

QUESTIONS & ANSWERS:  
CIVIL PROCEDURE



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## *Multiple-Choice and Short-Answer Questions and Answers*

FOURTH EDITION

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Together, Professors Dorsaneo and Thornburg have taught procedure for more than 50 years.



# PREFACE TO THE FOURTH EDITION

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Like its predecessors, the Fourth Edition of *Questions and Answers: Civil Procedure* is a supplementary text for use primarily by first-year Civil Procedure students to obtain a clear understanding of the subjects typically covered in either a four-hour first semester Civil Procedure class or a longer Civil Procedure class extending over subsequent semesters. The Fourth Edition builds on the foundation established in the first three editions, by revising and updating the topics covered in the Third Edition and by extending coverage to all of the subjects that are covered by the Civil Procedure sections of the Multistate Bar Examination. As a result, the Fourth Edition contains the following revisions and additions.

- Revisions to the coverage of personal jurisdiction based on the Supreme Court's two 2014 decisions in *Daimler AG v. Bauman* and *Walden v. Fiore*.
- Coverage of the Supreme Court's decision in *Atlantic Marine Const. Co. Inc. v. District Court* concerning venue transfer practice and forum selection clauses.
- Additional coverage of federal question jurisdiction applying *Grable & Sons Metal Products, Inc. v. Darue* in the context of patent suits under 28 U.S.C. § 1338(a) derived from the Supreme Court's opinion in *Gunn v. Minton*.
- Coverage of proposed revisions of the rules of civil procedure, especially rules on discovery relevance, discovery and other procedures and pretrial deadlines.
- Coverage of service of process and due process notice.
- Coverage of federal common law.
- Coverage of preliminary injunctions and temporary restraining orders.
- Coverage of jury practice, including jury selection, requests for and objections to jury instructions and jury verdicts.
- Revised and expanded coverage of challenges to jury findings and verdicts, judicial findings and conclusions, and challenges to the trial judge's findings of fact and conclusions of law in bench trials.
- Coverage of default judgments and involuntary dismissals.

As updated and expanded, this edition of the Q&A book allows professors and students to easily incorporate the topics covered in the Fourth Edition in a course syllabus that will cover subjects anticipated to be covered on the Multistate Bar Examination, whether or not the questions and answers on these subjects can actually be covered during class hours. As with each of the prior editions of the Q&A book, students will benefit by using the text to clarify, reinforce, and extend their comprehension of basic civil procedure course material.

We would like to thank our students, on whom many of the questions in the prior editions have been tested for years. Special thanks must also be extended to Katya Long, Juris Doctor Candidate (2016) for her dedicated and capable assistance in finalizing the preparation of this Fourth Edition.

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Dallas, Texas  
January 2015





# INFORMATION FOR STUDENTS: HOW TO USE THIS BOOK

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Understanding Civil Procedure can unravel the mysteries of both the Civil Procedure course itself and the procedural context that shapes the cases you read in your other first-year courses. At its most basic, Civil Procedure covers a set of quite technical rules that litigators must master in order to guide their clients and their cases through the court system. Mastery at this technical level is important, but the fun of Civil Procedure comes when you begin to understand how the rules interact, and how they can be used to achieve legitimate goals. At a deeper level, a sophisticated knowledge of Civil Procedure is the key to thoughtful analysis of the policy issues involved: who do the rules benefit, and why? Who should they benefit? Should changes be made in order to better serve the interests of justice?

This book is designed to help you understand the nature and operation of the rules that govern procedure in the federal courts in the United States. The questions range from simple identification of the rules themselves to applying the rules to complex hypothetical fact patterns. Some questions invite you to begin to think about the strategic use of the rules, and about the policy implications of the choices the rules make. The individual topics address issues one at a time, while the Final Examination allows you to test your skill at recognizing the interplay of a number of issues in simulated cases.

The book begins by walking you through the steps of a typical lawsuit: the parties' pleadings, the proper joinder of claims and parties, the discovery process, summary judgment, trial, post-trial motions, the binding effect of judgments, state law in federal court, federal common law and appellate practice. It also covers questions about where suits can be brought. Finally, the book examines a specialized question of law application: when must the federal courts apply state rather than federal law (a topic often called the *Erie* doctrine). Civil Procedure teachers and texts introduce these topics in different orders. The topics are therefore treated independently, so you can use this book in the order in which you study procedure.

*Questions & Answers: Civil Procedure* is designed so that you can use the questions either to reinforce and clarify material as you move through the first-year course, or to test yourself in preparation for your final examination. As you read each question, try to identify the rule or rules involved, and then apply them to the facts presented. Think about the issues raised by both the correct and incorrect answers. This should help you to answer multiple choice format questions such as those found in this book. It should also help you to understand the rules in operation, and to recognize patterns of issues that will help you in answering questions on essay exams.

We hope that this book will help you enjoy Civil Procedure. Once the initial unfamiliarity begins to fade, it will in fact start to hang together. We would also like to thank our students over the years, who have given us ideas for both right and wrong answers.

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January 2015



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