

# Preface

As casebook authors, we see our job as priming students to engage with the material at a high level in the classroom. We ask hard questions, but we do not “hide the ball.” Rather than keep students in the dark about legal doctrine, we have tried to offer clear explanations and to set up each case to help students get the most out of their reading. We want students to see, as clearly as possible, what is fascinating and important about civil procedure, including the many ways in which it is *unclear* and *unsatisfying*. By the time students arrive in the classroom having completed their assignment in this casebook, they should have a solid understanding not only of the basic mechanics of the topic, but also why the topic matters in the real world of litigation. Moreover, they should appreciate the questions of procedural design raised by each topic. Teachers who use this casebook, we hope, will find that they can spend less time in class explaining basic doctrine and clearing up misconceptions, and more time exploring the cases and helping students think about procedural policy and litigation strategy.

We have included many decisions by district judges and magistrate judges. Our goal is to help students see how civil procedure plays out in real disputes, and lower court decisions often show this more clearly than decisions that emerge from the rarefied air of the Supreme Court. But on certain topics, students must understand the law as it has evolved, and we have included the essential cases in the canon. In selecting cases of both sorts — those that demonstrate on-the-ground application and those that were instrumental in the development of the law — we have stuck to cases that actually deserve to be read by a smart-future-lawyer-learning-civil-procedure-for-the-first-time law student. Rather than choose cases that raise quirky legal issues at the periphery, we have chosen cases to help students understand the core purposes and difficulties of each aspect of civil procedure.

We have thoroughly edited cases to help students focus on each topic, but we have included enough facts and procedural history to provide context and a sense of how rules work in litigation. Deletions within cases are indicated by ellipses or brackets; additions and substitutions are indicated by brackets. To enhance readability, we have deleted or reduced footnotes and citations without indication, and we have altered citation format for consistency, including moving some citations into text from footnotes. Where we have retained footnotes within a case, we have kept their original numbering.

Civil procedure is hard. It is hard, in part, because it matters and because students need to learn that procedure is power. Procedural issues often are hard for judges and

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hard for lawyers, and they ought to be hard for students. Our goal in this casebook is to make the students' job no harder than necessary. We want students to experience civil procedure in all of its glory, without creating an unnecessary layer of struggle by obscuring the law or leading students down tangential paths. We hope students will find that our explanations, our cases, and our questions help them achieve as much clarity as the law permits.

In sum, we are two unabashedly enthusiastic proceduralists, and our goal is to make every law student love the subject and learn it well. We have seen plenty of students who entered the course dreading what they expected to be a dreary slog through technicalities, and who finished the course declaring procedure to be their favorite subject and realizing that these procedural "technicalities" are nothing less than our justice system at work. If the students who read our book come away with that sort of understanding, we will have done our job.

Howard M. Erichson & J. Maria Glover  
December 2023