FLORIDA INTERNATIONAL UNIVERSITY
COLLEGE OF LAW
Professor Juan Ramirez, Jr.
Judge Jose M. Rodriguez
Fall Semester – 2012

FLORIDA CIVIL PROCEDURE
SYLLABUS


Further handouts and materials will be available at http://www.lexisnexis.com/lawschool/webcourses/

[More detailed reading assignments can be found at the end of this syllabus]

1. INTRODUCTION AND OVERVIEW
   Read FCP CHAPTER 1
   Actions; Pre-Filing Considerations (Read to p. 29)

2. RULES OF PROCEDURE
   FCP CHAPTER 2
   1. Statute of Limitations
   2. Tolling
   3. Statutes of Repose
   4. Medical Malpractice

3. JURISDICTION
   FCP CH. 3
   A. SUBJECT MATTER JURISDICTION
      FLA CONST. ART. V.
      F.R.A.P. 9.030
      1. Supreme Court
      2. District Courts
      3. Circuit Courts
      4. Jurisdictional Amounts
   B. JURISDICTION OVER PERSONS
      FCP CH. 3, §3.3
      1. General vs. Specific
      2. Personal
      3. In Rem
      4. Quasi In Rem

4. VENUE
   FCP CH. 4
   FLA. STAT. §47
   1. Local v. Transitory Actions
   2. Specific Venue Situations

5. SERVICE OF PROCESS
   FCP CH. 5
1. Requirements FRCP 1.070
2. Mechanics FLA.STAT. §48
3. Personal Service
4. Service by Publication

6. PLEADINGS AND MOTIONS FCP CHAPTER 6
   A. IN GENERAL FRCP 1.100 – 1.110
      1. Formalities
      2. Style
      3. Ultimate Fact Pleading
   B. COMPLAINT FCP CHAPTER 6
      1. Description
      2. Contents
      3. Relief
      4. Special Pleading
   C. DEFENSE MOTIONS FRCP 1.140
      1. Types
      2. Procedure
      3. Consolidation
      4. Waiver
   D. ANSWER
      1. Description
      2. Contents
      3. Affirmative Defenses
      4. Time
      5. Sufficiency

7. COUNTERCLAIMS, CROSS-CLAIMS AND THIRD PARTY PRACTICE
   A. COUNTERCLAIMS FCP CHAPTER 7
      1. Compulsory
      2. Permissive
      3. Jurisdiction
      4. Transfer
   B. CROSS-CLAIMS FCP CHAPTER 7
      1. Contents FRCP 1.170
      2. Traditions
   C. THIRD PARTY PRACTICE

8. AMENDMENTS TO PLEADINGS FCP CHAPTER 8
   1. Pleadings FRCP 1.190
   2. Additional Parties
   3. Relation Back
   4. Response to Amendments

9. PARTIES
   A. CAPACITY FRCP 1.210
B. REAL PARTY TO INTEREST
C. JOINER FRCP 1.250
   1. Adding
   2. Dropping
   3. Consolidations FRCP 1.270
D. NECESSARY AND INispensABLE PARTIES
E. INTERVENTION FRCP 1.230
F. INTERPLEADER FRCP 1.240
G. IMPLEADER – 3RD PARTY PRACTICE FRCP 1.180
   1. Theory
   2. Defines
   3. Other Claims
   4. Res Judicata
H. CLASS ACTIONS FRCP 1.220
   1. Requirements
   2. Types
   3. Pleading Requirements
I. SUBSTITUTION FRCP 1.260

10. DISCOVERY FCP CH. 10
A. PURPOSE AND SCOPE FRCP 1.280
   1. Relevancy
   2. Admissibility
   3. Work-Product Rule
   4. Experts FRCP 1.390
   5. Insurance
   6. Income Tax Returns
   7. Financial Worth
   8. Others
B. OVERVIEW – SEQUENCE, TIMING, PLAN, GENERAL
C. DISCOVERY VEHICLES
   1. Oral Depositions FRCP 1.310
   2. Written Depositions FRCP 1.320
   3. Interrogatories to Parties FRCP 1.320
   4. Production of Documents or Things FRCP 1.350 &
      1.351
   5. Physical and Mental Examination FRCP 1.360
   6. Request for Admission
D. USE OF DEPOSITIONS FRCP 1.290
   1. At Trial FRCP 1.330
   2. Impeachments
   3. Perpetuate Testimony
E. ENFORCEMENT AND SANCTIONS FRCP 1.400 –FRCP 1.380
F. COSTS
11. **DISMISSAL OF ACTIONS**
   FCP CH. 11
   A. VOLUNTARY DISMISSALS
   B. INVOLUNTARY DISMISSALS
   C. COSTS ON DISMISSALS
   D. FAILURE TO PROSECUTE
   E. LIS PENDENS

12. **DEFAULTS**
    FCP CH. 12
    A. GENERALLY
    B. FINAL JUDGMENTS AFTER DEFAULT
    C. VACATING JUDGMENTS AND SETTING ASIDE DEFAULTS

13. **TRIALS**
    FCP CH. 13
    A. RIGHT TO JURY TRIAL
    B. DEMAND FOR JURY TRIAL; WAIVER
    C. TRIAL BY JURY
    D. SETTING ACTION FOR TRIAL
    E. PROPOSALS FOR SETTLEMENT

14. **JUDGMENTS AND POST-TRIAL MOTIONS**
    FCP CH. 14
    A. GENERALLY
    B. SUMMARY JUDGMENTS
    C. FORM OF JUDGMENT
    D. ENTRY AND RECORDATION OF JUDGMENT
    E. COSTS AND FEES
    F. INTEREST
    G. MOTION FOR NEW TRIAL OR REHEARING
    H. MOTION FOR RELIEF FROM JUDGMENT

15. **ENFORCEMENT OF JUDGMENTS**
    FCP CH. 15
    A. CONSENT JUDGMENTS
    B. EXECUTION AND FINAL PROCESS
    C. STAYS OF JUDGMENT
    D. DISCOVERY IN AID OF EXECUTION
    E. ATTACHMENT
    F. GARNISHMENT
    G. REPLEVIN

16. **APPEALS**
    FCP CHAPTER 16

**WRITING REQUIREMENTS:**

Students may, at their option, prepare and hand in a written assignment each week, beginning with the following dates:

1. Pre-filing documents, if any (to be completed by all firms) (due 8/22)
2. Complaint (plaintiffs) (due 8/29);
3. Defense Motions (defendants) (due 9/5);
4. Answer to Complaint (defendants) (due 9/12);
5. Written Interrogatories (all) (due 9/19);
6. Request to Produce (all) (due 9/26);
7. Notice of taking Deposition (all) (due 10/3);
8. Motion for Protective Order (all) (due 10/11);
9. Motion for Summary Judgment with new fact pattern (all) (due 10/24);
10. Special Interrogatory Verdict Form, returning to old fact pattern (all) (due 10/31);
11. Jury Instructions (all) (due 11/7);

The initial fact pattern is attached. Additional instructions will be distributed later.

**Grade:** Grades will be based on the result of an open-book, in class, final examination consisting of essay questions. In addition, grades may be bumped up for quality student participation and the voluntary writing assignments.

**Class Time:** Mondays and Wednesdays from 5:30 to 6:50 p.m.
Room 2005

**Office hours:** Mondays and Wednesdays from 5:00 to 5:30 p.m.
ASSIGNMENT FACT PATTERN

On November 7, 2009, at approximately 2:30 p.m., Nancy Lopez was driving a vehicle which was carrying a passenger, Sherry Pender. Lopez’s vehicle collided with a bus owned by the Broward County School Board. The bus was driven by Rey Rivera. Nancy is married to Carlos Fuentes. The accident occurred on the corner of Hollywood Boulevard and Park Road, Hollywood, Florida. Nancy was driving west on Hollywood Blvd., and as she approached the intersection, the light turned red. She stopped for the light, but the bus behind her did not, rear-ending the Fuentes vehicle with so much force that the 2006 Pontiac Grand Prix was a total loss.

For your first assignment, you are to team up with another member of the class to create a law firm for the rest of the semester. All assignments will be drafted and handed in by the law firm, which will be graded as a unit, so pick your partner carefully. Nancy and Carlos have just signed a retainer agreement for your firm to file suit.

For this first assignment, everyone will be representing the plaintiff. You will have to figure out if you have to do anything before filing suit, and if so, draft whatever it is you should be drafting, then turn it in before the second class. All law firms are required to complete this assignment.

For future assignments, select whether your firm will represent the plaintiff or the defendant and complete the assignments accordingly.

READING ASSIGNMENTS (all references are to FCP):

1. 8/15 Read from p. 3 to p. 29
2. 8/20 Read 30 to 51
3. 8/22 53 to 80
4. 8/27 80-98; 107-117
5. 8/29 117-118; 122-136; Custer Medical v United Auto; p. 138 (Metro Ford) to p.145
6. 9/4 145-177
7. 9/5 177-197; 199-206
8. 9/10 206-18; Brown v. Nagelhout, 221-237
9. 9/12 237-51; 253-258; 261 (Start with Notes and Problems) to 267
10. 9/17 267-301
11. 9/19 307-317; AmerUs Life v. Lait; 320-30
12. 9/24 330-60
13. 9/26 360-72; 373-91
14. 10/1 391-420
15. 10/3 Read Notes and Problems on p.421; 422 (starting with §8-3 to p. 435; 439-50
16. 10/8 451-81
17. 10/10 482-508; Sosa v. Safeway Premium Finance; Masztal v. City of Miami
18. 10/15 508-543
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<th>Date</th>
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<td>19. 10/17</td>
<td>546-563; 567-70; 576-96</td>
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<td>21. 10/24</td>
<td>648-59; 660-68; 678-87</td>
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<td>22. 10/29</td>
<td>689-704; 709-713; 717-26</td>
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<td>23. 10/31</td>
<td>726-33; A-1 Presto Roofing v. Espinosa; 749-57; 760-79</td>
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<td>24. 11/5</td>
<td>781-91; 795-803; 804; 808-09; 813-14; 816-21; 836-41</td>
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<td>25. 11/7</td>
<td>842-48; 852-53; 855-62; 869-73; 874-76; 880-91</td>
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<td>26. 11/14</td>
<td>Westgate Miami Beach, Ltd. v. Newport Operating Corp; 894-904; 906-09; 911-18; 922-27</td>
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<td>27. 11/19</td>
<td>933-36; 939-45; 949-51; 962-64; 965-80</td>
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<td>28. Make up class (TBA)</td>
<td>Review</td>
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