

# **CIVIL PROCEDURE**

## **Laws 2061.01**

### **Course Outline**

### **2018-2019**

#### **1. Office Hours, etc.**

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Classes: Mondays 1:00 to 2:50 p.m., Room 207

Office Hours: Wednesdays 1:00 – 3:00 pm or by appointment

#### **2. Introduction**

Welcome to Civil Procedure. Here, you will be introduced to the processes and tools of civil dispute resolution. The rules of procedure are the underlying framework for the course. I will teach the basic rules, including their interpretation by courts, where relevant. I will help you learn how to apply the rules through in class exercises and discussions around hypothetical problems. In addition, this course will lead you to reflect and think critically about the civil justice system. We will examine various civil justice processes and evaluate whether they, and the system as a whole, offers access to justice, efficiency, fairness, and legitimate outcomes. Throughout the course, you will be learning what your role, as a lawyer, would be if you practice civil litigation. I will encourage you to reflect on professional ethics issues that could arise in the course of a civil dispute resolution.

#### **3. Learning Outcomes**

At the end of the course, students should be able to:

1. Discuss how civil disputes arise and how they are understood in law.
2. Navigate the basic steps of court-based civil adjudication and the associated dispute resolution institutions in Canada.
3. Apply the knowledge of the rules to analyze and work through legal problems.
4. Appreciate the values underpinning the main steps of a civil dispute resolution system, and the system as a whole.
5. Begin to consider how justice, fairness and efficiency are, and should be, reflected in the civil justice system and assess the merits of alternative procedural avenues for civil dispute resolution.

#### 4. **Required Texts/Materials**

*Civil Procedure 2018-2019* - 2 volumes (online)  
*Civil Procedure Statutory Supplement 2018-19* (online)  
*Nova Scotia Civil Procedure Rules, 2018-2019 Student Edition* (LexisNexis)  
*Getting to Yes*, Fisher and Ury (Penguin USA, 2011)

Only the *Statutory Supplement* and the *Rules* can be used during the final exam, with highlighting, underlining and tabbing permitted for labeling purposes (5 word limit), but no marginal notations or other notes.

#### TopHat

In this class we will also be using TopHat – an interactive online learning tool which will allow you to interact in various ways in the classroom using a tablet, smartphone, or laptop. TopHat is **not free** – you will have to sign up and pay for a student license, unless you have a multi-year license from last year’s LRW class. This is **mandatory** for this course. You get an account at [www.tophat.com](http://www.tophat.com).

We will be using TopHat throughout both terms of the course. If you are purchasing a new license this year, you will need to buy the full-year subscription.

The TopHat course code is: 589112

#### 5. **Class Format**

The civil procedure class will be a combination of lecturing, class discussion, and small group discussion and exercises. Your active participation and engagement is important, so please be prepared to discuss the readings and materials prior to each class.

In our classroom, we will be committed to civility and embracing diversity. All students are expected to participate professionally and positively so that we ensure both a safe learning environment for everyone, and that we get exposed to a variety of viewpoints. This is an essential policy for educational purposes, and it is also essential in your future careers as lawyers.

#### 6. **Workshops**

There will be 8 workshops, each one hour in duration, in groups of approximately 10 students (3 in the fall term and 5 in the winter term). The workshops will be offered at various times and there will be a sign-up period announced in class. Workshops will begin in mid-October and continue through the winter term.

## 7. Evaluation

Professors will mark 2 drafting assignments, the mid-term quiz, and the final exam. Assignments and exams marked by professors will be given a numerical grade. Failure to hand in any assignment will result in a grade of 0% for that assignment.

### Evaluation By Professors:

- 10%: Pleadings Assignment (November)
- 10%: Mid-term quiz (December)
- 15%: Chambers Motion Written Assignment (March)
- 45%: Final Examination, 3-hour closed book (April)

Your workshop instructors will mark 3 assignments and the mock Chambers oral presentations. The workshop assignments will be evaluated by the Instructors on a scale from High Pass, Pass, Low Pass to Fail. One half a mark (.5) will be deducted from your workshop mark for any workshop missed without an acceptable excuse, up to a maximum of 3 marks out of 20.

### Evaluation By Workshop Instructors:

- 20%: Negotiating, Drafting and Oral Argument Assignments
  - 2% - negotiation exercise
  - 3% - mock settlement conference
  - 5% - discovery motion
  - 10% - mock Chambers oral argument

## 8. General Texts for Reading and Reference

### **Canadian**

Best for students (on reserve):

Walker and Sossin, *Civil Litigation* (Toronto: Irwin Law, 2010)

Walker *et al.*, *The Civil Litigation Process: Cases and Materials*, 7th ed. (Toronto: Emond Montgomery, 2010)

Abrams and McGuinness, *Canadian Civil Procedure Law*, 2<sup>nd</sup> ed. (Markham: LexisNexis, 2010)

Archibald and Echlin, *Annual Review of Civil Litigation 2010* (Toronto: Carswell, 2010)

Brown, *Supreme Court of Canada Practice 2011* (Toronto: Carswell, 2010)

Saunders *et al.*, *Federal Courts Practice 2011* (Toronto: Carswell, 2010)

Sopinka, Houston and Sopinka, *The Trial of an Action*, 2nd ed. (Toronto: Butterworths, 1998)

Stockwood, *Civil Litigation*, 5th ed. (Toronto: Carswell, 2004)

Watson and McGowan, *Ontario Civil Practice 2012* (Toronto: Carswell, 2011)

## **English**

Casson and Dennis, *Odgers' Principles of Pleading and Practice*, 21st ed. (London: Stevens & Sons, 1975)

Rose, *Pleadings Without Tears: A Guide to Legal Drafting*, 6th ed. (Oxford: Oxford University Press, 2002)

## **American**

Hazard and Taruffo, *American Civil Procedure: An Introduction* (New Haven: Yale University Press, 1993)

Hazard, Leubsdorf and Bassett, *Civil Procedure*, 6th ed. (St. Paul: West, 2011)

## **ACCOMMODATION**

### **Students with Special Needs/Requests for Accommodation**

Requests for special accommodation for reasons such as illness, injury or personal circumstances will require an application to the Law School Studies Committee. Such requests must be made to Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes as soon as possible, before a scheduled exam or a deadline for an assignment. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation as a result of barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require academic accommodation for either classroom participation or the writing of tests and exams should make their request to the Advising and Access Services Center (AASC) prior to or at the outset of the regular academic year. Please visit [www.dal.ca/access](http://www.dal.ca/access) for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at 494-2836, or they may contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information.

### **Plagiarism**

All students in this course must read the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the <http://academicintegrity.dal.ca/> website, and the Law School policy on plagiarism, available online at <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>.

Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution

of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.