

Civil Litigation

Code: 45033
ECTS Credits: 9

Degree	Type	Year	Semester
3500070 Legal Profession and Legal Representation	OB	1	1

Contact

Name: Maria Consuelo Ruiz De la Fuente

Email: consuelo.ruiz.delafuente@uab.cat

Teaching groups languages

You can check it through this [link](#). To consult the language you will need to enter the CODE of the subject. Please note that this information is provisional until 30 November 2023.

Prerequisites

Is essential to be in possession of the Degree in Law

Teaching staff

Litigació Civil I

Joan Manel Abril Campoy (catalan)

Xavier Cecchini Rosell (catalan)

M^a del Carmen Gete-Alonso y Calera (spanish)

Carles Górriz López (spanish)

Jorge Miquel Rodriguez (spanish)

Ramón Morral Soldevila (catalan)

Judith Solé Resina (catalan)

Litigació Civil II

Núria Reynal Querol (catalan)

Cristina Riba Trepal (catalan)

Francisco Ramos Romeu (catalan-spanish)

Consuelo Ruiz de la Fuente (spanish)

Josep Lluís Rodríguez (catalan-spanish)

José María Asencio (catalan-spanish)

Verónica Dávalos (catalan-spanish)

Alejandra García de la Torre (spanish)

Objectives and Contextualisation

The objective is to acquire the necessary skills to prepare and direct a civil process, in any of its modalities and from both the position of actor and the defendant.

The Civil Litigation module is subdivided, for teaching purposes, into two sub-modules:

- Civil Litigation 1 (Subjects of Civil Law and Commercial Law) Coordinator: Prof. Dra. Sandra Camacho Clavijo.
- Civil Litigation 2 (Civil procedural law) Coordinator: Dra. Nuria Reynal Querol

Each sub-module is organized and rated independently and has a value of 50%.

The final qualification of the assignee is a single note of the Civil Litigation module. It is the result of the sum between the notes of the two submodules.

In each sub-module, in order to obtain the final mark, the note obtained in the respective continuous assessment is taken into account.

Learning Outcomes

- CA01 (Competence) Perform and coordinate professional work in specialised and interdisciplinary teams for the due defence and representation of clients.
- KA01 (Knowledge) The student will be able to determine the procedural strategy and the judicial and extrajudicial channels for the due defence of the rights and interests of clients.
- SA01 (Skill) Properly identify the knowledge and processes of Procedural Law that can resolve complex situations in the practice of the profession.
- SA02 (Skill) Produce judicial deeds and documents, as well as duly investigate the factual material, and prepare and conduct interrogations and inquiries, with special attention to the gender perspective.
- SA03 (Skill) Use alternative methods to resolve disputes and thus avoid legal proceedings and bring an end to ongoing processes.
- SA04 (Skill) Apply procedural instruments in enforcement and official notices, paying attention to sustainability and effectiveness.
- SA05 (Skill) Properly uphold the clients' right to defence and legal representation at the national, European and international level.
- SA06 (Skill) Work in liaison with different legal officers to ensure more efficient processes, through access to sources of information, knowledge of languages, knowledge management and management of applied techniques and instruments.

Content

CONTENT

For teaching purposes the Civil Litigation module is subdivided in two modules: Civil 1 (Civil Law and Commercial Law) and Civil 2 (Civil Procedural Law)

SUBMODULE CIVIL 1 (Coordination: Dr. Xavier Cecchini)

I. CIVIL LAW

FAMILY / PERSON LAW

THEME 1. FILIATION- IDENTIFICATION OF THE PERSON

1. Filiation's principles. The relationship of filiation
2. The legal period of conception
3. Identification of the person: registration of maternity and paternity.
4. The recognition. File of voluntary jurisdiction.
5. Assisted reproduction: requirements and configuration. Post-mortem assisted reproduction
6. Surrogate motherhood.

THEME 2. FILIATION ACTIONS

1. Filiation actions. General rules
2. Reclamation actions : matrimonial filiation and non-marital filiation. Reclamation and Impugnation
3. Impugnation actions: Impugnation maternity. Impugnation matrimonial paternity
4. Impugnation of recognition.
5. The presumption of non-marital paternity

THEME 3: MARRIAGE: NULLITY, SEPARATION AND DIVORCE

1. The procedure
2. Preliminary measures and provisional measures
3. Definitive measures proposed in the regulatory agreement
4. Definitive measures agreed by the judicial authority
5. Agreements outside the regulatory agreement
6. Modification of measures
7. Family mediation
8. The custody of the children.
9. Parental responsibility
10. The parenting plan

CONTRACTS

THEME 4: ACTIONS IN CONTRACTUAL MATTERS

1. The nullity of the contract. Special reference to the abusive clauses and the control of formal and material transparency.
2. The voidability of the contract. The vices of consent
3. The resolution of the purchase contract. Analysis of the regulation of Llibre VI CCCat: lack of conformity, essential breach.
4. The rescission of the contract of sale: the unjust enrichment and the rescission due to injury.

REAL RIGHTS

THEME 5: JUDICIAL PROTECTION OF POSSESSION

1. Concept of possession, acquisition and loss of possession
2. Summary protection of possession
 - 2.1. Active legitimization
 - 2.2. Passive legitimization
 - 2.3. Object
 - 2.4. Term
3. Public action

THEME 6: JUDICIAL PROTECTION OF PROPERTY RIGHTS

1. Concept of property
2. Claim action: Requirements
3. Declarative domain action
4. Exclusion actions
 - 4.1. Negative action: Active legitimization. Passive legitimization. Exercise budgets: immissions; 4.1. Negative action: Active legitimization. Passive legitimization. Exercise budgets: illegitimate immissions; 4.2. The closing of farms; 4.3. The demarcation and demarcation action

THEME 7: THE REGISTRATION OF PROPERTY

1. Effects of the Land Registry for the registry holder: 1.1. The principle of registration legitimization (Article 38 LH); 1.2. The principle of presumption of accuracy: consequences
2. Usucapio: Concept and requirements. The usucapio secundum tabulas and the usucapio contra tabulas
3. The registration action (Article 41 LH): basis, distinction of summary custody of possession. Legitimation active and passive. Procedure: causes of opposition.
4. Effects of the Registry against third parties: 4.1. The unenforceability of unregistered titles (art 32 LH): requirements; 4.2. The principle of good faith registration: protection of the third (art 34LH): requirements

SUCCESSION LAW

THEME 8: ACTIONS IN SUCCESSION LAW

1. The opening of the succession: applicable law: EU Regulation 650/2012.

2. Voluntary disclosure. The "interpellatio in iure". Acceptance and fate to heritage. The challenge of business mortis causa.
3. Legal delation: declaration of heir's ab intestato.
4. The hereditary community and the inheritance partition.
5. The protection of the creditors of the deceased. The separation benefit.
6. The inheritance claim action. The claim of the legitimate i the supplement. The reduction of legacies and inofficiously donations.
7. The protection of the surviving consort or cohabiter: vidual benefits. The fourth vidual.

II. COMMERCIAL LAW

THEME 1. BANKRUPTCY LAW

THEME 2: COMMERCIAL CONTRACTATION

THEME 3. COMPANIES LAW

SUBMODULE CIVIL 2 (Coordination: Dra. Consuelo Ruiz de la Fuente)

CIVIL PROCEDURAL LAW

1. Civil jurisdiction and procedural parties
 - 1.1. The civil jurisdiction
 - 1.2. The international judicial competence (or international jurisdiction) of the Spanish Civil Courts
 - 1.3. Objective jurisdiction
 - 1.4. Territorial jurisdiction
 - 1.5. Functional jurisdiction
 - 1.6. The distribution of matters
 - 1.7. Control of the jurisdiction and of the different kinds of competence
 - 1.8. The procedural parties
 - 1.9. Capacity to be party and procedural capacity
 - 1.10. Standing
 - 1.11. The succession of parties
 - 1.12. The joinder of parties
 - 1.13. The procedural intervention
2. Preliminary investigative measures and pleadings phase
 - 2.1. Classes of preliminary investigative measures
 - 2.2 Jurisdiction

- 2.3. Proceedings
- 2.4. The claim
- 2.5. Form and structure of the claim
- 2.6. Determining the application kind of proceedings
- 2.7. Determination of the amount in dispute
- 2.8. Determination of the object of the proceedings
- 2.9. Filing of documents and other evidence with the claim
- 2.10. Copies of the claim and documents
- 2.11. Admission, rejection or suspension of the admission of the claim
- 2.12. Effects produced by the claim
- 2.13. Expansion of claim
- 3. Pleadings phase (continued)
 - 3.1. The joinder of actions
 - 3.2. The joinder of proceedings
 - 3.3. Service of the claim to defendant
 - 3.4. Procedural positions that the defendant can adopt against the claim
 - 3.5. Procedural effects of defendant's failure to appear (articles 496 et seq. LEC)
 - 3.6. Participation of the defendant without answering the claim
 - 3.7. The reply to the claim
 - 3.8. Filing of documents and other evidence with the answer to the claim, and filing of copies of the reply to the claim and the documents accompanied
 - 3.9. Allegation of exceptions as counterclaims by the defendant
 - 3.10. The counterclaim
 - 3.11. Reply to counterclaim
- 4. The preliminary hearing
 - 4.1. Convocation of the preliminary hearing
 - 4.2. Appearance of the plaintiff
 - 4.3. Appearance of the defendant
 - 4.4. Attempt to conciliate
 - 4.5. Debate and resolution on questions of a procedural nature that have been raised in the briefs of the parties
 - 4.6. Integration of the allegations and petitions made in the initial writings, and the evidence provided with these writings
 - 4.7. Position of the parties on the evidence provided up to that moment

- 4.8. Proposition and admission of means of evidence
- 4.9. Fixing of a trial date
- 5. The trial. Judgment. The legal costs
 - 5.1. The trial of the ordinary proceedings
 - 5.2. The hearing of the verbal proceedings
 - 5.3. The final investigative measures
 - 5.4. Judgment
 - 5.5. Res judicata
 - 5.6. Ways to end the proceedings alternative to the judgment
 - 5.7. Legal costs
- 6. The appeals
 - 6.1. Concept of an appeal
 - 6.2. Types of appeal
 - 6.3. Standing to appeal
 - 6.4. Possible effects of the admission of appeal
 - 6.5. Prohibition of reformatio in peius
 - 6.6. Reform appeal
 - 6.7. Review appeal
 - 6.8. Second instance Appeal
 - 6.9. Extraordinary appeal for procedural infringement and appeal in cassation
 - 6.10. Complaint appeal
 - 6.11. Challenge of final decisions: Rescission of final judgments at the request of the defendant in default, review of final judgments and annulment of proceedings
- 7. Preliminary measures and execution
 - 7.1. Role of preliminary measures
 - 7.2. Jurisdiction
 - 7.3. Preliminary measures that can be adopted
 - 7.4. Requirements necessary to adopt preliminary measures
 - 7.5. Procedural moments in which preliminary measures can be requested and procedure for their adoption
 - 7.6. Modification of preliminary measures and delivery of substitutive bond
 - 7.7. The provisional enforcement
 - 7.8. The enforcement action and the enforcement title

- 7.9. Jurisdiction over enforcement
- 7.10. Active and passive standing in the enforcement process
- 7.11. The enforcement claim
- 7.12. Enforcement order
- 7.13. Enforcement measures to be adopted by the court clerk after the enforcement order
- 7.14. Opposition to enforcement
- 8. Enforcement (continued)
 - 8.1. Seizure preparation acts
 - 8.2. Seizure
 - 8.3. Immovable property
 - 8.4. Legal effects derived from the embargo
 - 8.6. The enforcement procedure: alternative forms to the auction
 - 8.7. The auction
 - 8.8. The enforcement of non-monetary sentences
- 9. Special procedures: payment injunctions and proceedings based on bills of exchange
 - 9.1. The payment injunction process: general notions
 - 9.2. General scheme of the payment injunction procedure
 - 9.3. The European order for payment procedure
 - 9.4. The proceedings based on bills of exchange
- 10. Procedural specialties in consumer matters
 - 10.1. Procedural specialties in consumer matters
 - 10.2. Special reference to the procedural problems derived from abusive clauses

Methodology

During the course, the following activities will be carried out, with specific methodologies in each case:

Expositive classes

Case resolution classes

Oral presentation of works

Preparation of reports and works

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Conference attendance.	65	2.6	CA01, KA01, SA01, SA02, SA03, SA04, CA01
Type: Supervised			
Study and work outside the classroom. Readings, preparation and writing of texts, search of bibliography and jurisprudence.	48	1.92	CA01, KA01, SA01, SA02, SA05, SA06, CA01
Type: Autonomous			
Study and work outside the classroom. Readings, preparation and writing of texts, search of bibliography and jurisprudence. Preparation examen	112	4.48	CA01, KA01, SA01, SA02, SA03, SA04, SA05, SA06, CA01

Assessment

Evaluation:

Final qualification: 50% continuous evaluation: 5 points (over 10) + 50% final exam: 5 points (over 10)

1.- Continuous evaluation:

The teaching staff of the course determines the format and the continuous evaluation activities are made known through the Virtual Campus. They can be performed in 50% of the programmed sessions, approximately.

The failure to carry out these activities, whether justified or not, is not recovered, except in very specific cases (for example, prolonged absences due to health reasons or the like)

It includes two types of activities:

- A) Evaluable practical activities (writing of writs, resolution of practical cases, etc.); They are included in the course calendar and / or are notified in advance.
- B) Short questionnaires (short, true or false question, question test, etc.) conducted in class on dates and times that are not previously communicated

2.- Final exam.

Test of 25 questions from each part (total of 50 questions in two exams), according to the proof of access by the Ministry of Justice (4 response options, penalizing errors with -0.33)

Only valid from a minimum of 3 (over 10), Who obtains a lower note, suspends the module.

Possibility of reevaluation: who has obtained a mark of examination of less than 3, may return to submit to stop it. This recovery only affects the mark of the exam, not the rating of the continuous evaluation, which is maintained.

Single assesment:

Those who opt for the single assesment system will be examined taking into account the following items:

- 1) Test exam of 50 questions (50%)
- 2) Completion of a procedural brief (appeals, lawsuits, etc) or a case resolution (25%)
- 3) Completion of a procedural brief (different from the previous one) or a case resolution (25%)

The second and third test will have a duration of 4 or 5 hours, and will take place in the timetable specifically established by the coordination of these module. For the realization of the second and third test, students may consult legislation, but on line resources may not be accessed.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Continuous evaluation	50%	0	0	CA01, KA01, SA01, SA02, SA03, SA04, SA05, SA06
Final exam	50%	0	0	CA01, KA01, SA01, SA02, SA03, SA04, SA05, SA06

Bibliography

Civil Law

GETE-ALONSO, M^a del Carmen / SOLÉ RESINA, Judith. Lliçons de Dret Civil Català (Ed Tirant lo Blanch, Valencia 2016, 2017):

I Part General de Dret Civil

II Dret de la persona

III Dret de família

IV Dret d'obligacions

DEL POZO, Pedro/ VAQUER, Antoni/ BOSCH, Esteve. Derecho civil de Cataluña. Derechos reales, 5^a ed. Marcial Pons, 2018.

DEL POZO, Pedro/ VAQUER, Antoni/ BOSCH, Esteve. Derecho civil de Cataluña. Derecho de Sucesiones, Marcial Pons, 2017.

DEL POZO, Pedro/ VAQUER, Antoni/ BOSCH, Esteve. Derecho civil de Cataluña. Derecho de Obligaciones y Contratos, Marcial Pons, 2018.

DEL POZO, Pedro/ VAQUER, Antoni/ BOSCH, Esteve. Derecho civil de Cataluña. Derecho de Familia Marcial Pons 2016

Codi Civil de Catalunya. Jurisprudència sistematizada. SOLÉ RESINA, Judith et alii. 3^a ed, Tirant lo Blanch, València 2017.

http://justicia.gencat.cat/ca/ambits/dret_civil_catala/

<http://www.mjusticia.gob.es/cs/Satellite/Portal/es/inicio>

http://www.registradors.cat/seccion.php?pag_id=182&xml_file=info_general§ion=info_general

Civil Procedural Law

-RAMOS MÉNDEZ, Francisco, *Enjuiciamiento Civil*, 2 vols, Atelier, Barcelona, last edition.

-CACHÓN CADENAS, Manuel, *Introducción al enjuiciamiento civil*, Atelier, Barcelona, last edition.

-CACHÓN CADENAS, Manuel, *La ejecución procesal civil*, Atelier, Barcelona, last edition.

-AA VV, *Nociones preliminares de Derecho Procesal Civil*, dir. Jordi Nieva y Llorenç Bujisa, ed. Atelier, Barcelona, last edition.

-RAMOS MÉNDEZ, *El juicio civil*, ed. Atelier, Barcelona, last edition.

-ORTELLS RAMOS, Manuel, *Derecho Procesal Civil*, Aranzadi, Pamplona, last edition.

Software

-