

Civil Procedure

Elon Law School
Fall 2020
MWF 8:00–9:45 am
Rooms 204, 207, 211

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Description

In this course, you will learn about the procedures for civil suits. You will also learn how to understand and use primary legal texts (constitutions, statutes, rules, & judicial opinions) as tools for analyzing legal problems and making legal arguments. While the course will focus on federal courts, the rules of civil procedure in many states (including North Carolina) are similar.

Topics to be covered include the scope of a lawsuit, selection of an appropriate forum, presentation of claims and defenses, choice of applicable law, disposition without a trial, and the effect of judgments on future litigation. Other aspects of civil litigation (e.g., discovery, trials, & appeals) are covered in upper-level elective courses.

Required Materials

Click & Learn: Civil Procedure (Carolina Academic Press)

All other assigned reading (cases, statutes, rules, etc.) are available online via the course site, emfink.net/CivilProcedure. The course site also has subject outlines, visual aids, review problems, and past exam questions.

Policies

Grading

Your final grade for the term will be based on review quizzes (40% total) and a final exam (60%).

- The review quizzes will consist of multiple choice questions and will be open-book/open-notes. You will take the quizzes outside of class on Click to Learn, as indicated in the Course Schedule section below.
- The final exam will consist of short-answer and essay questions and will be closed-book/closed-notes. You will take the exam online during the exam period.

Class Preparation, Attendance, & Participation

Successful performance in this course depends on completion of all reading assignments before class, regular and prompt class attendance, and constructive engagement during class.

Elon Law School's standards and ABA guidance for awarding course credit assume at least two hours of out-of-class student work for each hour of classroom instruction.

Elon Law School has adopted the following attendance policy for all courses:

The Law School administers a policy that a student maintain regular and punctual class attendance in all courses in which the student is registered, including externships, clinical courses, or simulation courses. Faculty members will give students written notice of their attendance policies before or during the first week of class. These policies may include, but are not limited to: treating late arrivals, early departures, and/or lack of preparation as absences; imposing grade or point reductions for absences, including assigning a failing grade or involuntarily withdrawing a student from the class; and any other policies that a professor deems appropriate to create a rigorous and professional classroom environment.

In case of illness or emergency, students may contact the Office of Student and Professional Life, which will then notify the student's instructors. A student may notify the faculty member directly of a planned absence and should refer to individual faculty members regarding any policy that may apply. In the case of prolonged illness or incapacity, the student should contact the Office of Student and Professional Life.

Disability Accommodations

For disability accommodation requests, contact the Elon Law Registrar's Office.

Honor Code

The Law School honor code applies to all activities related to your law school study, including conduct during class and examinations.

Class Schedule & Assignments

Introduction

August 31

The Federal Judicial System

- U.S. Constitution, Art. III, § 1
- Russel Wheeler & Cynthia Harrison, "Creating the Federal Judicial System", Federal Judicial Center (3d ed. 2005)
- Administrative Office of U.S. Courts, "Understanding the Federal Courts"

Civil Action Overview

- William Felstiner, Richard Abel, & Austin Sarat, "The Emergence & Transformation of Disputes: Naming, Blaming, & Claiming", 15 Law & Society Review 630 (1981)

Shaping the Lawsuit: Parties and Claims

September 2

Basic Claim & Party Joinder

- FRCP Rules 18 & 20
- CASES

September 4

Counterclaims

- FRCP Rule 13(a) & (b)
- CASES

September 7

Crossclaims

- FRCP Rule 13(g)
- CASES

September 9

Third-Party Claims

- FRCP Rule 14

- CASES

September 11

Required Parties & Intervention

- FRCP Rules 19 & 24
- CASES

September 14

Joinder Review

Quiz: Joinder (Due September 15)

Choosing a Forum, Part 1: Subject Matter Jurisdiction

September 16 & 18

Federal Question Jurisdiction

- U.S. Constitution, Art. III, § 2
- FRCP Rule 12(b)(1)
- 28 U.S.C. § 1331
- CASES

September 21 & 23

Diversity Jurisdiction

- 28 U.S.C. § 1332
- CASES

September 25 & 28

Supplemental Jurisdiction

- 28 U.S.C. § 1367
- CASES

September 30

Removal

- 28 U.S.C. §§ 1441, 1446, 1447, 1448

October 2

Subject Matter Jurisdiction Review

Quiz: Subject Matter Jurisdiction (Due October 4)

Choosing a Forum, Part 2: Personal Jurisdiction

October 5

Foundations of Personal Jurisdiction

- U.S. Constitution, 5th Amendment & 14th Amendment, § 1
- FRCP Rule 12(b)(2)
- Pennoyer v. Neff

October 7, 9, & 12

Specific Jurisdiction Based on Minimum Contacts

- International Shoe, World Wide Volkswagen,

October 14

General Jurisdiction

- CASES

October 16

Personal Jurisdiction Review

Quiz: Personal Jurisdiction (Due October 18)

Preclusion

October 19 & 21

Claim Preclusion

- Restatement (2d) of Judgments, §§ 13-26
- CASES

October 23 & 26

Issue Preclusion

- Restatement (2d) of Judgments, §§ 27-29
- CASES

Quiz: Preclusion (Due October 27)

Pleading

October 28

Pleading Under the Federal Rules

- FRCP Rules 3, 7-12, 15
- CASES

October 30 & November 2

Complaints

- FRCP Rules 8(a), 9(b), 12(b)(6)
- Twombly, Iqbal,

November 4

Answers & Defenses

- FRCP Rule 8(b) & (c)
- CASES

November 6

Truthfulness & Good Faith in Pleadings

- FRCP Rule 11
- CASES

Quiz: Pleadings (Due November 7)

The Erie Doctrine

November 9 & 11

The Rules of Decision Act

- Rules of Decision Act, 28 U.S.C. § 1652
- CASES: Erie, Byrd,

November 13

The Rules Enabling Act

- Rules Enabling Act, 28 U.S.C. §§ 2072, 2073, 2074
- CASES: Hanna,

November 16

Erie Doctrine Review

Quiz: Erie Doctrine (Due November 17)

Summary Judgment

November 16

Standard for Summary Judgment

- FRCP Rules 12(d) & 56
- CASES

November 17

Burden of Production

Quiz: Summary Judgment (Due November 23)

Final Exam (Date)