

LEGAL PROCESS (LW 1300/1310) 2015-2016:
Course Overview

Coordinator (September - April): **Professor Shelley Kierstead**

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Office Location: Osgoode - Room 3018

Office Hours: During the weeks when there are online lectures, I will hold office hours during the allocated LP lecture time on the Osgoode class schedule. Otherwise by appointment.

Assistant : Sujivany Rajaratnam: legalprocess@osgoode.yorku.ca; Telephone 416-736-5044

Small Group Instructors (September – April: for details, please see “Contact Information” on Professor Kierstead’s course website)

Section A – Julie Falk and Shen Goh

Section B – Sara Ross and Tamera Burnett

Section C – Ian Stedman and Leslyn Lewis

Section D - David Hughes and Joanne Prince

Winter Term Professors (November – April: for contact information, please see professors’ course websites):

Section A - Professor Mosher

Section B - Professor Kierstead

Section C – Professors Genova/Chiodo

Section D – Professor Vayda

***Please see your Individual Winter Term Professor’s Syllabus of Readings**

Table of Contents

Course Overview	1
I. Course Structure	2
II. Course Materials.....	2
III. Course Methodology and Learning Objectives.....	2
IV. Students with Disabilities.....	4
V. Grading.....	4
VII. Academic Honesty.....	7
VIII. General Assignment Information	8
IX. Religious Observance	9
X. Other York Policies.....	9
XI. Legal Process Topics and Readings.....	10
XII. Legal Process Topics - Winter 2016.....	12

I. Course Structure

Welcome to Legal Process! In this course, you will learn fundamental skills that are critical to success in all of your other courses and in legal practice. Legal Process is a full year course that gives you the opportunity to interact with a variety of faculty members. It is taught using a blended learning format. Students will be expected to participate in the online learning components of the course as well as the in-person lectures and seminars. During the fall term, Professor Kierstead will be primarily responsible for lecture and online learning delivery while seminars will primarily be facilitated by Legal Process Instructors [**“Small Group Instructors”**]. Please see the course site for your allocated seminar group, and consult your section schedule for your seminar time and location. It is important to be attentive to the course site, since it is the location for many of the course learning activities and all of the evaluation components. Please note that there are three potential learning settings for the Legal Process class time. They may occur in various combinations for any given week. Please check the course site for an indication of the learning settings for each week.

- Online Class (Instead of meeting in the Moot Court, all students are expected to complete the assigned online learning activities)
- In-class Seminar (Students attend a small group seminar led by their Small Group Instructor)
- In-Class Lecture (Students from all sections meet in the Moot Court)

During the winter term, the teaching team will include the course Coordinator – Professor Kierstead, a Legal Process professor [**“Winter Term Professor”**] for each first year section, and Small Group Instructors. (A detailed Winter Term syllabus for materials covered with your Winter Term Professor will be distributed by that Professor.) Large group lectures (either online or in person) with Professor Kierstead and small group classes with Small Group Instructors continue during the winter term while individual section lectures will also occur twice weekly with Winter Term Professors.

II. Course Materials

Required materials for the fall term:

1. McCarney, Moira, *et al*, *Comprehensive Guide to Legal Research, Writing and Analysis: Ontario & Quebec* (Toronto: Emond Montgomery, 2013).
2. McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 8th ed (Scarborough: Carswell, 2014) [**“Citation Guide”**].
3. Supplementary Materials Posted to Professor Kierstead’s Moodle course website.

Please note that there will be additional required materials for the winter term.

III. Course Methodology and Learning Objectives

The materials and evaluation methods for the Legal Process course are designed to: (1) encourage students to consider lawyers’ professional and ethical responsibilities; (2) assist students to develop ways of thinking about and resolving legal problems that will be applied both during and after law school; and (3) assist students to understand and critically assess various dispute resolution mechanisms.

During the course of the academic year, students will have the opportunity to complete a number of assignments and tests which incorporate various important skills-oriented and substantive aspects of the course. Students will write a final examination at the end of the winter term.

The primarily exercise and assignment-based nature of the Legal Process course requires a significant and “steady” time commitment throughout both the fall and winter semesters. The individuals instructing the course assume that students will approach the course, and the assignments required as part of the course, in a professional manner. In part, this includes paying close attention to course requirements, timely submission of required participation exercises and assignments, and respectful communication with faculty members and fellow students.

In terms of legal content, by the end of the Legal Process course, students should be able to:

- discuss ways in which disputes are shaped;
- demonstrate an understanding of the role of *stare decisis* within a common law regime;
- find, understand and use primary and secondary legal sources in problem solving contexts;
- analyze judicial decisions, synthesize a principle or principles from multiple decisions, and identify analytical tools such as analogy and distinction;
- brief cases, and demonstrate the use of legal reasoning in predictive writing and persuasive writing exercises;
- draft an “office” memorandum;
- demonstrate an understanding of the range of dispute resolution processes that co-exist within the Canadian legal system, and of the assumptions and values underlying different processes;
- demonstrate a working knowledge of ways in which different perspectives can shape the law;
- understand the limits of legal solutions;
- describe the respective qualities and relevance of negotiation, mediation, and adjudication within a legal setting;
- understand how a new paradigm of dispute resolution is emerging in response to growing burdens on trial courts and a concern with issues of access to justice;
- demonstrate a broad grasp of the fundamental and distinctive legal structures, doctrines and processes which govern civil procedure;
- demonstrate technical facility with *The Rules of Civil Procedure* which govern the conduct of civil litigation in Ontario;

- discuss the distinctive regime of civil procedure within the broader social, political and ethical context of legal norms, theory and practice;
- recognize circumstances which give rise to ethical questions and issues of professionalism, and demonstrate an ability to assess appropriate responses to these issues;
- engage effectively in introductory written and oral advocacy exercises.

IV. Students with Disabilities

York University has a range of resources to assist students with physical, mental, psychiatric and learning disabilities in achieving their educational objectives. Students with disabilities requiring accommodation in the classroom or in the examination or evaluation process are encouraged to identify themselves to York's Counselling & Disability Services office (N110, Bennett Centre for Student Services or 416-736-5297) or Osgoode's Office of Student Services as soon as possible. All requests for accommodation will be kept confidential. Requests for examination accommodation must be approved by the Assistant Dean, Students, Mya Rimón.

V. Grading

You will receive a final letter grade for the Legal Process course based on the combination of your overall grade in: (1) the all-sections portion of Legal Process; and (2) the section-specific winter term portion of Legal Process.

1. All-Sections Evaluation:

a. Fall term:

- i. The *Written Predictive Analysis* assignment will be assessed on a **pass/resubmit** basis and will be completed in groups of 2 or 3 students. It will be graded by either Professor Kierstead or your Small Group Instructor.
- ii. *Research, Analysis and Citation Test*: You will write a test to demonstrate your understanding of legal analysis, the research process, and core legal citation. The test will be graded by either Professor Kierstead or your Small Group Instructor. It is worth **10%** of the overall course grade.
- iii. *Dispute Resolution Case Comment* assignment is a 5-7 page assignment related specifically to the dispute resolution materials addressed during the fall term. Either Professor Kierstead or your Small Group Instructor will grade this assignment, and it is worth **10%** of the overall course grade.

iv. *Participation:*

(a) You must satisfactorily complete each of the five (5) online participation exercises - worth **4%** of the overall course grade (Note that the exercises may carry different weights).

(b) Attendance at fall term seminars will be worth **2%** of the overall course grade. Missing more than **one** fall term seminar without an acceptable, documented reason will lead to a deduction of **0.5%** for each missed seminar (to a maximum of 2 marks). Significant failure to participate, or serious disruption of seminars, may lead to a reduction in your attendance grade. (See below for more details about the seminar attendance policy.)

b. Winter term:

i. The *Research Memorandum* assignment will be graded by either Professor Kierstead or your Small Group Instructor. It is worth **10%** of the overall course grade.

ii. The *Factum* assignment will be graded by either Professor Kierstead or your Small Group Instructor. It is worth **5%** of the overall course grade.

iii. The *Mooting* exercise itself will be assessed on a pass/resubmit basis and will be graded by either your Small Group Instructor or Professor Kierstead. You will then be required to complete a 500 word paper reflecting on the mooted exercise. Your reflection paper will be worth **4%** of the overall course grade. Either Professor Kierstead or your Small Group Instructor will grade the reflection paper.

iv. *Participation:*

(a) You must satisfactorily complete each of the three (3) online participation exercises worth **3%** of the overall course grade. (Note that the exercises may carry different weights.)

(b) Attendance at winter term seminars will be worth **2%** of the overall course grade. Missing more than **one** winter term seminar without an acceptable, documented reason will lead to a deduction of **0.5%** for each missed seminar (to a maximum of 2 marks). Significant failure to participate, or serious disruption of seminars, may lead to a reduction in your attendance grade. (See below for more details about the seminar attendance policy.)

c. Both Terms – Seminar Attendance Policy:

We strictly enforce our seminar attendance policy. For each term, you may miss one seminar without being required to provide a reason. For any other subsequent missed seminars, 0.5 will be deducted from your attendance grade (to a maximum of 2 marks per term). You may petition for relief from the penalty based on based on medical (including mental health), compassionate or equitable grounds that would have a significant impact on your performance.

You may submit their request for relief from the penalty for a seminar absence directly to Professor Kierstead. Requests must be:

- made in writing
- barring exceptional circumstances, received by Professor Kierstead before the seminar date for which you anticipate being absent; and
- accompanied by supporting documentation

If your petition is accepted, your relief may be: a waiver of all or part of the penalty; permission to attend a different Small Group Instructor's seminar for the week in question; or the opportunity to complete an alternative exercise to ensure that you have engaged with the seminar concepts. Professor Kierstead will determine the form of relief (in consultation with Assistant Dean Rimón and/or Associate Dean Berger where Professor Kierstead deems it appropriate).

Small Group Instructors may also recommend a reduction in your participation grade if you consistently fail to participate in class activities and discussions, or if you are disruptive of class activities and discussions. If there is a risk of such a reduction in your participation grade, the Small Group Instructor will request that Professor Kierstead organize a meeting with you, the Small Group Instructor, and Professor Kierstead. The purpose of the meeting will be to discuss the participation problem and possible strategies for its rectification. If the problem is not subsequently remedied, your participation grade will be reduced.

2. Section Specific Evaluation

Possible written assignment(s) and a final course examination (total percentage of course grade value - **50%**) will be graded by your Winter Term Professor. **Your Winter Term Legal Process Professor's Syllabus (which will be provided early in the winter term) will provide a more detailed description.**

VI. Evaluation at a Glance

All-Sections Evaluation			
Assignment/Test/Participation Components	Total %	Out	Due
Fall Term			
Case Brief Reflection (Participation exercise #1)	1	Mon., Sept. 7	Mon., Sept. 14 by 8:30 am
Academic Integrity Quiz (Participation exercise #2)	1	Mon., Sept. 14	Mon., Sept. 21 by 8:30 am
Legislative Analysis Quiz (Participation exercise #3)	1	Mon., Sept. 21	Mon., Sept. 28 by 8:30 am
Predictive Analysis Quiz (Participation exercise #4)	0.5	Mon., Sept. 28	Mon., Oct. 5 by 8:30 am
Written Predictive Analysis Assignment	Pass/Resubmit	Fri., Oct. 2	Mon., Oct. 12 by 8:30 am
Secondary Source and Legislation Quiz (Participation exercise #5)	0.5	Mon., Oct.19	Mon., Oct. 26 by 8:30 am
In-Class Research, Analysis and Citation Test	10	Mon., Nov. 2	Mon., Nov. 2 (2:30 pm-4:20 pm)
Dispute Resolution Case Comment Assignment	10	Fri., Nov. 13	Mon., Nov. 23 by 8:30 am
Attendance	2	-	-
Winter Term			
Research Memorandum	10	Fri., Jan 22	Mon., Feb. 8 by 8:30 am
Mooting Exercise	Pass/Redo	Between Feb. 24 and Mar. 5	Between Feb. 24 and Mar. 5
Mooting Exercise Reflection	4	Feb. 24	Fri., Mar 11 by 8:30 am
Factum Assignment	5	Fri., Mar. 11	Mon., Mar 21 by 8:30 am
Participation Exercises	3	TBA	TBA
Attendance	2	-	-
Section Specific Evaluation			
Winter Term			
Possible written assignment(s) and final examination (See Winter Syllabus released in the Winter term)	<u>50</u>	TBA	TBA
		TBA	TBA
Total	100%		

Students will be notified, both electronically and verbally by a Legal Process faculty member, of any changes to the course evaluation components.

VII. Academic Honesty

All assignments for the Legal Process course must be completed in accordance with York University’s Senate Policy on Academic Honesty. Osgoode students are required to maintain high standards of academic integrity and are subject to the York Senate Policy on Academic Honesty and the relevant Osgoode Academic Rules. The Senate Policy can be found at <http://www.yorku.ca/secretariat/policies/document.php?document=69> The York University academic integrity website can be found at <http://www.yorku.ca/academicintegrity>. The Senate Policy and Osgoode Academic Rules are also found in the Student Handbook, which is available on the MyOsgoode website, under the Documents and Publications tab.

VIII. General Assignment Information

Please note that it is considered part of your professional obligation to comply with format and timing requirements

1. **Format**

- (a) All assignments must be submitted as “Word” (not pdf) files.
- (b) For assignments that are graded anonymously, you must include your grading ID on the assignment cover page AND delete all properties in your document that reveal author information.
- (c) Unless otherwise indicated for a specific assignment, all assignments are to be **typewritten** using Times New Roman 12 point font.
- (d) Unless otherwise indicated for a specific assignment, all assignments must be **double-spaced**.
- (e) The maximum **length of each assignment will vary**. Please review the instruction sheet that accompanies each assignment.
- (f) Unless otherwise indicated for a specific assignment, page size must be 8.5x11 inches and all four margins must be 1 inch (2.54 cm).

2. **Lateness**

- (a) **All assignments must be submitted on time.** The consistent adherence to assignment due dates is a professional skill that is emphasized and valued in the Legal Process course. Failing to meet assignment due dates will have grade repercussions (even if your assignment is “only a few minutes late”).
- (b) Where any Pass/Resubmit assignment has not been submitted on time, the student will receive a “Fail (resubmit)” notation for that assignment. In order to receive a “pass” notation for such assignment, the student will be required to re-submit either the original assignment or a new assignment issued by Professor Kierstead. Pass/Resubmit assignments must be successfully completed by the date specified by Professor Kierstead.
- (c) For graded assignments, 10% of the assignment value will be deducted for each day (including partial days) that the assignment is late.
- (d) Except in extraordinary circumstances, failure to complete **any one** assignment will lead to a failing grade in the Legal Process course.
- (e) For online participation exercises, failure to submit the exercise by the assigned due date will result in a grade of **zero** for that exercise.

(f) **Relief from the lateness penalties described in 2(a)-2(e)** may be granted in the form of an extended due date based on medical (including mental health), compassionate or equitable grounds that would have a significant impact on your performance. **You must submit your request for an extension to Assistant Dean Rimon. The request must be:**

- made in writing
- barring exceptional circumstances, received by Assistant Dean Rimon before the due date for the participation exercise or assignment; **and**
- accompanied by supporting documentation

IX. Religious Observance

York University is committed to respecting the religious beliefs and practices of all members of the community, and making accommodations for observances of special significance to adherents. Should any of the dates relating to examinations or assignments for this course pose such a conflict for you, please let Assistant Dean, Students, Mya Rimon, know within the first three weeks of class.

X. Other York Policies

Further information concerning relevant York University academic policies, such as the Ethics Review Process for research involving human participants is available on the Senate Committee on Academic Standards, Curriculum and Pedagogy webpage (see Reports, Initiatives, Documents) – <http://www.yorku.ca/secretariat/senate/committees/ascp/index-ascp.html>

XI. Legal Process Topics and Readings

Date	Topic	• Preparation	Assignments/Participation Components
Week of August 31 <ul style="list-style-type: none"> • August 31 In-Class Lecture • September 2 Online Class • September 3 In-Class Lecture 	<ul style="list-style-type: none"> • Systems of Law; Sources of Law • Court Structures • Legal terminology; Reading Cases 	<ul style="list-style-type: none"> • Na • Read Text 1:14-1:20; 10:14-10:15 • Read <i>Patrong v Banks</i> (posted) 	<ul style="list-style-type: none"> • NA
Week of September 7 <ul style="list-style-type: none"> • Online instructions • In-Class Seminar as scheduled 	Reading and Briefing Cases	<ul style="list-style-type: none"> • Re-Read Text 10:14-10:22 • Review Case Brief Template (Posted) • Read <i>Childs v Desormeaux</i> (Posted) • Read posted case and instructions for Participation Exercise 	<ul style="list-style-type: none"> • Participation Exercise #1 - Submit case brief and reflection on posted case by 8:30 am on Monday, September 14
Week of September 14 <ul style="list-style-type: none"> • Online Lecture • In-Class Seminar as Scheduled 	Academic Integrity; Perspectives on Law	<ul style="list-style-type: none"> • Read Text 10:22-10:27 • Read posted cases for Seminar and Participation Exercise 	<ul style="list-style-type: none"> • Participation Exercise #2 – Online Quiz – Due by 8:30 am on Monday, September 21
Week of September 21 <ul style="list-style-type: none"> • Online Lecture • In-Class Seminar as scheduled 	Working with Legislation	<ul style="list-style-type: none"> • Read Text 3:3-3:17; 10:3-10:13 • Read posted cases for seminar and Participation Exercise 	<ul style="list-style-type: none"> • Participation Exercise #3 – Legislation Basics Quiz – Due by 8:30 am on Monday, September 28
Week of September 28 <ul style="list-style-type: none"> • Online Lecture • In-Class Seminar as scheduled 	Analytical Skills: Introduction	<ul style="list-style-type: none"> • Read Text 2:3- 2:12; 11:6-11:7 • Read <i>The Law</i> Workbook, 84-88 (Posted) • Read posted Seminar materials 	<ul style="list-style-type: none"> • Participation Exercise #4 – Analytical Skills Quiz – Due by Monday, October 5 • Predictive Analysis Assignment – Distributed Friday, October 2 (Due October 12)

<p>Week of October 5</p> <ul style="list-style-type: none"> • Online Lecture • In-Class Seminar as scheduled 	<p>Analytical Skills II; Writing Legal Predictions</p>	<ul style="list-style-type: none"> • Read Text, 11:8-11:28 • Read posted materials 	<ul style="list-style-type: none"> • Predictive Analysis assignment – Due October 12
<p>Week of October 12</p> <ul style="list-style-type: none"> • Online Lecture Only – Thursday, October 15 is a deemed Monday 	<p>Introduction to Legal Research and Citation</p>	<ul style="list-style-type: none"> • Read Text, Ch 9 (all – read this first); 7:1-7:20; 7:40-7:50 	<ul style="list-style-type: none"> • NA
<p>Week of October 19</p> <ul style="list-style-type: none"> • Online Lecture • In-Class Seminar as scheduled 	<p>Legal Research and Citation (cont'd)</p>	<ul style="list-style-type: none"> • Read Text 4:1-4:46; Ch 5 (all) • Bring Citation Guide to Seminar 	<ul style="list-style-type: none"> • Participation Component #5 – Legislative and Secondary Source Searching Quiz – due October 26
<p>Week of October 26</p> <ul style="list-style-type: none"> • Online Lecture • In-Class Seminar as scheduled 	<p>Legal Research and Citation (cont'd)</p>	<ul style="list-style-type: none"> • Read Text Ch 6 (all) • Read posted materials 	<ul style="list-style-type: none"> • Online practice test (not graded)
<p>Week of November 2</p> <ul style="list-style-type: none"> • In-Class Test During Monday Lecture Time • No Seminars 	<p>Research, Analysis and Citation Test</p>	<ul style="list-style-type: none"> • Review materials covered to date 	<ul style="list-style-type: none"> • In Class Test – Monday, November 2 from 2:30-4:20 pm
<p>Week of November 9</p> <ul style="list-style-type: none"> • Online Lecture • In-Class Seminar as scheduled 	<p>The Shaping of Disputes; Options for Dispute Resolution; Legislative and Case Comments; Writing Techniques</p>	<ul style="list-style-type: none"> • Read Text, 13:16-13:18 • Read posted materials 	<ul style="list-style-type: none"> • Dispute Resolution Assignment – Distributed November 13 (Due November 23)
<p>Week of November 16</p> <ul style="list-style-type: none"> • In Class Lecture • In-Class Seminar as scheduled 	<p>Options for Dispute Resolution (cont'd); Legislative and Case Comments (cont'd); Writing Techniques (Cont'd)</p>	<ul style="list-style-type: none"> • Read posted materials 	<ul style="list-style-type: none"> • NA
<p>Week of November 23</p> <ul style="list-style-type: none"> • No Classes 	<p>NA</p>	<ul style="list-style-type: none"> • NA 	<ul style="list-style-type: none"> • Dispute Resolution Assignment - Due November 23

Week of November 30	NA	• NA	
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XII. Legal Process Topics - Winter 2016

Below is a General List of Topics to be Covered – A Detailed Winter Term Syllabus will be Distributed in January 2016

- Civil Procedure: Overview
- Constructing a “Predictive” Legal Memorandum
- Economics of Litigation
- Commencement of Proceedings
- The Shift to Persuasive Writing
- Pleadings
- Expanding Litigation
- Class Proceedings
- Process Management and Dispute Resolution
- Discovery
- Privilege
- Oral Advocacy
- Disposition without Trial

Please note: where this document conflicts with written or verbal instructions given by an individual Winter Term Professor, the latter will be binding.