

Civil Procedure

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Elon Law School
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Mondays, Wednesdays, & Fridays, 9:00 – 10:45 am
Room 207

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. 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 selection of an appropriate forum, the scope of a lawsuit, the presentation of claims and defenses, disposition without a trial, the choice of applicable law, 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.

Policies

Grading

Your final grade for the term will be based on four quizzes (5% each; 20% total), a final exam (70%), and in-class performance (10%).

The quizzes will consist of multiple choice questions. These will be given in class and will be open-book/open-notes. Dates for the quizzes will be announced at least one week in advance.

The final exam will consist of essay and short-answer questions. It will be given during the final exam period and will be closed-book/closed-notes.

The in-class performance component depends on your preparation before class (completing all assigned reading and reviewing simulation problems),¹ regular and prompt class attendance, and constructive engagement during class.

¹Elon 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.

Attendance

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.

Excessive absences (more than 2 classes) may result in a reduction of your grade.

Honor Code

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

Materials

Gerald Hess, et al, Civil Procedure: A Context & Practice Casebook (Carolina Academic Press, 2d ed. 2019)

The course website, emfink.net/CivilProcedure, has links to the FRCP and federal statutes, subject outlines, visual aids, and practice problems.

Reading Assignments & Schedule

1 Introduction & Overview

- Casebook, Chapter 1

2 Personal Jurisdiction

- Casebook, Chapter 2

2.1 Foundations of Personal Jurisdiction

- U.S. Constitution, Amendments 5 & 14
- FRCP Rule 12(b)(2)
- Casebook, 23-36

2.2 Specific Jurisdiction

- Casebook, 36-79; 96-106

2.3 General Jurisdiction

- Casebook, 79-95

Quiz 1: Personal Jurisdiction

3 Subject Matter Jurisdiction

- Casebook, Chapter 4

3.1 Introduction of Subject Matter Jurisdiction

- U.S. Constitution, Art. III, § 2
- FRCP Rule 12(b)(1)
- Casebook, 153-57

3.2 Diversity Jurisdiction

- 28 U.S.C. § 1332
- Casebook, 157-80

3.3 Federal Question Jurisdiction

- 28 U.S.C. § 1331
- Casebook, 180-205

3.4 Supplemental Jurisdiction

- 28 U.S.C. § 1367
- Casebook, 205-17

3.5 Removal

- 28 U.S.C. §§ 1441, 1446, 1447, 1448
- Casebook, 217-18

4 Choice of Law

- Casebook, Chapter 6

4.1 Vertical Choice of Law: Rules of Decision Act

- 28 U.S.C. § 1652
- Casebook, 266-77

4.2 Vertical Choice of Law: Rules Enabling Act

- 28 U.S.C. §§ 2072, 2073, 2074
- Casebook, 277-311

4.3 Horizontal Choice of Law

- Casebook, 311-25

Quiz 2: Subject Matter Jurisdiction & Choice of Law

5 Pleading

- Casebook, Chapter 7

5.1 Introduction to Pleadings

- FRCP Rules 7-10
- Casebook, 327-30

5.2 Complaints

- FRCP Rules 8(a), 9(b), 12(b)(6)
- Casebook, 330-63

5.3 Answers & Defenses

- FRCP Rule 8(b) & (c)
- Casebook, 363-70

5.4 Amended Pleadings

- FRCP Rule 15
- Casebook, 370-86

5.5 Truthfulness & Good Faith in Pleadings

- FRCP Rule 11
- Casebook, 386-401

6 Joinder

- Casebook, Chapter 8

6.1 Introduction to Joinder

- FRCP Rules 13, 14, 18, 19, 20
- Casebook, 403-08

6.2 Joinder of Claims

- FRCP Rules 13, 18
- Casebook, 408-22

6.3 Joinder of Parties

- FRCP Rules 14, 20
- Casebook, 422-45

Quiz 3: Pleadings & Joinder

7 Summary Judgment

- FRCP Rules 12(d) & 56
- Casebook, 609-35

8 Preclusion

- Casebook, Chapter 13

8.1 Claim Preclusion

- Casebook, 761-82

8.2 Issue Preclusion

- Casebook, 782-807

Quiz 4: Summary Judgment & Preclusion