

Cases and Materials on Civil Procedure

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SEVENTH EDITION

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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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