How to Write a Civil Procedure Exam

Follow your professor’s specific directions. In absence of specifics, consider the following:

• Read the call of the question first. What is it you are being asked to do: write a memorandum of law to a supervising attorney? Are you in the position of a law clerk being asked to advise a Judge in memorandum format? Respond accordingly.

• Using the UMD – Law Essay Outline Chart, before you respond in Blue Book or Exam Soft, map out the parties, the legal theories, the opposing parties, the defenses, noting the relevant facts that support each claim or defense.

• Analyze these legal theories from the opposing party’s point of view who will, of course, argue that the elements giving rise to the causes of action are not met or are met but otherwise justified.

• Unless otherwise instructed, jurisdictional issues of the parties should be mentioned up front:
  1. **Personal jurisdiction**  – Consider compliance with due process and long-arm statute concerns.
  2. **Subject matter jurisdiction**  – Is there a federal question or is there diversity of citizenship between the parties. Remember two-pronged test for diversity and mention it in the analysis.
  3. **Service of process**  – Statutory, constitutional, and due process considerations must be weighed.
  4. **Notice**  – Defendant must have opportunity to be heard/adequate time period in which to respond.
  5. **Venue**  – Consider forum non conveniens doctrine.

• Ancillary Jurisdiction – in some instances, usual jurisdictional rules may be suspended. Impleader, compulsory counter-claims, cross-claims, etc.

• Res Judicata and Collateral Estoppel – Consider these concepts; they are often tested in Civil Procedure exams.

• After analyzing the parties’ respective merits to the cause of action, read the call of the question again. You you may also be asked to answer whether the Judge should grant or deny a motion for summary judgment. Know clearly what is expected of you on the exam in order to respond comprehensively.
• A Civil Procedure exam lends itself to IRAC format. Signpost. Spend a few minutes at the end to re-read the fact pattern and refer to your Civ. Pro. checklist to see if there are issues or sub-issues you might have missed.

• Dot your i’s, cross your t’s, and proofread for grammar and legibility.

• Submit with confidence.