

# Civil Procedure

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Room 204  
Mondays, Wednesdays, & Fridays, 1:30 – 3:15 pm

## 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 addressing 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 (personal & subject-matter jurisdiction), the scope of a lawsuit (joinder of parties & claims), the presentation of claims and defenses (pleadings), disposition without a trial (dismissal & summary judgment), the choice of applicable law (*Erie* doctrine), and the effect of judgments on future litigation (claim and issue preclusion). Other aspects of civil litigation (e.g., discovery, trials, & appeals) are covered in upper-level courses.

## Requirements & Grading

I expect you to read the assigned material thoroughly before class, attend each class meeting, and participate actively in class.

Your final grade for the term will be based on your in-class performance (20%), a take-home midterm assignment (20%), and a closed-book final exam (60%).

Excessive absences (3 or more classes), persistent lack of preparation, or inattention during class (including but not limited to inappropriate use of computers or electronic devices) may result in a reduction of your grade.

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.*

The Law School honor code applies to all activities related to your law school study, including but not limited to conduct during class and examinations.

## Course Materials

Gerald Hess, et al, Civil Procedure: A Context & Practice Casebook (2015)

Subject outlines, visual aids, practice problems, and links to statutes, rules, and other resources are available on the course website: [emfink.net/CivilProcedure](http://emfink.net/CivilProcedure)

## Outline & Reading Assignments

### 1 Introduction & Overview

Casebook, Chapter 1

### 2 Personal Jurisdiction

#### 2.1 Introduction to Personal Jurisdiction

U.S. Constitution, Amendments 5 & 14

Casebook, 21-32

#### 2.2 Minimum Contacts

Casebook, 32-67, 77-85

#### 2.3 General Jurisdiction

Casebook, 67-77

### 3 Subject Matter jurisdiction

#### 3.1 Introduction to Subject Matter Jurisdiction

U.S. Constitution, Art. III, § 2

Casebook, 125-28

### **3.2 Diversity Jurisdiction**

28 U.S.C. § 1332

Casebook, 128-46

### **3.3 Federal Question Jurisdiction**

28 U.S.C. § 1331

Casebook, 147-68

### **3.4 Supplemental Jurisdiction**

28 U.S.C. § 1367

Casebook, 168-80

### **3.5 Removal**

28 U.S.C. §§ 1441, 1446, 1447, 1448

Casebook, 180-83

## **4 Choice of Law**

### **4.1 Introduction to Choice of Law**

Casebook, 221-24

### **4.2 Vertical Choice of Law: Rules of Decision Act**

28 U.S.C. § 1652

Casebook, 224-33

### **4.3 Vertical Choice of Law: Rules Enabling Act**

28 U.S.C. §§ 2072, 2073, 2074

Casebook, 233-61

### **4.4 Horizontal Choice of Law**

Casebook, 262-74

## **5 Pleading**

### **5.1 Introduction to Pleadings**

FRCP Rules 7-10 Casebook, 275-78

### **5.2 Complaints**

FRCP Rules 8(a), 9(b), 12(b)(6)

Casebook, 278-305

### **5.3 Answers & Defenses**

FRCP Rule 8(b) & (c) Casebook, 305-12

### **5.4 Amended Pleadings**

FRCP Rule 15

Casebook, 312-23

### **5.5 Truthfulness & Good Faith in Pleadings**

FRCP Rule 11

Casebook, 323-35

## **6 Joinder**

### **6.1 Introduction to Joinder**

FRCP Rules 13, 14, 18, 20, 21

28 U.S.C § 1367

Casebook, 337-42

### **6.2 Joinder of Claims**

FRCP Rules 13 & 18

Casebook, 342-49

### **6.3 Joinder of Parties**

FRCP Rules 14, 20, & 21

Casebook, 349-69, 412-13

## **7 Summary Judgment**

FRCP Rules 12(d) & 56

Casebook, 508-31

## **8 Preclusion**

### **8.1 Introduction to Preclusion**

Casebook, 639-41

### **8.2 Claim Preclusion**

Casebook, 641-56

### **8.3 Issue Preclusion**

Casebook, 656-77