

**CIVIL PROCEDURE II
SPRING 2009
SYLLABUS***

<u>Class Information</u>	<u>Instructor Information</u>
Days: Monday/Thursday Time: 1:30-2:55pm Room: 118	Professor: Darrell A. H. Miller E-mail: darrell.miller@uc.edu Telephone: 556-0133 Office: Room 429 Office Hours: Tuesday 10-12pm (or by appointment)

Attendance: I will take attendance every day. Everyone in class has 4 no-fault passes. A pass can be used for any reason or for no reason. Use of a pass has no effect on your class participation grade. These 4 passes should be sufficient to cover any contingency (sickness, birthdays, unscheduled holidays, hangovers, “I-can’t-be-bothereds”). You may also use a pass if you feel unprepared, or if your contribution in class displays that you are unprepared. These rules are subject to modification on a case-by-case basis for students who demonstrate serious hardship.

Grading: Grades will be determined by a combination of an examination at the end of the semester and class participation. Class participation includes in-class answers to questions, class assignments that we may have from time-to-time, and other indicia that you are engaged in the material. Negative class participation can decrease a grade by a step (i.e. A- to B+). Positive class participation can increase a grade by the same degree (i.e., B+ to A-).

Laptops: Laptops may be used in-class for note-taking and appropriate legal research relevant to the course. Laptops or other electronic devices may not be used in class for e-mailing, e-Baying, instant messaging, or other such uses. Such unapproved uses are a distraction and a discourtesy to both your fellow students and to me. I reserve the right to restrict or ban the use of laptops (including use on the final exam) for any violation.

* This syllabus is subject to revision as necessary.

TOPIC	CASEBOOK	RULE BOOK
Intervention		Rule 24; cf. Rule 19; 28 U.S.C. § 1367
<i>National Resource Defense Council v. U.S. Nuclear Regulatory Comm'n</i>	276-284 (n. 2-11)	
Definition of Interest in Rule 24	285-288	
Class Actions		
Introduction	288-290	Rule 23(a)-(b),(g)
<i>Hansberry v. Lee</i>	291-297 (n.1-7)	
Certification		Rule 23(a)-(b)
<i>Walters v. Reno</i>	297-309 (n. 1-3)	Rule 23(c)-(d)
<i>In re Rhone-Poulenc Rorer</i>	309-325 (n.1-11)	Rule 23(e)-(f)
Notice and Opt-Out	328-331	
Special Suits		Rules 23.1, 23.2
Class Action Fairness Act (CAFA)	325-328 (n.12-15)	28 U.S.C. § 1332(d)(1)-(4), (7), (10); 28 U.S.C. § 1453(a)-(c); 28 U.S.C. §§ 1711-1713 Handouts (to be distributed)
Discovery		
Introduction	332-337	Rule 26(b)(1)-(2); 26(g)
<i>In re Convergent Technologies Securities Litigation</i>	337-342	
Discovery Devices		
Initial Disclosures	342-344	Rule 26(a)(1)
Discovery Conference		Rule 26(f), Rule 16
Interrogatories	346-347	Rule 33
Request for Documents	344-346	Rule 34(a)-(b) (skim portion on electronic data)
Request for Admissions		Rule 36
Depositions	347-350	Rule 30(a)-(d), (g)
Managing Discovery		
<i>Davis v. Ross</i>	357-366 (n.1-8)	
<i>Kozlowski v. Sears, Roebuck & Co.</i>	366-368, 372 (n. 1, 4, 6)	
Electronic Data Discovery	377-380	Rule 26(b)(2)(B), 34(a)(1)(A), 34(b)(2)(D) & (E)

Exemptions from Discovery		Rule 26(b)(3),(5); 26(c); 45(d)(2)
<i>Hickman v. Taylor</i>	380-391	
<i>Upjohn Co. v. United States</i>	391-401	
Discovery Obligations and Enforcement		Rules 26(c),(e),(g), Rule 37
<i>Cine Forty-Second Street Theatre v. Allied Artists Pictures</i>	415-423	
<i>Bratka v. Anheuser-Busch Co., Inc.</i>	(to be distributed)	
Pre-Trial Dispositions		
Default Judgment		Rule 55(a)-(c)
<i>Shepard Claims Service v. William Darrah & Associates</i>	191-199	
Voluntary Dismissal		Rule 41(a)-(b)
Summary Judgment	424-428	Rule 56
<i>Adickes v. S.H. Kress</i>	428-435	
<i>Celotex v. Catrett</i>	435-449	
<i>Arnstein v. Porter</i>	449-452	
<i>Dyer v. MacDougall</i>	452-464	
Additional Readings	(to be distributed)	
Trial		
Phases of Trial	521-529	
Seventh Amendment	(handout to be distributed)	Rules 38 & 39
<i>Beacon Theatres v. Westover</i>	529-539	
<i>Dairy Queen v. Wood</i>	539-544	
<i>Curtis v. Loether</i>	555-559	
<i>Tull v. United States</i>	559-563	
<i>Teamsters Local No. 391 v. Terry</i>	563-578	
Complex Cases and the Jury Right; Jury Size	578-603	
Jury Selection	603-606	
Post-Trial Motions		
Motion for Judgment as a Matter of Law		Rule 50(a) & (b)
<i>Galloway v. United States</i>	606-622	
Motion for New Trial		Rules 59; 50(c), (d)
<i>Ahern v. Scholz</i>	643-653	

Motion for Relief from Judgment	653-658	Rule 60(b)
Appeals		
Value of Appeals	1017-1020	
Final Judgment Rule	1021-1029	28 U.S.C. § 1291
Collateral Order Doctrine	1029-1040	
Interlocutory Appeals	1050-1055	28 U.S.C. § 1292(b)
Mandamus	1055-1061	
Preclusion Doctrines		
Introduction	1092-1095	
Claim Preclusion (Res Judicata)		
<i>Manego v. Orleans Board of Trade</i>	1095-1107 (Notes 1-11)	
Issue Preclusion (Collateral Estoppel)		
<i>Little v. Blue Goose Motor Coach Co.</i>	1142-1144 (Notes 1-4)	
<i>Hardy v. Johns-Mansville Sales Corp.</i>	1146-1150 (Notes 1-5)	
<i>Parklane Hosiery Co. v. Shore</i>	1173-1184 (Notes 1-6)	
Alternative Dispute Resolution	483-496	
<i>In re Atlantic Pipe Corp.</i>	496-505	