

# Civil Procedure

Elon Law School  
Fall 2023  
Monday, Wednesday, & Friday 1:30–3:15 pm  
Room 207

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## Description

In this course, you will learn about the procedures for civil suits. 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. While the course will focus on federal courts, the rules of civil procedure in many states (including North Carolina) are similar.

This course is intended to prepare you for legal practice by developing the knowledge and skill required to recognize and analyze procedural issues in civil litigation, advise clients on those issues and the available options, and draft pleadings and motions.

## Required Materials

Civil Procedure: An Open-Source Casebook (Fink 2023) (“Casebook”). The casebook is posted online as part of the course website: [emfink.net/CivilProcedure](https://emfink.net/CivilProcedure). PDF copies of each chapter are available for download on the Table of Contents page.

Kevin M. Clermont, Principles of Civil Procedure (6th ed. 2021) (“Hornbook”). The digital version is available at no cost through the West Academic Online Study Aids Collection.

## Policies

### *Grading*

Your final grade for the term will be based on interim quizzes (30%) and a final exam (70%):

- There will be three quizzes (open-book/open-notes), consisting of multiple-choice questions. You will take the quizzes online outside of class, any time during the dates indicated in the course schedule below. The quizzes are intended to help you assess your understanding of the material and identify topics for further review. The quiz portion of your final grade will be based on your two best quiz results.
- The final exam (closed-book/closed-note) will consist of essay and short-answer questions. You will take the final exam at the Law School on the date indicated in the course schedule below.

## *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.*

You should let me know (in advance if feasible) if you are unable to attend class, will arrive late, or must leave early. I do not require an explanation of the reason, nor do I require a doctor's note or other documentation.

## *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.

## Schedule & Assignments

Date	Topic	Assignment
August 28	<b>Introduction</b> The Judicial System and the Litigation Process	Clermont, Chapter 1 Casebook, Chapter 1
August 30	<b>Parties and Claims</b> Permissive Joinder of Parties and Claims	Clermont, Chapter 6 Casebook, Chap. 2, §§ 1 & 2
September 1	Counterclaims	Casebook, Chap. 2, § 3
September 6	Crossclaims	Casebook, Chap. 2, § 4
September 8	Third-Party Claims	Casebook, Chap. 2, § 5
September 11	Required Parties, Intervention, & Interpleader	Casebook, Chap. 2, §§ 6, 7, & 8
	<b>Personal Jurisdiction</b>	Clermont, §§ 4.2, 4.3, 4.4
September 13	Due Process and State Power	Casebook, Chap. 3, § 1.1
September 18 & 20	Minimum Contacts	Casebook, Chap. 3, § 1.2
September 22	General Jurisdiction, Consent, & Long-Arm Statutes	Casebook, Chap. 3, §§ 1.3, 1.4, & 2
September 27	Joinder & Personal Jurisdiction Review	
September 27-29	<b>Quiz 1: Joinder &amp; Personal Jurisdiction</b>	
	<b>Subject Matter Jurisdiction</b>	Clermont, § 4.1
September 29 & October 2	Federal Question Jurisdiction	Casebook, Chap. 4, § 1
October 4 & 9	Diversity Jurisdiction	Casebook, Chap. 4, § 2
October 11, 13 & 16	Supplemental Jurisdiction & Removal	Casebook, Chap. 4, §§ 3 & 4
	<b>Choice of Law in Federal Court</b>	Clermont, Chapter 3
October 18 & 20	Rules of Decision Act & <i>Erie</i>	Casebook, Chap. 5, § 1
October 23	Rules Enabling Act & <i>Hanna</i>	Casebook, Chap. 5, §§ 2 & 3
October 25	Subject Matter Jurisdiction & Choice of Law Review	

Date	Topic	Assignment
October 25-27	<b>Quiz 2: Subject Matter Jurisdiction &amp; Choice of Law</b>	
October 27 & 30	<b>Pleading</b> Complaints	Clermont, § 2.2(A) Casebook, Chap. 6, §§ 1 & 2
November 1 November 3	Answers and Defenses Amendments	Casebook, Chap. 6, § 3 Casebook, Chap. 6, § 4
November 6	Truthfulness and Good Faith	Casebook, Chap. 6, § 5
November 8 & 10	<b>Preclusion</b> Claim Preclusion	Clermont, Chapter 5 Casebook, Chap. 7, §§ 1 & 2
November 13 & 15	Issue Preclusion	Casebook, Chap. 7, § 3
November 17	<b>Summary Judgment</b> Standard & Burden of Production	Clermont, § 2.2(B), (C), & (E)(2) Casebook, Chap. 8
November 20	Pleading, Preclusion, & Summary Judgment Review	
November 20-24	<b>Quiz 3: Pleading, Preclusion, &amp; Summary Judgment</b>	
December 1	<b>Final Review</b>	
December 4	<b>Final Exam</b>	

*Note: This class will not meet on Sept. 4, Sept. 15, Sept. 25, and Oct. 6*