

Advanced Legal Research and Writing: Law 388 A01
University of Victoria, Faculty of Law
SPRING 2012

Instructor: Neil Campbell
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Office hours:

You may drop by my office or schedule an appointment.
Generally I will be available after the class on Mondays and
Wednesday from 3:00 to 4:00 p.m.

Class time: Mondays and Wednesdays 1:30 to 2:50

Classrooms: Room 204 or
Computer Lab (In the Library)

Course Description and Objectives

Law 388 provides students with the knowledge and skills essential to professional legal research. It builds on the research and writing learned in first-year law. Students explore a wide range of research resources, legal and non-legal, with an emphasis upon computer-assisted legal research. This course provides a foundation for success in the Legal Research and Writing component of the Professional Legal Training Course (B.C.)

The components of the course are as follows:

- Legal Research
 - A conceptual understanding of legal research which will enable students to research any legal topic and research the law in Canadian as well as non-Canadian jurisdictions.
 - A focus on computer-assisted legal research or primary sources of law, both legislation and case law.
 - A focus on research using secondary sources.
- Legal Writing

- A conceptual understanding of legal writing.
- An analysis of practical ways to improve legal writing, developed through the completion of exercise to improve legal writing.

The skills covered in the components of the course will be developed through exercises that provide practice in legal research.

Texts

Required

- Gail Nash. *Legislation Made Easy*, 3rd ed (Victoria: Crown Publications, 2009).
- Fitzgerald & Barker. *The Ultimate Guide to Canadian Legal Research*. (LexisNexis, 2011).
- Richard Wydick, *Plain English for Lawyers*, 5th ed. (Durham, North Carolina: Carolina Academic Press, 2005) (PEL).
- Ted Tjaden, *Legal Research and Writing*, 3rd ed, (Toronto: Irwin Law, 2010) an electronic book available through the law library online catalogue at <http://site.ebrary.com/lib/uvic/docDetail.action?docID=10398702>

Material on Reserve

- Wayne Booth et al, *The Craft of Research*, 3rd ed (Chicago: University of Chicago Press, 2008).
- Continuing Legal Education Society of British Columbia, *Legal Research Handbook* 2004 and 2009.
- McGill Law Journal. *Canadian Guide to Uniform Legal Citation*, 7th ed. (Toronto: Carswell, 2010).
- William Strunk and E. B. White, *Elements of Style*, 4th ed. (Boston: Allyn & Bacon, 2000).

In preparation for classes you are expected to read the required readings listed in the class schedule, and at least one of the recommended readings. All of the books referred to on this outline are on reserve for this course.

Reading, class exercises, lecture notes, and research links can be found on the class website on Moodle at <http://moodle.uvic.ca> course Law 388 – A01.

Methodology

The course will employ a combination of lectures, exercises, and tutorials. The lectures will present concepts and theory with respect to legal research and legal writing, explain the structure of secondary sources. The classroom exercises will give are designed to allow you to practice and develop your legal research and writing skills. Students are strongly encouraged to engage with the material through asking questions and engaging in class discussions. Several guest speakers will present to the class on specific aspects of legal research and writing.

Evaluation

The following table presents the weights, distribution dates and due dates for the assignments in the course.

Assignment	Value	Distributed / Exam Date	Due
Major Research Assignment	50%	January 4th	April 5th
Research Plan	15%	January 4th	February 10 th & April 5th
Legislation Quiz	15%	February 22 nd Date subject to change	
Case Law Quiz	15%	March 21st Date subject to change	
Class Participation	5%		March 28 th & April 2nd

Assignments

1. Research Paper: 50% of final mark

For this assignment, students are to select their own topic, in consultation with the instructor, or choose a topic provided by external “clients”. If the research is done on a topic provided by an outside client, a copy of the paper will be forwarded to the client who requested the research.

The focus and purpose of this course is to develop your skills in legal research and writing. It is wise to choose a topic that provides you with an opportunity to develop and apply your legal research skills. That said, the range and types of topics is very broad.

Papers that are purely descriptive and lack depth of analysis will tend to receive lower grades. It is common that papers quickly expand beyond what can be well analyzed in 18 to 20 pages. Be aware of this as you choose your topic and develop your paper. Your paper will be better if it analyzes in depth a specific narrow topic in an area of law rather than if it consists of a general survey or a broad topic.

Page and Format Requirements

Pages: 18 – 20
Page Size: 8.5” x 11”
Font: 12pt. Times New Roman
Lines: Double spaced
Margins: 1” on each side
Endnotes: 10 pt. Times New Roman

The page limit does not include the title page, the bibliography, and any appendices or supplementary material. I recommend an appendix if your

paper references statutory provisions or lengthy case excerpts. The page limit does include Endnotes.

The Research Paper and Research Guide must be submitted no later than the last day of classes for the term, **Friday, April 5th**, unless authorized by the instructor. Such authorization shall not extend beyond the time for submission beyond the end of the examination period, **Friday, April 5th**.

Research Plan: 15% of final mark

The Research Plan is an assignment that accompanies your Research Paper. It is submitted twice in two separate forms.

The first version is due on Friday, February 10th and is an outline of the general topic of your paper and your plan for how you will conduct the research necessary to complete your paper. Its content should include:

1. The general of interest for your research
2. Preliminary statements of the possible specific topics of your research. These will evolve and take focus as your research progresses
3. The types of sources that you anticipate being relevant to your research. Possibilities include: legislation, case law, document related to legislative history, academic issues, or policy analysis; and
4. The specific research tools, techniques, databases, and processes that you plan to use in your research

The Research Plan is submitted a second time along with your Research Paper on April 5th. This will be the original version with annotations that explain how your research actually progressed. These comments explain what aspects of the original research plan went as expected, and how you changed and evolved the plan as the research progressed. It should explain how you went about your research, what obstacles and discoveries you made in the process and what observations of what you learned about legal research as a result of your research process.

The Research Paper and Research Guide must be submitted no later than the last day of classes for the term, Friday the 2nd of December, unless

authorized by the instructor. Such authorization shall not extend beyond the time for submission beyond the end of the examination period on Friday, December April 25th.

3. Legislation Quiz: 15% of final mark

This quiz will be completed in class time and will be based upon the lecture material, readings, and exercises covered in class.

4. Case Law Quiz: 15% of final mark

This quiz will be completed in class time and will be based upon the lecture material, readings, and exercises covered in class.

5. Class participation: 5% of course mark

Class participation will be evaluated on class attendance, participation in class, completion of all legal writing homework, and the in-class presentations on your Research Paper. Failure to write the two classroom quizzes on the specified dates without prior notification and authorization from the instructor will result in no marks being awarded.

The chart below sets out the letter grades used in the Faculty of Law, their grade point value on a 9.00 scale and their numerical (%) equivalencies. It also provides narrative descriptions of the levels of student achievement associated with letter grades, as adopted by the University Senate.

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+	9	90-100%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	
D	1	50-54%	Marginal performance. A student receiving

			this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory performance.

In addition, please be aware of the following requirements and guidelines:

- To pass this course, students must complete all assignments. See penalties below for failure to do so.
- All assignments will be graded by numerical percentage. The final grade for this course will be calculated by adding the weighted numerical grades of all evaluation components and determining the equivalent letter grade for the total of those weighted components.
- Accommodation to ameliorate specific disadvantages affecting a student may be granted by consistent with Faculty of Law policy, on application to the course instructor and the Associate Dean.

The Faculty policy concerning deadlines for assignments is as follows:

“The faculty expects assignments to be submitted on time; students who are unable to meet a deadline are expected to discuss the matter with their professor. Whether or not an extension of time is granted is within the discretion of the professor and conditional upon the student providing a reasonable excuse. Students who fail, without reasonable excuse, to meet deadlines for written assignments may be penalized in accordance with the grading and penalty assessment policy set by the particular professor, filed with the Dean and communicated to the class at the beginning of the class term.

Appeals against rejection of a student request for additional time to complete the paper or appeals against an allegedly unfair penalty assessment scheme may be made to the Studies Committee.”

Law 388 Grading and Penalty Assessment Policy

If you fail to complete and submit an assignment in this course by the scheduled due date/time, without my prior approval of an extension, your

grade for that assignment will be reduced by one letter grade for every day, or part of a day, that the assignment is late.

If you fail to complete an assignment in this course you will receive an “F” as your final grade for this course

Plagiarism and Academic Dishonesty

It is a serious academic offence to engage in plagiarism or other forms of academic dishonesty or to assist others in doing so. Note that “multiple submissions” of your own work is an academic offence unless you have obtained prior permission of the instructor. This means that you are not allowed to submit the same work for academic credit in more than one course, regardless of whether or not the other course is taken at this university or at another academic institution.

Plagiarism and other forms of academic dishonesty may lead to disciplinary proceedings and, depending on the circumstances, may result in the imposition of academic penalties ranging from a reprimand, loss of credit for a course, an “F” grade, or temporary or permanent suspension from the Faculty of the University.

Refer to the current *University of Victoria Calendar* for a detailed explanation of what constitutes plagiarism and for reference to other prohibited forms of academic dishonesty and the possible penalties that may be imposed for such infraction.

Classroom Climate

The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. As an instructor, my goal is to establish an inclusive, respectful, and diverse classroom environment in which all class members feel welcomed and equally able to contribute to class discussions. To achieve this, I as an instructor and you as students must endeavor to be respectful in our language, in our examples, and in the manner in which we conduct discussions and group work. If concerns arise during the term about the climate of the class, please feel free to discuss them with the Associate Dean or the instructor.

In relation to the use of laptop computers, please extend me the courtesy of not displaying on your laptops material that is not related to the class.

Illness, Disability, Family Circumstances Accommodation

The Faculty of Law provides reasonable accommodation to students on the basis of factors such as illness, disability, family circumstances, family or personal emergencies or affliction, or other similar special needs, when such factors interfere with the ability of a student to attend or to complete assignments or examinations at regularly scheduled dates or in other circumstances. Accommodation to enable religious observance is also provided. Students should feel free to consult me or the Associate Dean of Academic and Student Relations (Professor Heather Raven) regarding such matters.

Other Faculty Regulations and Policies

Students should ensure that they are familiar with all regulations and policies pertaining to their status as students. The academic regulations and policies of the Faculty of Law can be found on the Faculty of Law website at http://law.uvic.ca/current/academic_regs.php. Questions about these regulations and policies should be directed to the Associate Dean Academic and Student Relations.

Students should also ensure that they are familiar with relevant regulations contained in the University of Victoria Calendar.

Class Schedule

The following schedule of class topics may change do to the pace at which we proceed through the term. Revised lists of class topics will be provided if this happens.

We may be holding joint classes with the other section of ALRW in order to accommodate some of the speakers who will be presenting in the course. This may lead to holding these classes on a Friday and cancelling classes in the usual time slots.

Part I: Background to Legal Research & Course Preparation

January 4th, Wednesday

Topics:

- Introduction to ALRW
- Review of course syllabus
- Assignments & Evaluation
- Introduction to Moodle and course communications

Room 204

January 9th, Monday

Topics:

- Introduction to legal research
- The nature and dynamic of the legal research process
- Issue identification

Reading:

- Cohen, "Research habits of lawyers"
- Tjaden, pages 1 to 11

Room 204

January 11th, Wednesday

Topic: Secondary Literature

- Finding a topic
- Developing a research guide
- Secondary sources
- Tips for writing a legal research paper

Reading: Booth et al, *The Craft of Research*, chapters 3 & 4

January 16th, Monday

Topic: Knowledge Management

- Zotero
- Endnote
- Refworks

Guest Presenters: Rich McCue and Michael Lines
Computer Lab

Part II: Researching Legislation

January 18th, Wednesday

Topics:

- Canadian Statute Research
- Research federal legislation and legislative history

Reading: Peters, "Research Strategy for Statutory Interpretation"

January 23rd, Monday

Topics:

- Introduction to Canadian Statute Research
- Research BC provincial legislation and legislative history

Reading:

- Gleave, "Finding the Right Enactment"

Computer Lab

January 25th, Wednesday

Topic: Westlaw Canada training
Guest: Allan Akizuki
Computer Lab

January 30th, Monday

No class

February 1st, Wednesday

UK and Commonwealth legislation

February 6th, Monday

US Legislation

February 8th, Wednesday

Topic: LexisNexis/QL training
Guest: Angeline Han
Computer Lab

**First Draft of Research Plan Due
on
Friday, 10th**

**Reading Week – February 13 to 17
No classes**

February 20th, Monday

Legislation Practice Quiz

February, 22nd Wednesday

Legislation Quiz

Part III: Legal Writing

February 24 Friday

12:00 – 2:30

Legal Writing I:

Guest: Lisa Surridge

February 27th, Monday

Topic: Legal Writing III: the context and characteristics of legal writing

Reading:

- McLachlin, “Legal Writing: Some Tools”
- *PEL*, chapters 1 to 4

Room 205

February 29th, Wednesday

Topic: Legal Writing IV: review of practice exercises

Reading: *PEL*, chapters 5 to 8

Room 204

Part IV: Researching Case Law

March 5th, Monday

Topic: Caselaw I: introduction to the concepts of caselaw research

Reading:

- Younger, “Citing cases for maximum impact”
- Wood, “Excessive citing of authorities”
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Room 204

March 7th, Wednesday

Topic: Caselaw II: Researching Canadian caselaw
Computer Lab

March 12th, Monday

Topic: Research UK and Commonwealth caselaw

March 14th, Wednesday

Topic: Research US caselaw

March 19th, Monday

Caselaw Quiz Practice

March 21st, Wednesday

Caselaw quiz

Part V: Course Wrap-up

March 26th, Monday

Practical legal research: a panel presentation

March 28th, Wednesday

Topic: Class Presentations
Room 204

April 1st, Monday

Topic: Class Presentations
Room 204

April 4th, Wednesday

No scheduled class. The instructor will be available during the regular class time for consultations on final assignments.

**Last Day of Classes April 5th
Research Paper and Final Draft of the Research Plan Due**