CIVIL PROCEDURE I

Reading Assignment #1

It is always difficult to estimate how much reading we will cover in a given class session. As a general matter and as with most new endeavors, we will start out slowly, but pick up speed as the learning curve flattens. Some topics require more depth and discussion than others and, although this need can sometimes be determined in advance, it may depend on the nature of the discussion and understanding revealed in a given class session. In addition, some classes will largely address problems as a way of checking understanding of prior reading materials and/or class discussions, which may cause little to no additional reading to be covered or, less likely, may involve lecture, which may allow us to cover more of the assigned reading than usual.

In looking over the materials that we will study this semester, my math indicates that, on average, we will need to cover approximately 16-17 pages per class session from the Friedenthal text, as well as additional pages from the Friedenthal supplement (“Supp.”) and other supplemental materials, as we study what is often referred to as “The Rules” portion of a year-long Civil Procedure course.

Keeping in mind this 16-17 page per class session average, and with the understanding that I will try to inform you at the end of each class or via email how much material we will likely cover in the next class session or two, the first reading assignments -- which are from the Friedenthal text unless otherwise noted, should take us through approximately our first month of class sessions, are in the page order in which you should read them, and, for the reasons described above, are not attached to dates certain -- are as follows:

Chapter 1 – A Survey of the Civil Action – Section A. The Concern and Character of Civil Procedure – 1-5; Section B. An Outline of the Procedure in a Civil Action – 6-22; Section C. A Note on Motion Practice – 23-24; D. A Note on Remedies – 25-27.

Chapter 8 – Modern Pleading – 553, Section A. The Complaint – 553-610; Section B. Responding to the Complaint – 610-626; Section C. The Reply – 626-627; Section D. Amendments – 627-639; Section E. Supplemental Pleadings – 640; Section F. Provisions to Deter Frivolous Pleadings – 641-657.

Chapter 9 – Joinder of Claims and Parties: Expanding the Scope of the Civil Action – 659, Section A. Joinder of Claims, 659-663; Section B. Addition of Claims by Defendant – 663-680; Section C. Identifying Parties who may Sue and be Sued – 680-683; Section D. Claims involving Multiple Parties – 683-705; Section E. Impeders – 706-713; Section F. Interpleaders – skip; Section G. Intervention – 737-745 (middle of page).
Please be sure to read any and all Rules, statutory provisions, pleadings or other materials in the Supp. referenced in the Friedenthal text.

For your optional reading pleasure, and so that you can see examples of many of the pleadings we will discuss, I have placed copies of Allen & Finch, An Illustrated Guide to Civil Procedure (2nd Edition (Wolters Kluwer 2011) (“A & F”) on reserve in the library. Although you will not be responsible for knowing anything about the substance of the age discrimination case discussed in A & F, you may want to review the following illustrative documents from the case as you study the above-referenced Chapters and Sections:

Chapter 8

Section A – The Complaint: Complaint and Demand for Jury Trial -- A & F at 76-82

Section B – Responding to the Complaint: Motion to Dismiss for Failure to State a Claim and related Memorandum – A & F at 105-107 and Answer and Counterclaim – A & F at 113-117

More generally, regarding use of supplemental materials, review of secondary sources (hornbooks, E & Es, bar review course outlines, etc.) is not a course requirement and, indeed, sometimes may be an impediment to your learning. Subject to your own assessment of your learning needs, my hope is that your (1) reading and re-reading of the assigned materials, (2) attendance and participation in class, (3) outlining of the reading and class discussions, (4) work on assigned problems and hypotheticals, and (5) discussions with me and your colleagues outside of class will be more-than-sufficient to support your comprehension and eventual mastery of the subject matter. That said, if there is a particular subject area that is troubling you or concerning which you would like to read more, let me know and I’ll point you to a good secondary source.

One last point. Stay ahead of the reading assignments – but not by too much. Falling behind will leave you unprepared for class and may cause you to dig a hole from which you may not be able to get out. Conversely, getting too far ahead in the reading, although far less of an evil than falling behind, will cause you to either reread the assignment and your notes more times in order to be prepared for class (which is okay but may unduly multiply your work) or, failing that, not be prepared for class (which is obviously not okay).