

This third edition of *Twenty-First Century Civil Procedure* offers a contemporary examination of a timeless critical subject — the most important subject taught in law school, as the author continues to think, and tells his students. The book is designed for required first-year Procedure courses, whether taught as four units in one semester, or in five or six units in two semesters. The author teaches the course in four units (but would rather have five or six), and has now taught out of this book for more than ten years, assigning and covering most of it without unduly stressing students.

Twenty-First Century Civil Procedure takes up all the subjects that a careful study of this subject demands — jurisdiction to joinder, pleading to appeals, discovery to post-trial motions, and the other topics in between (like pretrial, preclusion doctrines, and of course *Erie*).

At least four things make this book different from most. One is the use of textual exposition to provide extended context and cover basics. Too often students don't find what they need in the text assigned to their course, and have to go elsewhere to get their bearings. Too often the cases they read expose doctrinal problems without imparting the sense that these doctrines do, after all, work reasonably well much of the time. Of course I would not discourage a student from resorting to one or more of the fine treatises on the subject, but this book provides much of what students seek from such sources.

Second, this book offers Problems as a way of getting at points that can't be adequately illuminated by description, or that benefit from the more open-textured discussion that a brief scenario followed by questions and variants can invite. Particularly in the area of discovery, where so much is left to the discretion of the trial judge and yet the Rules provide us with abundant details about the limits, uses, and mechanics of discovery, Problems can cover the ground much better than cases or descriptive materials.

Third, this book devotes fewer pages than most texts to federal jury trial entitlement and more pages than most texts to the actual empanelment of juries. Every veteran teacher knows the jury entitlement decisions are difficult, largely inconclusive, and (worst of all) obscure and convoluted, and that students need to grasp the basic doctrine but not its intricacies. What students need more, in addition to learning about end-of-trial and post-verdict challenges, is some sense of how juries are assembled and what lawyers do in this process.

Fourth and finally, this book offers Notes after the cases and Problems, but they differ from the Notes often found in modern texts, that pile obscurity on obscurity and head off in odd directions. In this book, the Notes are designed to help students think about the issues raised in the cases and Problems. I do not believe that helping students in this way deprives the classroom experience of its vitality or importance: Students are encountering the subtleties of Civil Procedure for the first time in their first year of law school, and they

do not immediately grasp everything that is important even when they have such help, and classroom discussion — real two-way conversation emulating the best in the Socratic tradition — can be both alive and vitally important even if students have already encountered in the Notes some of the ideas and themes that are basic to the case and sure to come out in classroom sessions. In more than forty years of teaching, and in many runs through this book, I have never encountered a student who thought Procedure was easy, and have never been at a loss when it comes to engaging in useful conversations about the material in this book.

Over many years, the author has used five different standard texts, currently on the market. The fact that I've undertaken the present work speaks for itself, but I should pause here to say that I've learned much from the effort that others have invested in the subject. I want to single out Professor Rick Marcus, currently at Hastings, with whom I had the pleasure of serving on the Illinois faculty in the 1980s. Rick's superb writings on Procedure, and insights he's shared over the years in email correspondence and personal conversations, have been invaluable in helping shape my ideas about the subject.

Here at Colorado, I wish to thank my colleagues Mike Waggoner (now retired) for reacting helpfully to my puzzlements about parts of the course over the years, and also my colleague Fred Bloom, who always makes time to talk shop with me and who took time to look at parts of this book and give me his reactions. I am grateful as well to Ed Brunet of Lewis and Clark for reading and critiquing parts of this book, and to Jim Duane at Regent for giving me extended comments about many chapters.

I wish to thank my research assistant Morgan Figuers, class of 2013, for her invaluable assistance in helping compile the statutes and Rules that go with this book, and my research assistants Laura Sturgess and Christopher Estoll, class of 2005, for their wonderful work done on this book years ago.

More than twelve groups of students at Colorado have used this book as they studied Procedure in my section. I invited comments from all users, and many students rose to the occasion, sending me questions and suggesting corrections where typos had infected the manuscript, or my own infelicities of expression, and this book is better for your efforts as well. I must especially mention John Cook IV, Margaret Mandeville, Lawrence Myers, Kurt Prange, Matt Montazzoli and Stacey Wong, who wrote me many emails offering helpful suggestions.

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My longtime colleague and coauthor of books on Evidence Law, Laird Kirkpatrick, does not teach Civil Procedure. On this project, I miss our collaboration, but I benefitted from his frequent encouragement and flexibility when work on this book overlapped with our work together on the Evidence books.

Many years of writing books have taught me that families too feel the anxieties and pre-occupations of authors. I am grateful to my late wife Martha, to my late son David, and to my daughter Gretchen, for their patience over many years when I was distracted or preoccupied with the present project on weekends and evenings. After all, family is what it's all about, in so many ways.

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