The Authors	3			
List of Abbreviations	15			
Preface	17			
General Introduction	19			
§1. GENERAL BACKGROUND				
§2. DELIMITATION OF THE SUBJECT MATTER	23			
I. Definition of the Term "Civil Procedure"	23			
II. Distinction from Other Types of Procedure	23			
§3. SOURCES OF CIVIL PROCEDURE LAW	25			
§4. GENERAL FEATURES OF THE ADMINISTRATION OF JUSTICE IN CIVIL	26			
MATTERS	26			
I. Characteristics of the Procedure	26			
II. Fundamental Guarantees	27			
Selected Bibliography	29			
Part I. Judicial Organization	37			
Chapter 1. The Courts and Their Members	37			
§1. COURTS	37			
I. Structure of the Federal Court System	37			
A. District Courts	37			
B. Courts of Appeals	39			
C. The Supreme Court	40			
II. Structure of the States' Court Systems	41			
III. Administration of the Courts	43			
A. Administrative Offices	43			
B. Judicial Councils	44			
C. Court Funding	44			

	IV.	"Mi	inistère Public"	44
	V.	App	pointment of Judges	45
		Α.	Selection of Federal Judges	45
			1. Appointment and Confirmation	45
			2. Appointment without Confirmation	47
			3. Background of Federal Judges	47
		B.	Selection of State Judges	48
			1. Elections	48
			2. Appointments	49
			3. Merit Selection	49
§2.	ME	MBE	RS OF THE JUDICIARY	50
	I.	Inco	ompatibilities	50
		A.	Recusal	50
		B.	2007 Model Code of Judicial Conduct	51
	II.	Enc	d of Functions	52
		A.	Federal Judges	52
		B.	State Judges	52
	III.		cipline	53
		A.	House Impeachment and Senate Conviction of Federal Judges	53
		B.		54
			Informal Sanctions	54
		D.	Certification as Disabled	55
Chap	oter	2.	The Bar	56
§1.	Exi	RCIS	SE OF THE LEGAL PROFESSION	56
3	I.		nditions for Admission	56
	1000		Membership in the Bar	56
	II.		thts and Duties	57
			cipline and Regulatory Organizations	58
Chap	oter	3.	Bailiffs and Other Non-Judicial Court Employees	61
§1.	Етн	HICS		61
Dont	TT	T,	urisdiction	63
Part	11.	JU	irisdiction	05
Chap	oter	1.	Domestic Jurisdiction	63
§1.	Sui	BJEC'	T-MATTER JURISDICTION	63
	I.	Fac	ctors to be Taken into Account	63
	II.	Ma	in Claims and Ancillary Claims	64
	III.	Ove	erview of the Jurisdiction of the Different Courts	64
	IV.	Sub	oject-Matter Jurisdiction of State Courts	65
		A.	Trial Courts	65

		В.	Appellate Courts	66
	V.	Sul	oject-Matter Jurisdiction of Federal Courts	67
		A.	Trial Courts	67
			 Overview of the Jurisdiction of the Federal District Courts 	67
			2. Federal-Question Jurisdiction (28 U.S.C. §1331)	69
			3. Diversity Jurisdiction (28 U.S.C. §1332)	72
			4. Admiralty Jurisdiction (28 U.S.C. §1333)	80
			5. Suits Against Foreign Sovereigns (28 U.S.C. § 1330)	83
			6. Supplemental Jurisdiction (28 U.S.C. §1367)	85
			7. Right of Removal (28 U.S.C. §§1441-1447)	88
		B.	Appellate Courts	92
§2.	TEI	RRITO	ORIAL JURISDICTION AND VENUE	93
	I.	Fac	etors to be Taken into Account	93
	II.	Ma	in Claims and Ancillary Claims	94
	III.	Ov	erview of the Different Rules	95
	IV.	Fed	leral Constitutional Regulation of State Court Territorial	98
		Jur	isdiction	
		A.	Full Faith and Credit Standards	98
		В.	Initial Due-Process Standards	99
		C.	Reformulation of Due-Process Standards as Requiring "Minimum Contacts"	100
		D.	Six-Step Approach to Minimum-Contacts Analysis	101
			1. Contact	102
			2. Purposefulness	102
			3. Tag Jurisdiction	103
			4. General Jurisdiction	103
			5. Specific Jurisdiction	105
			6. Reasonableness	107
		E.	Recent Decisions	110
		F.	5 1 11	112
			1. Contact	112
			2. Purposefulness	112
			3. Tag Jurisdiction	112
			4. General Jurisdiction	113
			5. Specific Jurisdiction	113
	3.7	C .	6. Reasonableness	113
			te "Long-Arm" Statutes	113
	VI.		Territorial Jurisdiction of Federal District Courts	116
			Constitutional Scope	116
	1/11	B.	Statutory Restriction	116
82			ritorial Jurisdiction Based on Consent or Waiver	118
§3.	I.		TION OF JURISDICTIONAL CONFLICTS thoritative Tribunals	120 120
	1.	Au	HOTHALIVE THOUHAIS	120

		cedural Incidents	120
	III. Pre	clusive Effect	122
Cha	pter 2.	International Jurisdiction	124
§1.	RULES A	APPLICABLE IN THE ABSENCE OF A TREATY	124
§2.		ATIONAL TREATIES	124
Part	III. A	ctions and Claims	127
Cha	pter 1.	Actions	127
§1.	Types (OF ACTIONS	127
3		linary Civil Actions	128
		Definition	128
	В.	Initiation	129
	II. Dec	claratory-Judgment Actions	129
		ass Actions	131
§2.	PARTIES	S TO AN ACTION	135
3	I. Car	pacity to Sue and Interest in the Litigation	135
		isdictional "Standing" Requirements	136
		Federal Courts	136
	В.	State Courts	137
§3.	VEXATI	OUS LITIGATION	139
Cha	pter 2.	Pleading and Joinder of Claims and Defenses	140
§1.	DEFINIT	TIONS	140
	I. Cla	aims	140
	II. De	fenses	141
§2.	DISTING	CTIONS	142
	I. Joi	nder in the Complaint	143
	A.	Claims	143
	B.	Parties	144
		 Permissive Joinder 	144
		2. Compulsory Joinder	145
		3. Interpleader	146
	II. Joi	nder in Reaction to a Prior Pleading	147
	A.	Counterclaims	147
	B.		148
	C.	Impleader of Third Parties	149
	D.		150
	III. Co	nsolidation and Severance of Claims and Parties	15
Cha	pter 3.	Sanctions	153

§1.	PR	OCEE	DURAL IRREGULARITIES	153
	I.	For	rmal Requirements	153
	II.	Tin	ne Limits	153
	III.	Sta	tutes of Limitations	153
§2.	LIT	'IGA'I	TIVE MISCONDUCT	155
1000 1000 1000	I.	Ru	le 11 Sanctions	156
	II.	Sar	nctions Under 28 U.S.C. §1927	156
	III.	Inh	erent Sanctioning Powers	157
	IV.	Sta	te Sanctioning Provisions	157
Part	IV.	P	roceedings	159
Cha	pter	1.	Initial Proceedings	159
Cha	pter	2.	Proceedings Leading to Judgment	160
§1.	AD	VERS	SARY PROCEEDINGS	160
0	I.	Inti	roduction of the Claim	160
		A.	Notice	160
			1. The Constitutional Test	160
			2. Statutory Requirements and Mechanics of Service of Process	162
		В	Pretrial Law and Motion Practice	164
		Ъ.	Complaint	164
			2. Responses to the Complaint	167
			3. Amendments to the Pleadings	170
	II.	Pro	gress of Proceedings	171
			Discovery	171
			1. Depositions	173
			2. Interrogatories	174
			3. Requests to Produce Documents and Other Tangible	174
			Things and for Entry onto Real Property	
			4. Physical and Mental Examinations	175
			5. The Adversarial Nature of Discovery, the Problem of	175
			Discovery Abuse, and the Disclosure Idea	
			6. Duty to Supplement Responses	176
			7. International Discovery	177
		B.		180
			Federal Summary-Judgment Standards	181
			2. State Summary-Judgment Standards	183
		C.	The Trial	184
			1. Trial Process Overview	185
			2. Right to Jury Trial	186
		D.	Judgment	187

	E. Post-Verdict Motions	188
Cha	apter 3. Review Proceedings	189
§1.	I. Who May Seek Appellate Review II. When Appeal Can Be Had III. The Mechanics of Appeal IV. The Scope of Appellate Review V. Appealing from an Appellate Court	189 189 190 192 193
Par	t V. Incidents	195
Cha	apter 1. Judicial Disqualification	195
§1.	DISQUALIFICATION FOR CAUSE I. Federal Provisions II. State Provisions DISQUALIFICATION PROCEDURE I. Federal Practice II. State Practice	195 196 196 197 197
Cha	apter 2. Preliminary Injunctions	199
§1. §2. §3.	TEMPORARY RESTRAINING ORDERS PRELIMINARY INJUNCTIONS INJUNCTIVE RELIEF INCIDENT TO ARBITRATION	199 200 201
Part	t VI. Legal Aid and Legal Costs	203
Cha	apter 1. Legal Aid	203
Cha	apter 2. Legal Costs	206
§1.	ATTORNEYS' FEES I. The American Rule II. The Contingency Fee	206 206 207
Part	t VII. Evidence	209
Cha	apter 1. Introduction	209
Cha	apter 2. Presumptions and Burdens of Proof	210
§1. §2.	DEFINITIONS APPLICABILITY TO SUMMARY JUDGMENT	210 211

Cha	pter 3. Admissibility and Categories of Evidence	212
§1.	RELEVANCE AND PREJUDICE	212
§2.	SPECIFIC CATEGORIES OF RELEVANT EVIDENCE	213
	I. Character Evidence	213
	II. Subsequent Remedial Measures	214
	III. Compromise and Offers to Compromise	214
	IV. Liability Insurance	215
§3.	THE HEARSAY RULE AND EXCEPTIONS	215
	I. Admissions	216
	II. Unavailability Exceptions	216
	III. Declarations against Interest	217
	IV. Dying Declarations	217
	V. Comparability Exceptions	217
	VI. Excited Utterances	218
	VII. Present Sense Impression	218
	VIII.Statement of Recent Perception	218
	IX. Statements of Present Physical Condition or State of Mind	218
	X. Present and Past Recollection	219
	XI. Business Records	219
	XII. Public Records	220
Cha	pter 4. Administration of Evidence	221
§1.	Types of Evidence	221
§2.	AUTHENTICATION AND IDENTIFICATION	221
§3.	BEST EVIDENCE RULE	222
§4.	WITNESS COMPETENCY	222
§5.	OPINION TESTIMONY	223
30.	I. Lay Opinion	223
	II. Expert Opinion Testimony	224
	A. The <i>Frye/Daubert</i> Debate	225
	B. Bases for Expert Testimony	225
§6.	IMPEACHMENT OF A WITNESS	226
J	I. Capacity	226
	II. Character	226
	III. Bias	227
	IV. Prior Inconsistent Statements	227
C1		
Cha	pter 5. Privileges	228
§1.	GENERALLY	228
§2.	SPECIFIC PRIVILEGES	229
	I. Attorney-Client Privilege	229
	II. Clergy-Communicant Privilege	231

III. Spousal PrivilegesIV. Doctor-Patient PrivilegeV. Other Possible Privileges	232 233 233
Part VIII. Particular Proceedings	235
Chapter 1. Divisible Divorce	235
Chapter 2. Admiralty Procedure	237
Chapter 3. Fast-Track Proceedings	238
Part IX. Preliminary Seizure and Enforcement of Judgments	241
Chapter 1. Preliminary Seizure	241
 §1. Introduction §2. Proceedings §3. Judicial Review §4. Preliminary Injunctions versus Attachments 	241 241 242 242
Chapter 2. Enforcement of Judgments	243
 §1. ENTRY OF JUDGMENT §2. ENFORCEMENT OF DOMESTIC JUDGMENTS I. Proceedings II. Special Issues of Enforcement A. Enforcing Judgments in Multiple Jurisdictions B. Enforcing Federal Court Judgments §3. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS I. Introduction II. Rules Applicable in the Absence of a Treaty 	243 243 245 245 246 247 247
Chapter 3. Preclusion	250
§1. INTRODUCTION §2. RES JUDICATA §3. COLLATERAL ESTOPPEL §4. INTER-SYSTEM PRECLUSION	250 250 252 254
Part X. Arbitration	255
Chapter 1. Introduction	255
§1. GOALS OF ALTERNATIVE DISPUTE RESOLUTION (ADR) L. Efficient Resolution of Disputes	255 255

	II. Lower Costs	255
	III. Privacy and Confidentiality	256
	IV. Certainty and Finality of Resolution	256
	V. Flexibility of Procedures and Formation of Resolutions	256
	VI. Promotion of Success of Future Relationships between the Parties	256
Chap	pter 2. Historical Background	258
§1.	TRADITIONAL HOSTILITY	258
§2.	STATUTORY DEVELOPMENT	258
	I. Federal Arbitration Act	258
	II. The New York Convention	260
	III. Uniform Arbitration Act	260
§3.	MODERN ATTITUDES	261
	I. Legislation	262
	II. Other	263
Chap	pter 3. Types of ADR	264
§1.	NEGOTIATION	264
§2.	ARBITRATION	264
	I. Binding Arbitration	265
	II. Non-Binding Arbitration	265
§3.	MEDIATION	266
§4.	MEDIATION-ARBITRATION HYBRIDS	267
§5.	CONCILIATION	268
§6.	SUMMARY JURY TRIAL	268
§7.	MINITRIAL	271
§8.	FACT-FINDING	271
§9.	EARLY NEUTRAL EVALUATION	271
§10.	PRIVATE JUDGING	272
§11.	COURT-ANNEXED ADR	273
Chap	oter 4. Lex Arbitri	275
§1.	FEDERAL LEX ARBITRI	275
§2.	STATE LEX ARBITRI	276
Chap	oter 5. Enforcement of Arbitration Awards	277
§1.	PRE-AWARD ATTACHMENT	277
§2.	Enforcement	277
	I. Domestic Awards	277
	II. International Awards	278
	A. The New York Convention	278

	B.	The Panama Convention	279
Cha	pter 6.	Special Issues in ADR	281
§1.	NEGOT	TATED RULEMAKING	281
§2.	PUNITI	VE DAMAGES	281
§3.	MULTI-	-Door Courthouse	282
§4.	NEIGHI	BORHOOD JUSTICE CENTERS	283
§5.	STATE	OFFICES OF MEDIATION	283
Cha	pter 7.	The Future of ADR	284
Inde	ex		285