

## SAMPLE CIVPRO OUTLINE WITH ANALYSIS STEPS

### I. CLASS ACTIONS

#### A. Class Certification Analysis

##### Step 1 – Prerequisites – **FRCP 23(a)**

- The **class is so numerous** that joinder of all members is impractical (40 usually enough);
- There are **questions of law or fact common** the class;
- The claims or defense of the **representative parties are typical** of the claims or defenses of the class; **and**
- The representative parties will **fairly and adequately protect the interests** of the class.
  - Class reps must have substantial stake
  - Class counsel must be competent
  - No internal antagonism w/i the class

**If all these met, go to Step 2**

##### Step 2 – Class Action Maintainable – **FRCP 23(b)**

**One of the following must exist:**

1. **Prejudice.** Prosecution of separation actions would create a risk of:
  - Inconsistent or varying adjudications w/ respect to the individuals; or
  - Adjudications of individual members would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair their interests
2. **Injunctive or declaratory relief.** The party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief w/ respect to the whole class.
3. **Damage.** Members tied together b/c by claim that they have been injured in some way by  $\Delta$ . Two prerequisites:
  - Questions of law or fact common to the class members **must predominate over any questions affecting only individual** class members.
  - Court must find that a **class action is superior to other available methods** for the fair and efficient adjudication of the controversy.  
**Factors to be considered:**
    - Interest of members of the class in individually controlling the prosecution or defense of separate actions
    - Extent and nature of any litigation concerning the controversy already commenced by or against members of the class
    - Desirability or undesirability of concentrating the litigation of the claims in the particular forum
    - Difficulties likely to be encountered in the management of a class action.