First Assignments (August 23, 24)

From: Richard D. Freer & Wendy Collins Perdue, CIVIL PROCEDURE: CASES, MATERIALS, AND QUESTIONS (7th ed., Carolina Acad. Press, 2016) [hereinafter F&P]. In addition, do purchase the green-covered 2016 Federal Rules of Civil Procedure (www.michlp.com) in the book store. You will become very familiar with this book, and it will be the one reference you can take with you into exams, so don’t fail to get it. Please see the syllabus for more on this.

Any other supplemental material for the class, including the article I am having you read from on the first day(s) of class, will be available on the WISE website for the class. Once you are connected to Willamette’s system, please login to wise.willamette.edu to enroll for the website. There, you will find this sheet, as well as the course syllabus and (within a couple of days) a first version of the reading chart for the class. For our first meeting (and all other meetings!), you should have read the day’s material and be prepared to discuss it in class.

I. INTRODUCTION: CIVIL PROCEDURE -- THEMES AND PROCESSES

1. 8/23-24 Decisions in Litigation

First Class Discussion: We will look at the facts of two cases with very different outcomes. First, in the next week or so we will be reading the U.S. Supreme Court decision in World Wide Volkswagen v. Woodson. While not obvious from the opinion, the case arose out of litigation prompted by a terrible accident, and was driven by the decisions made by counsel early in the litigation. The facts of that suit are summarized in the Nebraska Law Review article. Second, the Drake Law Review excerpt summarizes events captured more comprehensively in a 2008 book called A Measure of Endurance: The Unlikely Triumph of Steven Sharp. Steven Sharp was a high school student in Eastern Oregon when he was severely injured in an accident involving a hay baler manufactured by Case Corp., which is based in Wisconsin.

Read through the assigned material in the textbook, as well as both law review excerpts (they are short). Imagine you are an attorney and are approached by family members seeking assistance in each case. Should you litigate? What information do you need in order to do so? What decisions will you need to make about litigation in this case? These questions may be difficult to answer without a background in the law, but go with your common-sense reactions to start with; it’s good to begin by asking basic and creative questions – too many attorneys fail to do so, and their clients are the worse for it.

In addition to reviewing the basic process of litigation, we will also discuss broad themes and issues in the course, such as considerations of federalism (the relationship between federal and state governments), the effect of the structure and process of litigation on the parties, questions regarding choice of law, and the historic distinction between law and equity and its effect on the choice of remedies in litigation. As you read, consider how these issues apply to the facts of the cases above.

Reading:

• F&P 3-22 (you can leave section F, pp. 15-17, for Weds., August 24, if necessary).