes and Questions 600
McDonough Power Equipment, Inc. v. Greenwood 601
Notes and Questions 602
[2] Prohibited Grounds for Peremptory Challenges 603
Note on Batson Issues: Not Race or Gender 603
Hines v. City of Columbus 604
Notes and Questions 605
Notes on How to Present a Batson-Edmonson Objection 606
Simmons v. Napier 607
Notes and Questions 609
Note on Broader State Protection of Attorney Voir Dire 611
Litigation Document Example 10.1 611
Jury Selection Materials, Including an Article about Attorney Tactics,
Excerpts from the Voir Dire in Pennzoil Co. v. Texaco Inc.,
and a Jury Study in Preparation for Trial 611
IV. Opening Statements 611
Note on the Opening Statement 611
V. Presenting the Case: Evidence and “Proof” 613
[A] The Rules of Evidence 613
Owens v. Republic of Sudan 617
Notes and Questions 619
[B] Making the Record 620
Guetersloh v. C.I.T. Corp. 620
Notes and Questions 621
[C] The “Burden of Proof” 622
Note on the Burdens of Production and of Persuasion 622
Young v. United Parcel Service, Inc. 623
Notes and Questions 625
[D] Judgment as a Matter of Law (or “Directed Verdict”) 625
Reeves v. Sanderson Plumbing Co. 625
W. Dorsaneo, Reexamining the Right to Jury Trial 629
VI. Jury Argument 630
Note on Legitimate Functions of Jury Argument 630
Tran v. Arellano 631
Brokopp v. Ford Motor Co. 633
Notes and Questions 635
VII. Jury Instructions and Verdicts 637
[A] The General Charge versus Special Interrogatories 637
   Note on the Two Basic Forms of Verdicts 637
   How to Read the Case of McLaughlin v. Fellows Gear Shaper Co. 639
   McLaughlin v. Fellows Gear Shaper Co. 639
   Notes and Questions 644
   Problem C 645
[B] Instructions to the Jury 647
   [1] Explanation of the Law by the Judge 647
   Meagher v. Long Island R.R. Co. 647
   Notes and Questions 650
   [2] Comments by the Judge on the Evidence 652
   Lewis v. Bill Robertson & Sons, Inc. 652
   Notes and Questions 653
Litigation Document Example 10.2 654
   Jury Argument, Charge, and Objections, Featuring the Litigation in Pennzoil Co. v. Texaco Inc. 654
VIII. Trial to the Court Without a Jury 654
   Note on Trial to the Court 655
IX. How to Answer the Chapter Summary Problem: Some Suggestions 655
X. Improving Trial Processes: Notes and Questions 658

Chapter 11  ·  Post-Trial Motions 661
I. Judicial Power to Take the Case Away from the Jury 661
   Problem A: Chapter 11 Summary Problem 662
II. Judgment on the Verdict 663
III. Judgment as a Matter of Law 663
   [A] During Trial 663
      Problem B 663
      Note on “Directed Verdict,” “Judgment Notwithstanding the Verdict,” and “Judgment as a Matter of Law” 664
      Lavender v. Kurn 665
      McLaughlin v. Fellows Gear Shaper Co. 668
      Notes and Questions 668
      Procedural Aspects of Judgment as a Matter of Law: Notes and Questions 670
   [B] After Trial 671
      Note on Requirements for Post-Trial Judgment as a Matter of Law 671
      Notes and Questions 672
      Unitherm Food Systems, Inc. v. Swift-Eckrich, Inc. 673
   [C] Judgment as a Matter of Law in Favor of the Party with the Burden of Persuasion 674
      Ghaleb v. American Steamship Company 675
      Notes and Questions 676
IV. New Trial 677
   [A] New Trial Based on Procedural Errors 678
Chapter 12 · Appeals

I. The Scope of Appellate Review
[A] Errors of Law and Avoidance Doctrines
[1] Harmless Error Principles
  *McDonough Power Equipment, Inc. v. Greenwood*
  Notes and Questions
  *Neu v. Grant*
  Notes and Questions
[B] Standards of Review: Deference to Trial Court Discretion
  *Doe v. University of Cincinnati*
[C] Review of Determinations of Fact
  *Anderson v. City of Bessemer City*
  Notes and Questions

II. Appellate Procedure
[A] Time Limits: Notice of Appeal, Record Preparation, and Briefs
  *Bowles v. Russell*
  Notes and Questions
[B] Suspending Enforcement Pending Appeal: Supersedeas Bonds
CONTENTS

---

Texaco Inc. v. Pennzoil Company 715
Notes and Questions 716

[C] The Record, Briefs, and Submission 717

III. Appealable Orders 717

[A] The Final Judgment Rule 718
Note on Authorization of Supreme Court Rules 718

Coopers & Lybrand v. Livesay 718
Note on Amendment of Rule 23 719
Note on the Final Judgment Rule 719

[B] Rule 54(b) Certification and Appealable Interlocutory Orders 721
[1] Rule 54(b): Making the Judgment Final 721
Sears, Roebuck & Co. v. Mackey 721
Notes and Questions 722


Cohen v. Beneficial Industrial Loan Corp. 722
Notes and Questions 722

[3] Injunctions and Receiverships: Section 1292(a) 723
Northeast Ohio Coalition for the Homeless v. Blackwell 723

[4] “Discretionary” Appeals: Section 1292(b) 724
Drummond Company, Inc. v. Conrad & Scherer, LLP 724
Notes and Questions 726

[C] Mandamus and Other Writs 726

Kerr v. United States District Court 726
Notes and Questions 727

IV. The Supreme Court 728

Note on the Jurisdiction of the Supreme Court 728
Procedure for Review by Certiorari or Appeal 729

V. How to Answer the Chapter Summary Problem: Some Suggestions 730

Chapter 13 · Res Judicata, Collateral Estoppel, and Related Preclusion Doctrines 731

I. Res Judicata: Claim Preclusion 731

Problem A: Chapter 13 Summary Problem 732

[B] The “Same Claim” Requirement: How Broad Is a “Claim”? 733
[1] The “Individualized/Same Evidence” Approach 733

Smith v. Kirkpatrick 733
Notes and Questions 734


Note on Overruling of Smith v. Kirkpatrick, Above 734
Williams v. City of Yonkers 734
Notes and Questions 735

[3] Public Policy Exceptions to Preclusion 736

Canonsburg General Hospital v. Burwell 736
Bogard v. Cook 737

[C] The Other Elements — Identity of Parties and a Judgment That Should
Be Given Preclusive Effect: Notes and Questions 738

II. Collateral Estoppel: Issue Preclusion 738
   [A] The Basic Elements 738
   [B] The Requirement of “Actual Litigation” of the “Same” Issue, Which Was
      “Essential to” the Prior Judgment
         Cromwell v. County of Sac 739
         Notes and Questions 740
      Ryan v. New York Telephone Co. 741
         Note on Legislative Reversal of Ryan v. New York Telephone Co. 743
   [C] Parties Who Had “Full and Fair Opportunity” to Litigate the Issue 743
      [1] When the First Action Is Minor or Informal
         Gilberg v. Barbieri 743
         Notes and Questions 744
      [2] When the Parties Are Not Identical
         Montana v. United States 744
         Weinberger v. Tucker 745
         Notes and Questions 747
   [D] Mutuality: Is It (or Should It Be) Required? 747
      Parklane Hosiery Company, Inc. v. Shore 747
      Notes and Questions 750

III. Interjurisdictional Preclusion: State-State and State-Federal Effects 751
   Marrese v. American Academy of Orthopaedic Surgeons 751
   Matsushita Electric Industries Co., Ltd. v. Epstein 752
      Notes and Questions 754

IV. The “Law of the Case” Doctrine 754
   United States v. Hatter 754

V. How to Answer the Chapter Summary Problem: Some Suggestions 756

Chapter 14 · Remedies, Judgments, and Their Enforcement 757
I. Prejudgment Emergency and Temporary Relief 758
   [A] Seizure of Assets Before Hearing on the Merits: Attachment, Garnishment,
      Sequestration, Replevin, etc.
      Kheel, New York’s Amended Attachment Statute: A Prejudgment Remedy
      in Need of Further Revision 758
      Problem A: Chapter 14 Summary Problem 759
      Fuentes v. Shevin 759
      Notes and Questions 763
      Mitchell v. W.T. Grant Co. 764
      Notes and Questions 765
      Note on the Use of Provisional Remedies Today 766
      Note on Damages for Wrongful Use of Provisional Remedies 767
      Barfield v. Brogdon 767
      Richman v. Richman 768
   [B] Temporary Restraining Orders
      Weber, So You Need a Temporary Restraining Order? 768
CONTENTS

Problem B 771
II. Damages: The Traditional Legal Remedy 771
[A] Compensatory Damages: Recoverable Elements 771
Memphis Community School District v. Stachura 771
Notes and Questions 773
[B] Proof of Economic Damages with Reasonable Certainty 774
Washington v. Kellwood Company 774
Hawthorne Industries, Inc. v. Balfour Maclaine International Ltd. 775
Notes and Questions 776
Problem C 777
[C] Punitive or “Exemplary” Damages 778
Smith v. Wade 778
Note on the Economic Purpose of Compensatory and Punitive Damages 779
Notes and Questions 780
Exxon Shipping Co. v. Baker 780
BMW of North America, Inc. v. Gore 781
Notes and Questions 783
III. Equitable Remedies 783
[A] Injunctions 783
[1] Preliminary Injunctions: The Requirements 784
MidCon Corp. v. Freeport-McMoran, Inc. 784
Notes and Questions 787
[2] Permanent Injunctions: Shaping the Relief to Balance the Equities 789
Galella v. Onassis 789
Notes and Questions 790
Problem D 790
[B] Specific Performance, Equitable Restitution, Constructive Trusts, and Other Equitable Relief: Notes and Questions 790
IV. Declaratory Judgments 795
V. Attorney’s Fees, Interest, and Costs 795
Perdue v. Kenny A. ex rel. Winn 795
Notes and Questions 797
Note on Availability and Impact of Pre-Judgment Interest 798
Notes and Questions 799
VI. Enforcement of Judgments 800
[A] Execution and Judicial Sale 800
Griggs v. Miller 800
Notes and Questions 801
Guardian Loan Co. v. Early 802
Notes and Questions 804
Note on the Approach of the Federal Rules in Borrowing State Enforcement Procedures and Provisional Remedies 804
[B] Judgment Liens 805
Note on Judgment Liens 805
Texaco Inc. v. Pennzoil Company 805
Notes and Questions 806
Problem E 806
[C] Post-Judgment Garnishment 807
United States v. Bankas 807
Notes and Questions 808
[D] Turnover Orders, Receiverships, and Other Equitable Supplementary Proceedings 808
[1] Turnover Orders 808
Note on the Need for Turnover Relief 808
Corsair Special Situations Fund, L.P. v. Pesiri 809
Notes and Questions 810
Problem F 811
[2] Receivership 811
Ypsilanti Fire Marshal v. Kircher 811
Notes and Questions 812
Problem G 813
[3] Discovery in Aid of Enforcement of Judgment 813
Matter of Silverman 814
[E] Contempt and Arrest 814
Belitz v. Belitz 814
Notes and Questions 814
Problem H 815
[F] Interstate Enforcement of Judgments 815
Note: Action on the Judgment, Registration, and UEFJA 815
L&W Air Conditioning Co., Inc. v. Varsity Inn of Rochester, Inc. 816
VII. How to Answer the Chapter Summary Problem: Some Suggestions 816
Chapter 15 · Alternate Methods of Dispute Resolution 819
I. The Case for and Against, and the Types of, ADRs 820
Problem A: Chapter 15 Summary Problem 821
[B] The Case for ADRs; The Disadvantages of Traditional Adjudication 824
Note on the “BATNA” 824
Note on Arguments in Favor of ADRs 825
[C] The Case for Caution in Encouraging ADRs 828
Fiss, Against Settlement 828
Notes and Questions 828
Problem B 830
[D] The Reality: Our System Vastly Favors Settlement over Judicial Resolution 831
Problem C 831
Samuel R. Gross & Kent D. Syverud, Don’t Try: Civil Verdicts in a System Geared to Settlement 831
Notes and Questions 832
II. Negotiation 833
[A] Methods and Tactics 833
CONTENTS

W. Dorsaneo, D. Crump, E. Carlson & E. Thornburg, How Does Litigation Get Settled? 833

Notes and Questions 840
Problem D 840

[B] Encouragement by the Court 841
Kothe v. Smith 841
Notes and Questions 841

[C] Legal Rules Encouraging Settlement: Pre-Judgment Interest, Attorney’s Fee Changes, and Rule 68 842
Marek v. Chesny 843
Notes and Questions 846

[D] Ethics and Overreaching 846
United States v. Weimert 847
Notes and Questions 848
Problem E 849

III. Settlement Agreements 850

[A] Settlement as the Norm in Litigation 850
Problem F 850

[B] The Enforcement and Effects of Releases 850
Spector v. K-Mart Corporation 850
Notes and Questions 851
Bodle v. TXL Mortgage Corporation 853
Notes and Questions 854

Litigation Document Example 15.1 854
Note on the Release and Settlement Agreement in George Miller Co. v. Compudata, Inc. 854

[C] Other Common Clauses in Settlement Agreements 855

[D] Adjudicative Effects of Settlement, Structured Settlements, and Trial Agreements between Opponents 856
Note on Adjudicative Effects of Settlement 856
Note on Structured Settlements (Periodic Payments) 857
Franck v. Polaris E-Z Go Div. of Textron, Inc. 857
Notes and Questions 857
Note on Opposing-Party Agreements That Disadvantage Other Parties 858
In re Eighth Judicial District Asbestos Litigation 859

IV. Arbitration and Other Substitutes for Court Adjudication 860

[A] The Nature of Arbitration 860
Note on Arbitration 860
Problem G 861
Sprinzen v. Nomberg 861
Notes and Questions 862

Note on the Basics of the FAA 863
Preface to the Seventh Edition

What This Casebook Is About. This is the casebook for professors who want their students to explore the purposes and policies of our procedural system. But it’s also the casebook for those who want their students to become capable trial lawyers and litigators. It features innovative ways to get students to think deeply about the issues, and it contains special materials for teaching litigation strategies. It’s designed to help you prepare your students to enter the profession.

Organization and Methodology. As with earlier editions, the Seventh Edition is organized in a traditional manner. It begins with an introductory chapter that gives an overview of the litigation process. Later chapters cover the stages of a civil suit, in order. Although each chapter contains one or more problems or exercises, the Seventh Edition primarily uses the court opinion method, supplemented with copious notes and questions. Law professors will recognize all of the “old favorite” cases, but there are plenty of newer ones from the twenty-teens too, so that students using this book will not have to deal only with cases decided before they were born. Careful editing of the cases makes coverage of a wide variety of issues possible.

Revisions and Additions. The Seventh Edition contains particularly strong coverage of subjects that create major issues today, such as discovery, pleadings, and jurisdiction. Every chapter emphasizes up-to-date cases and materials.

Special Features. The Seventh Edition also includes the following special features:

- An Introduction to the Practice through Actual Litigation Documents. Unlike most Civil Procedure books, the Seventh Edition includes documents adapted from actual cases. Complaints and answers, motions, briefs, orders, and in the discovery chapter, a deposition, are all excerpted for the student to review and study. A set of self-initiated disclosures adapted from a real case is also included. In some instances, a series of related papers paints a complete picture. For example, Chapter 2 ends with an appendix containing all of the major pleadings, motions, and briefs generated in a typical forum contest, with explanatory notes and questions. Likewise, Chapter 9 contains the documents presented by both sides in an actual summary judgment proceeding, as well as President Clinton’s successful motion for summary judgment in Jones v. Clinton. Chapter 10 contains fascinating excerpts from the jury selection, court’s charge, and final arguments in Pennzoil Co. v. Texaco Inc.—the case that produced the largest jury verdict in history. These unique “real world” materials help students to understand both the theory and practice of civil litigation.

- “Chapter Summary Problems.” Most of the chapters contain “Chapter Summary Problems.” These comprehensive problems call for application of the students’
composite knowledge of the difficult parts of each chapter, requiring students to “put the chapter together” and to apply what they have learned. These problems are placed early in the chapter, encouraging the student to think about the issues beforehand, but they are to be answered only after the student has studied the materials in the chapter. These Chapter Summary Problems will increase your students’ comprehension, retention, and use of the doctrines in each chapter, and you’ll get better ultimate performance, because these problems encourage the kinds of analysis that a law school final examination requires.

• “Improving the System.” We have included sections at the ends of most chapters entitled “Improving the System.” These sections are designed to help students think critically about current discussions of proposals for change. Our experience has been that this method encourages better critical thought about the purposes of procedural rules and statutes. It not only facilitates mastery of the materials, but also tends to engage students more effectively in discussions of policy issues than episodic questions raised for the first time in class.

• Supplementation of Traditional Federal Materials Though Comparison with State Practices; Use of Florida, California, and Texas as “Benchmark” States. It is traditional to emphasize the federal system in first-year Procedure courses. Accordingly, this casebook provides thorough coverage of federal practice, but it also supplements federal materials with a comparative explanation of laws in three benchmark states: Florida, California, and Texas. We selected these states because of their size and because their procedural systems are well developed. In every chapter, the treatment of state practice is brief and is designed to enhance comprehension without detracting from the book’s major federal theme.

• A “User Friendly” Book. The Seventh Edition is also designed to be user friendly. Although Civil Procedure may be the most difficult course in the first-year curriculum, we have done our best to make fundamental concepts easier for students to comprehend. For example, we have selected cases with interesting fact patterns, and particularly difficult cases are preceded by notes pointing the students in the right direction. The cases are also edited with student comprehension in mind, but without oversimplification. Our philosophy is that it is best for the student to come to class with a basic comprehension of the material in the book, so that the professor can cover more sophisticated issues during class.

• An Appendix Concerning the Quality of Life for a Litigation Lawyer. In recent years, litigators have encountered increasing difficulty in combining quality of life with professional practice in the adversary system. For this reason, the Seventh Edition contains a unique Appendix that deals with whether and how an ethical and competent litigator can live a full life. The Appendix is designed to help students avoid, or at least minimize, some of the more negative aspects of real-world litigation. Also, sections within the chapters titled “Real Life as a Lawyer” are designed to help students confront some of these difficulties: financial issues that limit options, obstreperous opponents, clients, and
co-counsel, and dangerous problems of time management that arise in an era of adjudication by deadline.

We hope and expect that you and your students will enjoy using the Seventh Edition. We know that they will find it interesting, challenging, and entertaining.

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