

Advanced Legal Research and Writing: Law 388
University of Victoria Faculty of Law
Spring 2012

Instructor: Derek Jackson
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Class Time: Tuesdays and Thursdays, 1:30 – 3:00

Classrooms: Room 204 and Computer Lab (in the Library)

Course Description and Objectives

Law 388 builds on the research and writing skills learned in first year law. Students explore a wide range of research sources and learn the importance and integration of both print and on-line research sources. The importance of context, organization and analysis is stressed. The goal of the course is to provide a foundation for success in the Legal Research and Writing component of the Professional Legal Training Course (B.C.) and to bolster research skills generally.

The components of the course are as follows:

(1) Legal Research

- a. 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.
- b. A focus on computer assisted legal research of primary sources of law, both legislation and case law.
- c. A focus on research using secondary sources of law.

(2) Legal Writing

- a. A conceptual understanding of legal writing.
- b. An analysis of practical ways to improve legal writing, developed through the competition of exercises to improved legal writing and exposure to the writings utilized in practice.

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

Texts

Required

1. Gail Nash, *Legislation Made Easy*, 3rd ed. (Victoria: Crown Publications, 2009)
2. Richard Wydick, *Plain English for Lawyers*, 5th ed. (Durham, North Carolina: Carolina Academic Press, 2005) (“PEL”)
3. 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

1. Wayne Booth *et al.*, *The Craft of Research*, 3rd edition (Chicago: University of Chicago Press, 2008)
2. Continuing Legal Education Society of British Columbia. *Legal Research 2004 and 2008*
3. MacEIlven. *Legal Research Handbook* 5th ed. (2003)
4. McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 7th ed. (Toronto: Carswell, 2010)
5. William Strunk and E.B. White. *Elements of Style*, 4th ed. (Boston: Allyn & Bacon, 2000)
6. Maureen Fitzgerald, *Legal Problem Solving*, 4th ed. (LexisNexis, 2007)

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

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, and explain the structure of secondary sources. The in-class exercises will provide practice in developing legal research and legal writing skills. Students are strongly encouraged to engage with the material through asking questions and engaging in class discussions. 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 for Law 388.

Assignment	Value	Distributed / Exam Date	Due
Major Research Paper	60%	January 5	April 5
Legislation Quiz	15%	February 28	

		(subject to change)	
Case Law Quiz	15%	March 8 (subject to change)	
Class Participation	10%		

1. Major Research Paper: 60% of final mark

For this assignment, students are to select their own topic or choose a topic provided by external “clients”. Students are well-advised to seek approval from the instructor with respect to their choice or area of research. 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 topics is very broad.

Paper that are purely descriptive and lack depth of analysis will tend to receive lower grades. 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: 23 - 25
Page size: 8.5” x 11”
Font: 12 pt. Times New Roman
Lines: Double spaced
Margins: 1” on each side
Footnotes or Endnotes: 10 pt. Times New Roman, single spaced

The page limit is exclusive of the title page, the bibliography and any appendices. It includes footnotes and endnotes.

Students will be required to orally present the findings of their research in class near the end of the term.

2. Legislation Quiz: 15% of final mark

This quiz will be completed in class time and be based on the research processes that have been covered in class.

3. Case Law Quiz: 15% of final mark

This quiz will be completed in class time and be based on the research processes that have been covered in class.

4. Class Participation: 10% of course mark

Class participation will be evaluated by class attendance, participation in class, completion of all legal writing homework, and in-class oral presentations of the results of 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 point scale and their numerical (%) equivalencies. It also provides narrative descriptions of the levels of student achievement associated with letter grades, as adopted by the Senate of the University of Victoria.

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 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://www.law.uvic.ca/Current_Students/Academic_Regs/associate_dean.html. 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 due to the pace at which we proceed through the topics and speaker availability. Students will be advised of any revision of class topics or other changes.

January 5, Thursday – Room 204

Topics:

- Introduction to ALRW
- Review of course and course syllabus
- Assignments and evaluation

January 10 – Tuesday – Room 204

Topics:

- Introduction to legal research
- Role of legal research and the legal research lawyer in practice
- Research and ethics
- The nature and dynamic of the legal research process
- Issue identification

Readings:

- Cohen, “Research Habits of Lawyers”, 9 Jurimetrics J. 183 (HeinOnline)
- Tjaden, pp. 1 - 11

January 12 – Thursday – Room 204

Topic:

- How to write a legal research paper
- Guest Speaker – Gillian Calder, UVic Faculty of Law

January 17 – Tuesday – Room 204

Topic:

- Writing legal opinions – the legal problem-solving process

Reading:

- Fitzgerald, Legal Problem Solving

- CLE, Legal Research – 2004, *The Legal Research Plan: A Tool for Effective Legal Research* (Hansen)

January 19 – Thursday – Room 204

Topics:

- Secondary source materials
- Finding a topic
- Developing a research guide

Reading:

- Booth et al, *The Craft of Research*, Chapters 3 & 4

January 24 – Tuesday – Room 204

Topics:

- Legal Writing 1
- Guest Speaker: Professor Lisa SurrIDGE, Department of English
- **No class - Class to be scheduled – moved to Friday, February 3, noon – 2 p.m., Room 158**

January 26 – Thursday – Computer Lab

Topics:

- Searching Westlaw/Carswell on-line
- Guest Speaker: Alan Akizuki from Thomson Reuters

January 31 – Tuesday – Room 204

Topic:

- Legal Writing 2
- Guest Speaker: Professor Lisa SurrIDGE, Department of English
- **No class - Class to be re-scheduled – moved to Friday, February 3, noon – 2 p.m., Room 158**

February 2 – Thursday – Computer Lab

Topic:

- Knowledge Management
- Zotero
- Endnote
- Guest Speaker: Rich McCue

February 7 – Tuesday – Computer Lab

Topic:

- Quicklaw Research
- Guest Speaker: Angeline Han from Quicklaw

February 9 – Thursday – Computer Lab

Topic:

- Introduction to Provincial Statute Research
- Research B.C. provincial legislation and legislative history

Reading :

- CLE Legal Research – 2004, “How Do I find the Right Enactment” (Gleave)
- Nash, “Legislation Made Easy”

February 14 – Tuesday - no classes scheduled

February 16 – Thursday – no classes scheduled

February 21 – Tuesday – Computer Lab

Topic:

- Canadian Statute Research
- Research federal legislation and legislative history

Reading:

- CLE Legal Research – 2004, “Research Strategy for Statutory Interpretation” (Peters)

February 23 – Thursday – Computer Lab

Topic:

- Legislation quiz practice session

February 28 – Tuesday – Computer Lab

Topic:

- **Legislation quiz**

March 1 – Thursday – Computer Lab

Topic:

- Strategic case law research
- Introduction to the concepts of case law research

Reading:

- Younger, “Citing Cases for Maximum Impact”, 72 A.B.A. Journal 110 (1986) (HeinOnline)

March 6 – Tuesday – Computer Lab

Topic:

- Case law research and practice session

March 8 – Thursday – Computer Lab

Topic:

- **Case law quiz**

March 13 – Tuesday – Room 204

Topic:

- Legal Research and Writing for the Crown
- Guest Speaker: Tim Stokes, Crown Counsel

Topic:

- Researching U.S. law
- Researching U.K. and Commonwealth law

Readings:

- MacElven, Chapter 14
- LaForest, "The Use of American Precedents in Canadian Courts", 46 Me. L. Rev. 211 (1994) (HeinOnline)
- Wolf v. Pig

March 15 – Thursday – Room 204

Topic:

- Legal Writing 3 – the context and characteristics of legal writing

Reading:

- McLachlin, "Legal Writing Some Tools" (Nov. 2001) 39 Alta L. Rev. 695 - 702
- PEL, Chapters 1 - 4

March 20 – Tuesday – Room 204

Topic:

- Legal Writing 4 – review of practice exercises

Reading:

- PEL, Chapters 5 - 8

March 22 – Thursday – Room 204

Topic:

- Reseach potpourri (more secondary materials)
- Trial materials - Civil procedure, practice notes, Cudmore, Mewitt, Olah
- Solicitor materials – Warrens, O'Briens, standardized practice materials and checklists (eg. Wills, leases, family practice)

March 27 – Tuesday – Room 204

Topic:

- Introduction to writing of court briefs/facts
- Guest Speaker: Sean Hern of Farris, Vaughan, Wills & Murphy LLP

March 29 – Thursday – Room 204

Topic:

- Class presentations

April 3 – Tuesday – Room 204

Topic:

- Class presentations

April 5 – Thursday – Room 204

Topic:

- Course wrap-up
- **Major Research Paper due**