Civil Procedure

I. Jurisdiction and Venue

- **Subject-Matter Jurisdiction** - the court's power over the type of case. A federal court must possess subject-matter jurisdiction over a dispute.
  - Federal Question Jurisdiction
    - Federal courts have jurisdiction to decide federal questions. This occurs when the plaintiff's well-pleaded complaint states a claim or cause of action that involves federal law.
    - The **Well-Pleaded Complaint Rule** makes the plaintiff "master of the claim" because they must affirmatively invoke federal subject-matter jurisdiction by pleading a federal-law claim. A case based on state law that could also support a federal claim will not be sufficient.
      - A federal defense is not sufficient for federal question jurisdiction.
  - **Diversity Jurisdiction**
    - Requirements:
      - **Complete diversity of citizenship** - no plaintiff can be from the same state as any defendant.
        - Citizenship is determined at the time of filing.
        - Individuals: citizenship is their domicile.
        - Corporations: citizenship is both their state of incorporation and principal place of business.
        - Unincorporated Entities: citizenship is each member's citizenship.
        - Class Actions: citizenship is based on the representative, not the class members.
      - **Amount in controversy exceeding $75,000**.
        - Must be pled in good faith.
        - Plaintiff can aggregate multiple claims to reach this amount.
        - Compulsory counterclaims do not require an independent jurisdictional basis.
        - Permissive counterclaims must have an independent basis, including amount in controversy.
    - **Forum-Defendant Rule**: If any defendant is a citizen of the forum state, the case cannot be removed to federal court.
  - **Supplemental Jurisdiction**
    - Allows a federal court to hear additional claims (state or federal) related to the original claim that gave the court jurisdiction.
    - Claims must arise from a "common nucleus of operative fact".
    - Limitations in Diversity Cases:
      - No supplemental jurisdiction over claims by plaintiffs against parties joined under Rules 14 (impleader), 19 (compulsory joinder), 20

(permissive joinder), or 24 (intervention).
        - No supplemental jurisdiction over claims by plaintiffs proposed to be joined under Rule 19, or seeking to intervene under Rule 24, if doing so would destroy diversity.
- **Personal Jurisdiction** - the court's power over the defendant. Must be established for each defendant.
    - Bases:
        - **Residency**: defendant resides in the state.
        - **Consent**: defendant agrees to be sued in the forum.
        - **Service**: defendant is served with process within the forum state (transient jurisdiction).
        - **Minimum Contacts**: defendant has sufficient connections with the forum state.
            - **General Jurisdiction**: defendant's contacts are so continuous and systematic that they are essentially "at home" in the state.
            - **Specific Jurisdiction**: defendant's claim arises from their specific contacts with the forum state. Contacts must be "purposefully undertaken" and foreseeable that they could be sued there.
                - **Stream of Commerce**: placing a product into the stream of commerce can create minimum contacts, but there is a split among courts on the exact test.
    - **Long-Arm Statute** - a state law that authorizes courts to exercise jurisdiction over non-resident defendants.
        - Federal courts apply the long-arm statute of the state where they are located.
    - **Constitutional Due Process** - jurisdiction must also satisfy the Due Process Clause of the Fourteenth Amendment. This requires that the defendant have minimum contacts with the forum state such that it is fair to require them to defend a lawsuit there.
    - **Traditional Limitations**:
        - **Forum Selection Clause**: a clause in a contract specifying where disputes will be litigated can be a significant factor in jurisdiction.
- **Territorial Jurisdiction** - the geographical reach of a court's power. Federal courts:
    - Have territorial jurisdiction over the state in which they are located.
    - May have nationwide jurisdiction granted by a federal statute.
    - **100-mile bulge rule**: jurisdiction over parties joined under Rules 14 or 19 served within 100 miles of the court, even if outside the state.
- **Notice and Service of Process**:
    - Due process requires that a defendant receive adequate notice of the lawsuit and an opportunity to be heard.
    - Notice must be reasonably calculated to inform the defendant. Personal service is always sufficient.
    - Proper service of process is essential for the court to obtain jurisdiction over the defendant.
- **Venue** - the proper geographic district for a case to be heard.
    - Federal venue is proper in the district where:
        - Any defendant resides, if all defendants reside in the same state.

        - A substantial part of the events or omissions giving rise to the claim occurred.
        - A substantial part of the property subject to the action is located.
        - If none of the above apply, where any defendant is subject to personal jurisdiction (fallback provision).
    - Venue can be waived if not objected to in the defendant's answer or pre-answer motion.
    - **Transfer of Venue**: A court may transfer a case to another venue for convenience or fairness.
    - **Forum Non Conveniens**: A court may dismiss a case, even if it has jurisdiction, if another forum is significantly more convenient and just.

II. Law Applied By Federal Courts

- **Erie Doctrine** - in diversity cases, federal courts apply state substantive law and federal procedural law.
    - **Substance vs. Procedure**: This distinction can be complex, but generally, federal courts apply:
        - State law for:
            - Statutes of limitations.
            - Choice-of-law rules.
        - Federal law for:
            - Right to a jury trial (7th Amendment).
    - **Rules Enabling Act**: Federal Rules of Civil Procedure are considered procedural and apply in federal courts, even in diversity cases.
    - **Supreme Court Cases**:
        - *Hanna v. Plumer* - federal rules apply if valid under Rules Enabling Act.
        - *Shady Grove Orthopedic Assocs. v. Allstate Ins.* - federal class action rules apply in diversity cases.
- **Federal Common Law** - law created by federal courts.
    - Exists to interpret Congressional intent or gaps in federal laws.
    - Examples: maritime law, foreign relations, suits involving the federal government.
    - State courts must apply federal common law when deciding issues of federal law.
    - There is **NO federal common law of state law matters**.

III. Pretrial Procedures

- **Pleadings** - formal documents that set forth the parties' claims and defenses.
    - Types:
        - **Complaint**: filed by the plaintiff to initiate the lawsuit. Must include:
            - Grounds for subject-matter jurisdiction.
            - Statement of facts supporting the claim.
            - Demand for judgment and relief sought.
        - **Answer**: filed by the defendant in response to the complaint. Must admit or deny the allegations and raise any affirmative defenses.
            - Time to serve: generally 21 days.
        - **Counterclaim**: claim by the defendant against the plaintiff.

        - **Cross-claim**: claim by one defendant against another defendant.
        - **Reply**: filed by the plaintiff in response to a counterclaim.
        - **Amendments**: a party can amend their pleading once as a matter of right within 21 days. Further amendments require permission from the court or consent from the other party.
        - **Relation Back Doctrine**: an amendment can relate back to the original filing date if it arises out of the same transaction or occurrence.
- **Rule 11**: requires attorneys to certify that pleadings are filed for a proper purpose, have legal and evidentiary support. Sanctions may be imposed for violations.
- **Provisional Relief** - temporary remedies available before trial.
    - **Preliminary Injunction** - prevents a party from taking action that would cause irreparable harm during the lawsuit.
        - Requirements:
            - Plaintiff likely to succeed on the merits.
            - Irreparable harm likely to occur without the injunction.
            - Balance of hardships favors the plaintiff.
            - Injunction is in the public interest.
    - **Temporary Restraining Order (TRO)** - similar to a preliminary injunction, but issued on an emergency basis without a full hearing.
        - Can be issued ex parte (without notice to the other side) in limited circumstances.
        - Effective for a short period of time (usually no more than 14 days).
    - **Permanent Injunction** - issued after trial if the plaintiff proves they are entitled to permanent relief.
    - **Declaratory Judgment** - court declares the rights and obligations of the parties without ordering specific action.
- **Joinder** - rules governing the addition of claims and parties to a lawsuit.
    - **Joinder of Claims**:
        - Plaintiff can join any claims against a defendant.
        - Defendant can assert counterclaims against the plaintiff.
        - **Compulsory Counterclaim**: arises from the same transaction or occurrence and must be brought in the same lawsuit. Failure to bring it will result in preclusion.
        - **Permissive Counterclaim**: does not arise from the same transaction or occurrence and can be brought in a separate lawsuit.
        - **Cross-claim**: claim by one defendant against another defendant arising from the same transaction or occurrence.
    - **Joinder of Parties**:
        - **Permissive Joinder**: multiple plaintiffs or defendants can join if their claims arise from the same transaction or occurrence and raise a common question of law or fact.
        - **Compulsory Joinder**: a party must be joined if:
            - Complete relief cannot be granted without them.
            - Their absence would impair their ability to protect their interests.
            - Their absence would expose existing parties to a risk of inconsistent obligations.

    - **Intervention**: a non-party can join the lawsuit if their interests are affected by it.
      - **Intervention as a Right**: allowed if a statute grants the right or if their interest is so significantly affected that they would be prejudiced if not allowed to intervene.
      - **Permissive Intervention**: allowed if a statute grants the right or if their claim shares a common question of law or fact with the existing claims.
  - **Impleader (Third-Party Practice)**: a defendant can bring a third party into the lawsuit who may be liable for all or part of the claim.
  - **Interpleader**: allows a party holding property or funds to bring all potential claimants into a single lawsuit to determine ownership.
  - **Class Actions**: allows a representative to sue on behalf of a large group of people with similar claims.
    - Requirements:
      - **Numerosity**: class is too large to be joined individually.
      - **Commonality**: common questions of law or fact exist among class members.
      - **Typicality**: representative's claims are typical of the class members.
      - **Adequacy of Representation**: representative will fairly and adequately represent the class.
    - **Notice**: must be given to all class members.
    - **Types**:
      - **Prejudice**: class action is necessary to avoid prejudice to the class members or the opposing party.
      - **Injunctive Relief**: appropriate when the defendant has acted or refused to act on grounds that apply generally to the class.
      - **Damages**: common questions of law or fact predominate over individual questions.
- **Pretrial Conferences and Orders**:
  - **Rule 26(f) Conference**: parties must meet to discuss discovery, disclosures, and settlement.
  - **Scheduling Order**: court sets deadlines for various pretrial activities.
  - **Pretrial Conferences**: court may hold conferences to manage the case and facilitate settlement.
  - **Final Pretrial Conference**: held close to trial to finalize trial issues and encourage settlement.
  - **Pretrial Order**: issued after the final pretrial conference to control the course of the trial.
- **Discovery** - process of obtaining information from the other party.
  - **Scope**: discoverable information is broadly defined as anything relevant to a party's claim or defense, proportional to the needs of the case, and not privileged. Relevant information need not be admissible at trial.
    - **Relevance**: information is relevant if it is likely to make any fact at issue more or less probable.
  - **Methods**:
    - **Interrogatories**: written questions answered under oath.

    - **Requests for Production**: requests for documents or other tangible things.
    - **Depositions**: oral or written examinations under oath.
    - **Requests for Admission**: requests for the other party to admit or deny facts.
    - **Physical or Mental Examinations**: available only if a party's physical or mental condition is in controversy. Requires a court order and good cause.
  - **Required Disclosures**:
    - **Initial Disclosures**: basic information about the case, including witnesses and documents supporting claims and defenses.
    - **Expert Testimony**: parties must disclose their expert witnesses and their reports.
    - **Pretrial Disclosures**: information about evidence and witnesses to be used at trial.
  - **Limitations**:
    - **Privilege**: certain information is protected from discovery, such as attorney-client communications and work product.
    - **Work Product Doctrine**: protects materials prepared in anticipation of litigation by a party or their representative.
      - Exception: discoverable if the other party shows substantial need and undue hardship in obtaining the information elsewhere.
      - Mental impressions and legal theories of attorneys are absolutely protected.
    - **Expert Witness Protections**: draft reports and communications between attorneys and expert witnesses are generally protected, except for:
      - Information relating to compensation.
      - Facts, data, and assumptions relied upon by the expert.
    - **Protective Orders**: court can limit discovery to prevent harassment, annoyance, or undue expense.
  - **Duty to Preserve Evidence**: parties have a duty to preserve relevant evidence. Failure to do so can result in sanctions.
  - **Sanctions**: available for discovery violations.
- **Adjudication without Trial**
  - **Voluntary Dismissal**: plaintiff can dismiss their claim without prejudice before the defendant answers or files a motion for summary judgment. After that, they need court permission.
  - **Default Judgment**: entered against a defendant who fails to respond to the complaint.
  - **Settlement**: parties can agree to resolve their dispute out of court.
  - **Summary Judgment**: granted when there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law.
  - **Judgment as a Matter of Law (JMOL)** (formerly directed verdict): granted if a party has not presented sufficient evidence to support their claim.
    - Can be made before or after the case goes to the jury.
  - **Renewed Motion for JMOL**: can be made after the jury verdict if the initial JMOL was denied.
  - **Motion for a New Trial**: granted if there are serious errors in the trial that affected the outcome, such as juror misconduct or newly discovered evidence.

    - **Rule 60 Motion**: allows relief from a judgment for various reasons, such as mistake, fraud, or newly discovered evidence.
- **Trial**:
    - **Right to a Jury Trial**: guaranteed by the 7th Amendment for legal claims. Equitable claims are not subject to a jury trial.
        - Demand: must be made within 14 days of the last pleading addressing the issue.
        - Waiver: failure to demand a jury trial results in waiver.
    - **Jury Selection (Voir Dire)**: process of questioning potential jurors to determine their suitability.
        - Challenges:
            - **For Cause**: unlimited challenges to jurors who are biased or unqualified.
            - **Peremptory**: limited number of challenges that can be used for any reason except race or gender.
    - **Jury Instructions**: judge instructs the jury on the applicable law. Parties can submit proposed instructions and object to the judge's instructions.
- **Verdicts and Judgments**:
    - **Types of Verdicts**:
        - **General**: jury finds for the plaintiff or defendant without specific findings of fact.
        - **Special**: jury answers specific questions of fact, and the judge applies the law to reach a verdict.
    - **Judgment**: formal decision of the court that resolves the case.
- **Post-Trial Motions**: see Adjudication without Trial above.
- **Appealability and Review**:
    - **Final Judgment Rule**: generally, only final judgments can be appealed.
    - **Exceptions**: some interlocutory orders, such as those granting injunctions, can be immediately appealed.
    - **Standards of Review**:
        - **De Novo**: for questions of law, the appellate court gives no deference to the lower court's ruling.
        - **Abuse of Discretion**: for discretionary rulings, the appellate court will only overturn if the lower court made a clear error.
        - **Clearly Erroneous**: for findings of fact, the appellate court will only overturn if the finding is clearly against the weight of the evidence.
- **Preclusion (Res Judicata and Collateral Estoppel)**:
    - **Claim Preclusion (Res Judicata)**: prevents a party from relitigating the same claim that was decided in a prior lawsuit.
        - Requirements:
            - **Same claim** (transaction or occurrence) was involved in both lawsuits.
            - **Same parties** were involved in both lawsuits.
            - Prior judgment was **final and valid** and **on the merits**.
    - **Issue Preclusion (Collateral Estoppel)**: prevents a party from relitigating a specific issue that was actually litigated and decided in a prior lawsuit.
        - Requirements:
            - Issue was **actually litigated and decided** in the prior lawsuit.

        - Issue was **essential to the judgment** in the prior lawsuit.
        - Party against whom preclusion is asserted had a **full and fair opportunity to litigate** the issue.

IV. Jury Trials

- **Right to a Jury Trial**
    - The **Seventh Amendment** guarantees the right to a jury trial in **civil cases** in federal court.
    - This right applies to **actions at law**, where the remedy sought is **money damages**.
    - There is **no right to a jury trial in equitable claims**, such as claims for injunctions or specific performance.
- **Demand for a Jury Trial**
    - A party who is entitled to a jury trial **must file a written demand with the court and serve it on the other parties**.
    - This **demand must be made within 14 days** after the last pleading directed to the issue for which a jury trial is sought is served.
    - **Failure to file a demand within the time limit constitutes a waiver of the right to a jury trial.**
- **Jury Selection**
    - **Voir dire** is the process of questioning potential jurors to determine their qualifications and impartiality.
    - **Challenges for Cause:** These are used to remove potential jurors who are biased or otherwise unqualified. There is no limit on the number of challenges for cause.
        - **General Disqualification:** A person may be disqualified from jury service because of a felony conviction or other reason.
        - **Implied Bias:** Removal of a juror when the attorney believes a bias may exist (e.g., a relationship with one of the parties or attorneys).
        - **Actual Bias:** Jurors are removed when they indicate that they will decide the case based on predetermined beliefs rather than on the facts of the case.
    - **Peremptory Challenges:** These allow parties to strike potential jurors without having to give a reason, although they **cannot be used to discriminate on the basis of race or gender**. Each party typically has three peremptory challenges in civil cases.
- **Jury Instructions**
    - The judge instructs the jury on the law that applies to the case.
    - Parties may submit proposed jury instructions.
    - **Objections to jury instructions must be made on the record before the jury retires to deliberate** or they are waived.
- **Jury Verdicts**
    - Unless the parties agree otherwise, **jury verdicts in federal court must be unanimous and returned by at least 6 jurors**.
    - **Types of Verdicts:**
        - **General Verdict:** The jury simply states who wins and the amount of damages, if any.

    - **Special Verdict:** The jury answers specific questions about the facts of the case, and the judge applies the law to those findings.
    - **General Verdict with Answers to Interrogatories:** Combines a general verdict with answers to specific questions.
        - **If the answers are consistent with the general verdict, the court enters judgment accordingly.**
        - **If the answers are inconsistent with each other or with the general verdict, the court may ask the jury to reconsider, order a new trial, or enter judgment based on the answers.**
- **Jury Deliberations**
    - Jury deliberations are **private** and involve only the jurors.
    - **Jurors may communicate with the judge in writing if they have questions**.

V. Motions

- **General Rules**
    - A motion is a request for a court order.
    - Motions must be **in writing**, state the grounds for the request, and request specific relief.
    - Local rules and court orders may govern the timing and procedure for filing motions.
- **Pre-Trial Motions**
    - **Motion to Dismiss (Rule 12(b))**
        - Used to dismiss a case for various reasons, including:
            - **Lack of Subject-Matter Jurisdiction:** Can be raised at any time.
            - **Lack of Personal Jurisdiction:** Must be raised in a pre-answer motion or answer.
            - **Improper Venue:** Must be raised in a pre-answer motion or answer.
            - **Insufficient Process or Service of Process:** Must be raised in a pre-answer motion or answer.
            - **Failure to State a Claim Upon Which Relief Can Be Granted:** Can be raised in any pleading or at trial. This motion tests the **plausibility** of the claim, meaning that the complaint must allege enough facts to support a reasonable inference that the defendant is liable for the alleged misconduct.
            - **Failure to Join a Necessary or Indispensable Party:** Can be raised in any pleading or at trial.
        - **Waiver:** Defenses based on lack of personal jurisdiction, improper venue, insufficient process, or insufficient service of process are **waived** if not raised in a pre-answer motion or the answer.
    - **Motions Addressed to the Face of Pleadings**
        - **Motion for a More Definite Statement:** Asks the court to order the other party to clarify a vague or ambiguous pleading.
        - **Motion to Strike:** Asks the court to remove irrelevant, redundant, or scandalous material from a pleading.
        - **Motion for Judgment on the Pleadings:** Asks the court to enter judgment based on the pleadings alone, without a trial.

- **Motion for Summary Judgment (Rule 56)**
  - Asks the court to enter judgment because **there is no genuine dispute of material fact** and the moving party is entitled to judgment as a matter of law.
  - **The court must view the evidence in the light most favorable to the non-moving party**.
  - **Procedure:**
    - The moving party must support its motion with evidence.
    - The non-moving party must respond with evidence showing that there is a genuine dispute of material fact.
    - **The court may consider materials in the record not cited by the parties**, except for electronically stored information.
- **Motions During and After Trial**
  - **Motion for Judgment as a Matter of Law (JMOL) (Rule 50)**
    - Formerly known as a **directed verdict**.
    - Asks the court to **enter judgment because no reasonable jury could find for the non-moving party.**
    - **Timing:**
      - Can be made at any time before the case is submitted to the jury.
      - **To preserve the right to file a renewed JMOL motion after the verdict, a party must have moved for JMOL before the case went to the jury.**
  - **Renewed Motion for Judgment as a Matter of Law (Rule 50)**
    - Formerly known as a **judgment notwithstanding the verdict (JNOV)**.
    - Essentially the same as a JMOL, but made **after the jury has returned a verdict**.
    - **Must be filed within 28 days after the entry of judgment.**
  - **Motion for a New Trial (Rule 59)**
    - Asks the court to order a new trial because of an error in the first trial, such as:
      - **Prejudicial error**: This standard requires the party seeking a new trial to show that an error occurred and that the error was prejudicial, meaning that it affected the outcome of the trial.
      - **Jury's verdict is against the weight of the evidence**
      - **Juror misconduct**
    - **Timing:** Must be filed within **28 days after the entry of judgment**.
  - **Rule 60 Motion**
    - Used to **relieve a party from a final judgment** for various reasons, including:
      - **Mistake, inadvertence, surprise, or excusable neglect**
      - **Newly discovered evidence**
      - **Fraud, misrepresentation, or other misconduct**
      - **Judgment is void** (e.g., for lack of jurisdiction)
      - **Judgment has been satisfied, released, or discharged**
      - **Any other reason justifying relief** (catch-all provision)
    - **Timing:** Generally, must be filed **within a reasonable time**, and no later than **one year after the judgment** for reasons 1-3.

VI. Verdicts and Judgments

- **Default Judgments**
  - Entered when a **defendant fails to appear or defend a lawsuit**.
  - The plaintiff must file a motion for default judgment.
  - **The court may hold a hearing to determine the amount of damages**, and the defaulting party must receive notice of the hearing.
  - A default judgment can be set aside for **good cause**, such as a meritorious defense.
  - A **final default judgment** may be set aside by a Rule 60 motion.
- **Involuntary Dismissal**
  - The court may dismiss a case on its own motion or on the motion of a party.
  - Grounds for involuntary dismissal include:
    - **Failure to prosecute**
    - **Failure to comply with court orders or rules**
- **Unless the dismissal order states otherwise, it operates as an adjudication on the merits**.
- **Judicial Findings and Conclusions**
  - In a **bench trial (a trial without a jury), the judge must make findings of fact and conclusions of law on the record**.
  - These findings and conclusions must be stated in a separate document or on the record.
- **Claim and Issue Preclusion**
  - **Claim Preclusion (Res Judicata):** Prevents a party from relitigating a claim that was or could have been raised in a prior action.
    - **Elements:**
      - **Valid, final judgment on the merits** in the prior action
      - **Same parties** or parties in privity in both actions
      - **Same claim** or cause of action in both actions
  - **Issue Preclusion (Collateral Estoppel):** Prevents a party from relitigating an issue that was actually litigated and decided in a prior action, **even if the second action involves a different claim**.
    - **Elements:**
      - **Valid, final judgment on the merits** in the prior action
      - **Same issue** was actually litigated and decided in the prior action
      - **Issue was essential to the judgment** in the prior action
      - **Party against whom issue preclusion is asserted had a full and fair opportunity to litigate the issue** in the prior action

VII. Appealability and Review

- **Final Judgment Rule**
  - **Generally, only final judgments are appealable.**
  - A final judgment is one that **disposes of all claims and parties in the case**.
- **Exceptions to Final Judgment Rule**
  - **Interlocutory Appeals**
    - An interlocutory order is an order that is not a final judgment.

    - Certain interlocutory orders are immediately appealable, including:
        - **Orders granting, denying, continuing, modifying, dissolving, or refusing to dissolve injunctions**
        - **Orders appointing receivers**
        - **Orders determining the rights and liabilities of parties in admiralty cases**
        - **Orders granting or denying class certification**
    - **Interlocutory Appeals Act (28 U.S.C. § 1292(b))**: Allows for discretionary interlocutory appeals of orders involving **controlling questions of law** when an immediate appeal would **materially advance the ultimate termination of the litigation**.
    - **Collateral Order Doctrine**: Allows for immediate appeal of orders that:
        - **Are collateral to the merits of the case**
        - **Conclusive resolve a particular issue**
        - **Effectively unreviewable on appeal from a final judgment**
  - **Partial Final Judgments (Rule 54(b))**
    - When an action involves **multiple claims or parties**, and the court has entered a final judgment as to **fewer than all claims or parties**, the court may certify that there is no just reason to delay an appeal.
- **Standards of Review**
  - Appellate courts review lower court decisions using different standards of review, depending on the type of decision being appealed.
  - **Questions of law** are reviewed **de novo**. This means the appellate court reviews the issue as if it were deciding it for the first time, giving no deference to the lower court's ruling.
  - **Questions of fact** are reviewed under the **clearly erroneous standard** for bench trials and the **substantial evidence standard** for jury trials. This means the appellate court will only overturn the factual findings if they are clearly wrong or not supported by substantial evidence.
  - **Discretionary rulings** are reviewed under the **abuse of discretion standard**. This is a highly deferential standard that gives trial court judges wide latitude in making decisions.
- **Harmless Error Rule**
  - An appellate court **may affirm a judgment even if there was error below**, if the error was harmless and did not affect the outcome of the case.
- **Preservation of Error**
  - **To preserve an issue for appeal, a party must generally object to the error at the trial level**.
  - **The objection must be timely and specific**.
  - **Failure to properly object waives the issue on appeal**.
  - **Exception: Plain Error** An appellate court may review a plain error that affects substantial rights, even if it was not properly preserved below. This is a narrow exception that is rarely applied.

Additional Considerations for the UBE:

- **Erie Doctrine:** In diversity cases, federal courts must apply **state substantive law** (including statutes and common law) and **federal procedural law.**
- **Preclusion in Diversity Cases:** The preclusive effect of a federal judgment in a diversity case is determined by federal law, which generally looks to the preclusion law of the state where the federal court sat.
- **Removal:** A defendant may be able to remove a case from state court to federal court if the federal court has subject-matter jurisdiction.
- **Notice Pleading:** Under the Federal Rules of Civil Procedure, a complaint must contain a **short and plain statement of the claim showing that the pleader is entitled to relief.** This is known as notice pleading and requires only enough information to give the defendant fair notice of the claim.
- **Discovery:** Parties may obtain information from each other through various discovery devices, including interrogatories, depositions, requests for production, and requests for admission. Discovery is broad in scope but is subject to certain limitations, such as privilege and work-product protection.
- **Class Actions:** A class action allows a representative plaintiff to sue on behalf of a large group of people who have similar claims. To proceed as a class action, the lawsuit must meet certain requirements, including numerosity, commonality, typicality, and adequacy of representation.

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