



RHODES UNIVERSITY
Where leaders learn

Makhanda • 6140 • South Africa

FACULTY OF LAW • Tel: (046) 603 8427/8 • Fax: (046) 6037615

Web Page: <http://www.ru.ac.za/law>

CIVIL PROCEDURE B COURSE OUTLINE

YEAR: 2022

LECTURER: Adv C Renaud

1. OVERVIEW

This course is aimed at ensuring that students are well equipped to attend the handling of a simple civil claim. The purpose of the course is to enable students to know the theory of civil procedure, while also providing students with the necessary skills to put their knowledge into practice. The main focus of the course is motion court procedure, and the course will cover both Magistrates' Courts and the High Court, with more time being devoted to the latter.

2. ASSUMPTIONS OF PRIOR LEARNING

An ability to read, understand and extract relevant information from statutes and case law. An introduction to the subject in the form of Civil Procedure A or its equivalent.

3. SPECIFIC OUTCOMES

At the end of this course students will be able to demonstrate the following:

- a broad knowledge of Magistrates' Court and High Court procedure
- an ability to explain the general principles of the application procedure, 'on notice' applications, *ex parte applications* and urgent applications.
- an ability to explain the requirements of selected specific applications.
- an ability to explain the procedure of provisional sentence
- an ability to explain the distinction between attorney and client costs and party and party costs as well as the salient features of the law governing awards of costs.
- an ability to distinguish between appeals and reviews and to outline the specific steps that must be taken in respect of each of these procedures.
- an ability to explain rescission and variation of judgments
- an ability to explain the various procedures applicable to the enforcement of judgments as well as a debtor's recourse to an administration order or sequestration as a mechanism to assist a debtor unable to pay his debts.

4. CRITICAL OUTCOMES

Students will be able to:

- analyse and evaluate information
- work in a team
- communicate effectively in writing

5. TEACHING METHOD

Lectures will be delivered twice a week. Generally a topic will be introduced in a formal lecture. Students are expected to refer to the actual text of the Superior Courts Act 10 of 2013, the Magistrates' Court Act 32 of 1944 as well as the various Rules of Court. These are available on the internet. Various text-books will be referred to in lectures but none are prescribed.

6. ASSESSMENT

The class component of this course counts 30%. This will be assessed on the basis of a class test counting 15%, and one assignment counting 15%. The June exam counts 70%.

| SPECIFIC OUTCOMES | ASSESSMENT CRITERIA |
|---|---|
| Students are expected to be able to: | Students must: |
| Demonstrate a broad knowledge of the procedures utilised in the High Court and the Magistrates' Court in conducting a civil claim | Answer correctly questions concerning the procedures utilised in civil cases in the High Court and the Magistrates' Court. Explain the context of the various procedures Explain the purpose of the various procedures. |
| Demonstrate an ability to identify the most appropriate response to any procedural step taken by an opposing litigant and to evaluate the utility thereof | Identify the possible responses Explain the advantages of making particular responses |
| Demonstrate an ability to describe and explain the context of procedures commonly utilised in civil claims | Describe the context of various procedures Explain the context in which the procedures are utilised |
| Demonstrate an ability to relate civil procedure to substantive law in the form of commonly occurring applications | Identify the essential averments that must be made in affidavits supporting commonly occurring applications |
| Demonstrate an ability to work in groups | Draft commonly occurring applications and present them to the class in a group presentation |

7. COURSE CONTENT

- 7.1 Application procedure, including ‘on notice’ applications, *ex parte* applications and urgent applications.
- 7.2 Specific applications:
- 7.3 Summary judgment and provisional sentence
- 7.4 Appeals and Reviews
- 7.5 Rescission of judgments
- 7.6 Enforcement of judgments
 - 7.6.1 Execution
 - 7.6.2 Debt collections
- 7.7 Administration orders
- 7.8 Applications for sequestration and voluntary surrender
- 7.9 Law of costs

8. TEXTBOOKS

There is no prescribed textbook for the course, but the following are strongly recommended:

Theophilopoulos, *et al.*; *Fundamental Principles of Civil Procedure (4th ed)*; (2021); LexisNexis

Peté, *et al.*; *Civil Procedure, A Practical Guide (3rd ed)*; (2017) Oxford

If you want to just buy one of these books, then I suggest Theophilopoulos. It is more expensive, but also more comprehensive and more up-to-date than Peté.

9. DPs

It is the responsibility of students to ensure that they meet the Faculty’s standard DP requirements (set out in the Survival Guide). The lecturer will withdraw DPs from those students who fail to meet the requirements.