

Degree programme	Type	Course
Legal Profession and Legal Representation	OB	1

Contact lecturer

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Prerequisites

It is essential to have the Degree in Law.

Group languages

You can consult this information at the [end](#) of the document.

Teaching staff

Civil Litigation 1

Luis Brun Menéndez (Spanish)

Xavier Cecchini Rosell (Catalan)

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

Carles Górriz López (Spanish)

Guillem Izquierdo Grau (Catalan)

Ramón Morral Soldevila (Catalan)

Judith Solé Resina (Catalan)

Civil Litigation 2

Jordi Álvarez Morales (Catalan)

Laura Cachón Marinello (Catalan)

Verónica Dávalos Alarcón (Catalan-Spanish)

Albert Fauria Planas (Catalan)

Alejandra García de la Torre (Spanish)

Francisco Ramos Romeu (Catalan-Spanish)

Lluís Rodríguez Torres (Catalan-Spanish)

Consuelo Ruiz de la Fuente (Spanish)

Objectives

The aim is for students taking this module to acquire the necessary skills to prepare for and undertake the legal defence in civil proceedings, in any of their forms (whether acting as the claimant or the defendant).

For teaching purposes, the Civil Litigation module is divided into two sub-modules:

- Civil Litigation 1 (Topics in Civil and Commercial Law) Coordinator: Dr Xavier Cecchini Rosell
- Civil Litigation 2 (Civil Procedural Law) Coordinator: Dr Arantza Libano Beristain

Each sub-module is organised and assessed independently and will account for 50 per cent of the final mark for the Civil Litigation module. In each sub-module, the score obtained in the respective continuous assessment is taken into account when calculating the final mark.

Learning outcomes

- CA01 (Perform and coordinate professional work in specialised and interdisciplinary teams for the due defence and representation of clients.) Perform and coordinate professional work in specialised and interdisciplinary teams for the due defence and representation of clients.
- KA01 (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.) 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 (Properly identify the knowledge and processes of Procedural Law that can resolve complex situations in the practice of the profession.) Properly identify the knowledge and processes of Procedural Law that can resolve complex situations in the practice of the profession.
- SA02 (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.) 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 (Use alternative methods to resolve disputes and thus avoid legal proceedings and bring an end to ongoing processes.) Use alternative methods to resolve disputes and thus avoid legal proceedings and bring an end to ongoing processes.
- SA04 (Apply procedural instruments in enforcement and official notices, paying attention to sustainability and effectiveness.) Apply procedural instruments in enforcement and official notices, paying attention to sustainability and effectiveness.
- SA05 (Properly uphold the clients' right to defence and legal representation at the national, European and international level.) Properly uphold the clients' right to defence and legal representation at the national, European and international level.
- SA06 (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.) 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.

Contents

For teaching purposes, the Civil Litigation module is divided into two sub-modules: Civil Litigation 1 (Civil and Commercial Law) and Civil Litigation 2 (Civil Procedure Law)

CIVIL LITIGATION 1 (Coordinator: Dr Xavier Cecchini)

I. CIVIL LAW

FAMILY LAW / PERSONAL LAW

UNIT 1. PARENTAGE. IDENTIFICATION OF THE INDIVIDUAL

1. The principle of the parentage regime. The parentage relationship
2. The legal period of conception
3. Identification of the individual: registration of maternity and paternity.
4. Acknowledgement of paternity. Non-contentious proceedings.
5. Assisted reproduction: requirements and procedures. Post-mortem assisted reproduction
6. Surrogacy: key issues.

UNIT 2. ACTIONS RELATING TO PARENTAGE

1. Actions relating to parentage. General rules
2. Claims for parentage: claiming marital parentage. Claiming non-marital parentage. Claims and applications for contestation
3. Actions to contest parentage: Contesting maternity. Contesting marital paternity
4. Contesting recognition.
5. The presumption of non-marital paternity

UNIT 3: MARRIAGE: NULLITY, SEPARATION AND DIVORCE

1. The procedure
2. Preliminary and interim measures
3. Final measures proposed in the settlement agreement
4. Final measures agreed by the court
5. Agreements outside the settlement agreement
6. Amendment of measures
7. Family mediation
8. Child custody.
9. Parental responsibility
10. The parenting plan

CONTRACTS

UNIT 4: CONTRACTUAL REMEDIES

1. The nullity of a contract. Particular reference to unfair terms and the assessment of formal and substantive transparency.
2. The voidability of a contract. Defects in consent
3. Termination of a contract of sale. Analysis of the provisions of Book VI of the Catalan Civil Code: lack of conformity, fundamental breach.
4. Rescission of a contract of sale: unjust enrichment and rescission on grounds of injury.

REAL RIGHTS

UNIT 5: JUDICIAL PROTECTION OF POSSESSION

1. Concept of possession; acquisition and loss of possession
2. Summary judicial protection of possession: 2.1. Standing to sue; 2.2. Standing to be sued; 2.3. Subject matter; 2.4. Time limit
3. Publician action

UNIT 6: JUDICIAL PROTECTION OF THE RIGHT OF OWNERSHIP

1. Concept of property
2. Action for recovery of property: Requirements
3. Declaratory action for title
4. Actions for exclusion: 4.1. Action for negation: Standing to sue.. Conditions for bringing the action: unlawful encroachments; 4.2. Enclosure of land; 4.3. Action for demarcation and setting of boundary markers

UNIT 7: THE LAND REGISTRY

1. Effects of the Land Registry on the registered owner: 1.1. The principle of registration as evidence of title (Article 38 of the Land Law); 1.2. The principle of presumption of accuracy: consequences
2. Acquisition by adverse possession: Concept and requirements. Acquisition by adverse possession 'secundum tabulas' and 'contra tabulas'
3. Land Registry proceedings (Article 41 of the Land Law): legal basis; distinction from summary proceedings for the protection of possession. Standing to sue and to be sued. Procedure: grounds for opposition.
4. Effects of the Land Registry vis-à-vis third parties: 4.1. The unenforceability of unregistered titles (Article 32 LH): requirements; 4.2. The principle of good faith in the Land Registry: protection of third parties (Article 34 LH): requirements

INHERITANCE LAW

UNIT 8: ACTIONS IN THE FIELD OF INHERITANCE LAW

1. The opening of the succession: applicable law: EU Regulation 650/2012.
2. Voluntary declaration of inheritance. The 'interpellatio in iure'. Acceptance and renunciation of the inheritance. Challenging transactions "mortis causa".
3. Statutory declaration of inheritance: declaration of intestate heirs.
4. The community of heirs and the partition of the estate.
5. Protection of the deceased's creditors. The benefit of separation.
6. The action to claim an inheritance. Claiming the statutory share and the supplement. Reduction of ineffective legacies and gifts.
7. Protection of the surviving spouse or cohabiting partner: widow's or widower's benefits. The widow's or widower's fourth.

II. COMMERCIAL LAW

UNIT 9. INSOLVENCY LAW

1. Legal basis.
2. Prerequisites
3. Stages of insolvency proceedings.
4. Insolvency proceedings without a estate.
5. Second chance.

UNIT 10: COMMERCIAL CONTRACTS

1. Commercial aspects of the general theory of contracts and obligations.
2. Sale and purchase.
3. Collaboration contracts.
4. Transport.
5. Insurance.
6. Banking contracts.

UNIT 11. COMPANY LAW

1. Directors' liability.

2. The action for liability for debts (section 367 of the Companies Act).
3. The individual liability action (section 241 of the Companies Act)

CIVIL LITIGATION 2 (Coordinator: Dr Arantza Libano Beristain)

UNIT 1. CIVIL JURISDICTION AND PARTIES TO PROCEEDINGS

1. Civil jurisdiction
2. International judicial jurisdiction (or international jurisdiction) of Spanish civil courts
3. Subject-matter jurisdiction
4. Territorial jurisdiction
5. Functional jurisdiction
6. Allocation of cases
7. Review of jurisdiction and the various types of jurisdiction
8. Parties to proceedings
9. Capacity to be a party and capacity to litigate
10. Standing to sue
11. Succession
12. Joint litigation
13. Intervention in proceedings

UNIT 2. PRELIMINARY PROCEEDINGS, MASC AND THE PLEDGES STAGE

1. Types of preliminary proceedings
2. Jurisdiction
3. Procedure
4. MASC
5. The claim
6. Form and structure of the claim
7. Determining the type of proceedings to be followed
8. Setting the amount in dispute
9. Determination of the subject-matter of the proceedings
10. Submission of documents and other evidence with the statement of claim

11. Copies of the statement of claim and documents
12. Admissibility, inadmissibility or suspension of the admissibility of the statement of claim
13. Effects of the statement of claim
14. Amending the statement of claim

UNIT 3. PLEDGES STAGE (continued)

1. Joinder of claims
2. Joinder of proceedings
3. Service of process on the defendant
4. Procedural options available to the defendant in response to the claim
5. Procedural effects of a declaration of default (Articles 496 et seq. of the Civil Procedure Act)
6. The defendant's appearance in court without answering the claim
7. The defence to the claim
8. Submission of documents and other evidence with the defence to the claim, and the filing of copies of the defence and the accompanying documents
9. Raising counter-claims by the defendant
10. The counter-claim
11. Defence to the counter-claim

UNIT 4. THE PRELIMINARY HEARING

1. Convening of the preliminary hearing
2. Appearance of the claimant
3. Appearance of the defendant
4. Attempt at conciliation
5. Discussion and ruling on procedural issues raised in the parties' written submissions
6. Consolidation of the arguments and claims set out in the initial written submissions, and of the evidence submitted with those submissions
7. The parties' positions on the evidence submitted up to that point
8. Proposal and admission of evidence
9. Setting the date for the trial

UNIT 5. THE TRIAL. THE JUDGMENT. LEGAL COSTS

1. The trial in ordinary proceedings

2. The oral hearing
3. Final proceedings
4. The judgement
5. Res judicata
6. Alternative ways of concluding proceedings other than by judgement
7. Legal costs

UNIT 6. APPEALS

1. Concept of an appeal
2. Types of appeals
3. Standing to appeal
4. Possible effects of the admission of appeals
5. Prohibition of "reformatio in peius"
6. Application for reconsideration
7. Application for review
8. Appeal
9. Extraordinary appeal on procedural grounds and appeal to the Court of Cassation
10. Complaint
11. Means of challenging final decisions: Setting aside final judgements at the request of a defendant in default, review of final judgements and proceedings to declare proceedings null and void

UNIT 7. PRECAUTIONARY MEASURES AND ENFORCEMENT

1. Purpose of precautionary measures
2. Jurisdiction
3. Types of precautionary measures that may be ordered
4. Conditions for ordering precautionary measures
5. Stages of the proceedings at which precautionary measures may be sought and the procedure for their adoption
6. Amendment of precautionary measures and provision of alternative security
7. Provisional enforcement
8. Enforcement proceedings and the enforcement order
9. Jurisdiction in matters of enforcement

10. Standing to sue and be sued in enforcement proceedings
11. The application for enforcement
12. The authorisation of enforcement
13. Enforcement measures to be adopted by the court clerk following the authorisation of enforcement
14. Opposition to enforcement

UNIT 8. ENFORCEMENT (continued)

1. Preparatory steps for attachment
2. Attachment
3. Assets exempt from attachment
4. Legal effects arising from attachment
5. Enforcement proceedings: alternative methods of enforcement to auction
6. Auction
7. Enforcement of non-monetary judgments

UNIT 9. SPECIAL PROCEDURES: ORDER FOR PAYMENT PROCEEDINGS AND BILL OF EXCHANGE PROCEEDINGS

1. Order for payment proceedings: general principles
2. General outline of order for payment proceedings
3. European order for payment proceedings
4. Bill of exchange proceedings

UNIT 10. PROCEDURAL SPECIFICITIES IN CONSUMER MATTERS

1. Procedural specificities in consumer matters
2. Specific reference to procedural issues arising from unfair terms

Learning activities and methodology

Title	Hours	ECTS	Learning outcomes
Conference attendance.	65	2.6	
Study and work outside the classroom. Readings, preparation and writing of texts, search of bibliography and jurisprudence.	48	1.92	
Study and work outside the classroom. Readings, preparation and writing of texts, search of bibliography and jurisprudence. Preparation examen	112	4.48	

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

Expositive classes

Case resolution classes

Preparation of reports and exercises

Oral presentation of activities

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.

Assessment

Continuous assessment activities

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

1. Continuous assessment:

50 per cent of the final mark for the module (5 out of 10) will be based on the score achieved in the continuous assessment activities. The remaining 50 per cent (5 out of 10) is based on the result of the final exam.

1.1. Continuous assessment activities:

The specific number and format of the continuous assessment activities is determined by the course teaching staff and published on the Virtual Campus. Such continuous assessment activities may take place in approximately 50 per cent of the scheduled sessions.

Absences from these activities, whether justified or not, cannot be made up at a later date, except in very specific cases (for example, prolonged absences due to health reasons or similar circumstances).

Continuous assessment activities comprise two types of activities:

1.1.1. Assessable practical activities (writing assignments, solving case studies, etc.), which are listed in the course calendar and/or announced in advance.

1.1.2. Short questionnaires (short-answer questions, true or false questions, multiple-choice questions, etc.) completed in class on dates and at times that are not announced in advance.

1.2. Final examination:

This consists of two multiple-choice tests (one for each part of the subject) comprising 25 questions, modelled on the Ministry of Justice's entrance examination (four answer options, with a penalty of -0.33 for each incorrect answer).

The final exam will be taken into account provided a minimum score of 3 points (out of 10) is achieved. Anyone who obtains a mark of less than 3 points (out of 10) in the final exam will not pass the module.

Students who have obtained a mark of less than 5 points (out of 10) in the exam but 3 points (out of 10) or more may sit the exam again to retake it. This re-assessment will only affect the exam score; it will not affect the marks for continuous assessment activities, which will remain unchanged.

2. Single assessment:

Candidates opting for the single assessment will sit the following three activities:

- 1) A multiple-choice test comprising 50 questions (50 per cent)
- 2) Drafting a procedural document or completing a case study (25 per cent)
- 3) Completion of a practical case study or drafting of a procedural document different to the one mentioned above (25%)

The second and third activities will last approximately 4 to 5 hours and will take place at a time specifically set by the module coordination. During the second and third activities, candidates may consult legislation, but may not access computer resources.

To pass the single assessment, candidates must achieve a minimum mark of 5 points across the three activities. Candidates who do not achieve this score but who have a minimum mark of 3 points (out of 10) may resit an examination.

Bibliography

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II. Dret de la persona

III. Dret de família

IV. Dret d'obligacions

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Software

The subject does not require any specific software.

Course groups and languages

The information provided is provisional until November 30. After this date, you will be able to consult the language of each group through this [link](#). To access the information, you will need to enter the course CODE

Type of teaching	Group	Language	Semester	Shift
(TEmRD) Teoria (màster RD)	1	Catalan/Spanish	first semester	afternoon
(TEmRD) Teoria (màster RD)	2	Catalan/Spanish	first semester	afternoon
