



LAWS13017 Civil Procedure

Term 2 - 2024

Profile information current as at 30/06/2024 02:49 am

All details in this unit profile for LAWS13017 have been officially approved by CQUniversity and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

General Information

Overview

LAWS13017 Civil procedure explores the issues of cost, delay and access to justice as critical issues in modern case management. In this unit you will examine in detail the following issues in civil litigation: court adjudication under an adversary system; the cost of litigation and the use of costs to control litigation; service of originating process - as foundation of jurisdiction, including service out of the relevant State or Territory and choice of forum; joinder of claims and parties, including group proceedings and the defence of prior adjudication as instances of the public interest in avoiding a multiplicity of proceedings and inconsistent verdicts; defining the questions for trial - pleadings, notices to admit and other devices; obtaining evidence - discovery of documents, interrogatories, subpoena and other devices; disposition without trial, including the compromise of litigation; extra-judicial determination of issues arising in the course of litigation; judgment; appeal; enforcement; alternative dispute resolution; and obligations of parties and practitioners relating to the resolution of disputes. This unit meets the LPAB requirements for civil dispute resolution.

Details

Career Level: *Undergraduate*

Unit Level: *Level 3*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

Pre-requisites or Co-requisites

Pre-requisites: LAWS11059, LAWS11066, LAWS11069, LAWS12066.

Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the [Assessment Policy and Procedure \(Higher Education Coursework\)](#).

Offerings For Term 2 - 2024

- Online

Attendance Requirements

All on-campus students are expected to attend scheduled classes - in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

Website

[This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.](#)

Class and Assessment Overview

Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

Class Timetable

[Regional Campuses](#)

Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

[Metropolitan Campuses](#)

Adelaide, Brisbane, Melbourne, Perth, Sydney

Assessment Overview

1. **Written Assessment**

Weighting: 35%

2. **Practical Assessment**

Weighting: 35%

3. **Online Quiz(zes)**

Weighting: 30%

Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the [University's Grades and Results Policy](#) for more details of interim results and final grades.

CQUniversity Policies

All University policies are available on the [CQUniversity Policy site](#).

You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the [CQUniversity Policy site](#).

Previous Student Feedback

Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

Feedback from Moodle site.

Feedback

The second major assessment should be a practical assessment removing the flexibility previously afforded enabling students to choose their topic or work experience.

Recommendation

The second major assessment will be restructured as an authentic practical learning activity undertaken by all students. The choice of assessment option will be removed. Care will be taken to ensure the simulation is very narrow in an attempt to limit the amount of time students will need to devote to the task.

Feedback from SUTE

Feedback

Sound level of audio recordings need to be higher.

Recommendation

Sound levels of all audio will be checked prior to upload.

Unit Learning Outcomes

On successful completion of this unit, you will be able to:

1. Comprehend and critically examine the court adjudication process under the adversarial system in Australia in comparison with the Civil Law inquisitorial system
2. Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms
3. Research and draft appropriate pleadings for a hypothetical fact situation
4. Apply civil procedure knowledge in a clinical setting including ethical considerations

Alignment of Learning Outcomes, Assessment and Graduate Attributes



Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Written Assessment - 35%		•	•	
2 - Practical Assessment - 35%		•		•
3 - Online Quiz(zes) - 30%	•	•		

Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes			
	1	2	3	4
1 - Communication		•	•	•
2 - Problem Solving	•	•	•	•
3 - Critical Thinking	•	•	•	•
4 - Information Literacy			•	
5 - Team Work				
6 - Information Technology Competence				
7 - Cross Cultural Competence				
8 - Ethical practice				•
9 - Social Innovation				
10 - Aboriginal and Torres Strait Islander Cultures				

Textbooks and Resources

Textbooks

LAWS13017

Prescribed

Civil Procedure Commentary and Materials

Edition: 8th (2022)

Authors: Stephen Colbran and Peta Spender

LexisNexis

Chatswood, NSW, Australia

ISBN: 9780409354263

Binding: Paperback

[View textbooks at the CQUniversity Bookshop](#)

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)

Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 4th ed](#)

For further information, see the Assessment Tasks.

Teaching Contacts

Andrea Turner Unit Coordinator

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Schedule

Week 1 Court adjudication, case management and ADR - 08 Jul 2024

Module/Topic	Chapter	Events and Submissions/Topic
Week 1 Court adjudication, case management and ADR	Colbran, S., and Spender, P. <i>Civil Procedure: Commentary and Materials</i> (8 th ed, 2022) LexisNexis Ch 1, 2, 3. Visit the Conflict Resolution Network website www.crnhq.org (accessed 10 May 2024) and examine the free training material. Make sure you study: the Self-study guide, 12 skills summary, and the CR Kit.	

Week 2 Jurisdiction and Limitation of Actions - 15 Jul 2024

Module/Topic	Chapter	Events and Submissions/Topic
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Week 2 Jurisdiction and Limitation of Actions
Colbran, Spender, Jackson and Douglas, *Civil Procedure Commentary and Materials* (LexisNexis, 8th ed, 2022) Ch 4, 6.

Week 3 Instituting proceedings, Service, and Notice of Intention to Defend - 22 Jul 2024

Module/Topic	Chapter	Events and Submissions/Topic
Week 3 Instituting proceedings, Service, and Notice of Intention to Defend	Colbran, Spender, Douglas and Jackson, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2020) Ch 7, 8, 9.	

Week 4 Parties and Joinder, Non-compliance, Amendment and Time - 29 Jul 2024

Module/Topic	Chapter	Events and Submissions/Topic
Week 4 Parties and Joinder, Non-compliance, Amendment and Time	Colbran, Spender, Douglas and Jackson, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 5, 10, 11. Kylie Downes QC and Hamish Clift, "Queensland's new class action regime". 2017 May <i>Proctor</i> 28-29.	

Week 5 Pleadings and Summary Disposition - 05 Aug 2024

Module/Topic	Chapter	Events and Submissions/Topic
Week 5 Pleadings and Summary Disposition	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 12, 13.	

Vacation Week - 12 Aug 2024

Module/Topic	Chapter	Events and Submissions/Topic

Week 6 Disclosure - 19 Aug 2024

Module/Topic	Chapter	Events and Submissions/Topic
Week 6 Disclosure	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 14.	Pleading Assessment Due: Week 6 Monday (19 Aug 2024) 11:45 pm AEST

Week 7 Further means of obtaining evidence and Affidavits - 26 Aug 2024

Module/Topic	Chapter	Events and Submissions/Topic
Week 7 Further means of obtaining evidence and Affidavits	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 15, 16.	

Week 8 Interlocutory procedures - 02 Sep 2024

Module/Topic	Chapter	Events and Submissions/Topic
Week 8 Interlocutory procedures	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 17.	
Week 9 Disposition without trial - 09 Sep 2024		
Module/Topic	Chapter	Events and Submissions/Topic
Week 9 Disposition without trial	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 18.	
Week 10 Trial - 16 Sep 2024		
Module/Topic	Chapter	Events and Submissions/Topic
Week 10 Trial	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 19.	
Week 11 Appeal and New Trial - 23 Sep 2024		
Module/Topic	Chapter	Events and Submissions/Topic
Week 11 Appeal and New Trial	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 20.	
Week 12 Costs and Enforcement - 30 Sep 2024		
Module/Topic	Chapter	Events and Submissions/Topic
Week 12 Costs and Enforcement	Colbran, Spender, Jackson and Douglas, <i>Civil Procedure Commentary and Materials</i> (LexisNexis, 8th ed, 2022) Ch 21, 22.	Enforcement Assessment Due: Week 12 Friday (4 Oct 2024) 11:45 pm AEST
Review/Exam Week - 07 Oct 2024		
Module/Topic	Chapter	Events and Submissions/Topic
		Quiz Due: Review/Exam Week Friday (11 Oct 2024) 11:45 pm AEST
Exam Week - 14 Oct 2024		
Module/Topic	Chapter	Events and Submissions/Topic

Assessment Tasks

1 Pleading Assessment

Assessment Type

Written Assessment

Task Description

LAWS13017 Civil Procedure Pleading Assessment Instructions 2024

You will be presented with a detailed scenario requesting that you prepare the necessary pleadings for a new firm client. You will receive instructions from the client and other relevant documents. The scenario will require you to draft documents to initiate a claim, prepare file notes and a potential default judgment. A detailed rubric is available on the Moodle site in the document entitled "LAWS13017 Pleading Assessment 2024 Instructions". The rubric is also reproduced below.

Your final version must be submitted as a single PDF document using 'e-Submission'. No consideration will be given to content which exceeds the 2000 word limit (excluding the words contained in pro forma court forms). When uploading your file make sure that you adopt the following naming convention: "<student number>_<surname>_LAWS13017_Assessment_1.pdf" e.g. 16789909_Bloggs_LAWS13017_Assessment_1.pdf. The written outcomes are due Week 6 Monday 19th August 2024 at 11:45 AEST.

Assessment Due Date

Week 6 Monday (19 Aug 2024) 11:45 pm AEST

Return Date to Students

Week 8 Monday (2 Sept 2024)

Weighting

35%

Assessment Criteria

LAWS 13017 Civil Procedure Pleadings Assessment 2024 Rubric

Criteria	Above standard	Standard	Below standard
Identification of correct parties	All parties identified.	Most parties identified.	Few parties identified.
Identification of service issues	Identification of all major service issues.	Identification of most major service issues.	Identification of some major service issues.
Identification of issues associated with the initiating process	Identification of all major initiating process issues.	Identification of most major initiating process issues.	Identification of some major initiating process issues.
Identification of pleading and file note issues	Identification of all major pleading and file note issues.	Identification of most major pleading and file note issues.	Identification of some major pleading and file note issues.
Identification and use of correct form(s)	Use of correct form correctly filled in.	Use of the correct form, but not entirely correct.	Use of wrong forms or forms are grossly incomplete.
Clearly structured documents	Superbly structured documents.	Well-structured documents.	Poorly structured documents.
Pleading the facts not law	All facts correctly pleaded.	Most facts correctly pleaded.	Numerous errors in facts pleaded.
Plain English Drafting	No Plain English drafting errors.	Some Plain English drafting errors.	Numerous Plain English drafting errors.
Spelling and Grammar	No spelling or grammatical issues.	Minor spelling or grammatical issues.	Numerous spelling or grammatical issues.
Concise drafting	Clear and concise written expression.	Some unclear or verbose written expression.	Numerous examples of unclear or verbose written expression.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

Your final version must be submitted as a single PDF document using 'e-Submission'. No consideration will be given to content which exceeds the 2000 word limit (excluding the words contained in pro forma court forms). When uploading your file make sure that you adopt the following naming convention: "__LAWS13017_Assessment_1.pdf" e.g. 16789909_Bloggs_LAWS13017_Assessment_1.pdf.

Learning Outcomes Assessed

- Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms
- Research and draft appropriate pleadings for a hypothetical fact situation

2 Enforcement Assessment

Assessment Type

Practical Assessment

Task Description

LAWS 13017 Civil Procedure Enforcement Assessment Instructions 2024

You will be presented with a detailed scenario requesting that you prepare the necessary debt collection procedures to execute on a judgment you have obtained. You will receive instructions from the client and other relevant documents. The scenario will require you to draft documents to initiate the debt collection procedures and provide a letter to the client outlining your proposed recovery strategy.

A detailed rubric is available on the Moodle site in the document entitled "LAWS 13017 Civil Procedure Enforcement Assessment 2024 Instructions". The rubric is also reproduced below.

Your final version must be submitted as a single PDF document using 'e-Submission'. No consideration will be given to content which exceeds the 2500 word limit. When uploading your file make sure that you adopt the following naming convention: "<student number>_<surname>_LAWS13017_Assessment_2.pdf" e.g.

16789909_Bloggs_LAWS13017_Assessment_2.pdf.

The written outcomes are due Week 12 Friday 04 October 2024 at 11:45 PM AEST. It will be necessary for you to read ahead in the study guides to ensure that you are familiar with the content of this assessment.

Assessment Due Date

Week 12 Friday (4 Oct 2024) 11:45 pm AEST

Return Date to Students

Exam Week Friday (18 Oct 2024)

Weighting

35%

Assessment Criteria

LAWS 13017 Civil Procedure Enforcement Assessment 2024 Rubric

Criteria	Above standard	Standard	Below standard
Identification of correct parties	All parties identified.	Most parties identified.	Few parties identified.
Identification of service issues	Identification of all major service issues.	Identification of most service major issues.	Identification of some major service issues.
Identification of issues associated with the debt recovery process	Identification of all major debt recovery issues.	Identification of most major debt recovery issues.	Identification of some major debt recovery issues.
Letter to the client outlining proposed recovery strategy	Identification of all major strategy issues.	Identification of most major strategy issues.	Identification of some major strategy issues.
Identification and use of correct form(s)	Use of correct form correctly filled in.	Use of the correct form, but not entirely correct.	Use of wrong forms or forms are grossly incomplete.
Clearly structured documents	Superbly structured documents.	Well-structured documents.	Poorly structured documents.
Correct identification of which assets may be recoverable	Identification of all assets.	Identification of most assets.	Identification of some assets.
Concise drafting	Clear and concise written expression.	Some unclear or verbose written expression.	Numerous examples of unclear or verbose written expression.
Plain English Drafting	No Plain English drafting errors.	Some Plain English drafting errors.	Numerous Plain English drafting errors.
Spelling and Grammar	No spelling or grammatical issues.	Minor spelling or grammatical issues.	Numerous spelling or grammatical issues.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

Your final version must be submitted as a single PDF document using 'e-Submission'. No consideration will be given to

content which exceeds the 2500 word limit. When uploading your file make sure that you adopt the following naming convention: "__LAWS13017_Assessment_2.pdf" e.g. 16789909_Bloggs_LAWS13017_Assessment_2.pdf.

Learning Outcomes Assessed

- Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms
- Apply civil procedure knowledge in a clinical setting including ethical considerations

3 Quiz

Assessment Type

Online Quiz(zes)

Task Description

Instructions

The quiz will be in multiple-choice format with 6 choices per question.

The quiz will be of a duration of 120 minutes and will have a total of 36 questions consisting of 3 questions from each week of the 12 week unit.

The quiz will be available 11:45pm AEST (Queensland time) on Thursday 10 October 2024 until 11:45pm on Friday 11 October 2024. Make sure you start and complete the 120 min quiz within that period. Once you start the quiz you must complete the quiz within 120 min.

In the absence of an approved extension, there will be no opportunity to complete the task after this date and there will be no opportunity to apply a late penalty of five per cent per day. You will receive a mark of zero for this assessment task.

You will receive a mark out of 30 ($\text{your score} \times 30/36$) representing 30% of your grade for this unit.

Number of Quizzes

Frequency of Quizzes

Assessment Due Date

Review/Exam Week Friday (11 Oct 2024) 11:45 pm AEST

Released Thursday 10th October 11:45 PM due Friday 11th October 11:45 PM.

Return Date to Students

Weighting

30%

Assessment Criteria

This is a complex multi-choice examination with one correct answer per question. There are no assessment criteria other than pertaining to unit content.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

The quiz is conducted via Moodle.

Learning Outcomes Assessed

- Comprehend and critically examine the court adjudication process under the adversarial system in Australia in comparison with the Civil Law inquisitorial system
- Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms

Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the [Student Academic Integrity Policy and Procedure](#). This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

What is a breach of academic integrity?

A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

Why is academic integrity important?

A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

Where can I get assistance?

For academic advice and guidance, the [Academic Learning Centre \(ALC\)](#) can support you in becoming confident in completing assessments with integrity and of high standard.

What can you do to act with integrity?



Be Honest

If your assessment task is done by someone else, it would be dishonest of you to claim it as your own



Seek Help

If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)



Produce Original Work

Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem