

## LAWS40015 Comparative Class Actions

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| <b>Credit Points:</b>                    | 12.50   |
| <b>Level:</b>                            | 4 (Undergraduate)   |
| <b>Dates &amp; Locations:</b>            | This subject is not offered in 2012.  |
| <b>Time Commitment:</b>                  | Contact Hours: 24 hours. Total Time Commitment: 96 hours.   |
| <b>Prerequisites:</b>                    | Dispute Resolution; Torts; Contracts.   |
| <b>Corequisites:</b>                     | None.   |
| <b>Recommended Background Knowledge:</b> | None.   |
| <b>Non Allowed Subjects:</b>             | None.   |
| <b>Core Participation Requirements:</b>  | For the purposes of considering requests for Reasonable Adjustments under the Disability Standards for Education (Cwth 2005), and Students Experiencing Academic Disadvantage Policy, academic requirements for this subject are articulated in the Subject Description, Subject Objectives, Generic Skills, and Assessment Requirements of this entry. The University is dedicated to providing support to those with special requirements. Further details on the disability support scheme can be found at the Disability Liaison Unit website: <a href="http://www.services.unimelb.edu.au/disability/">http://www.services.unimelb.edu.au/disability/</a> .  |
| <b>Contact:</b>                          | Melbourne Law School Student Centre<br>Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> (mailto:law-studentcentre@unimelb.edu.au)<br>Tel: +61 3 8344 4475  |
| <b>Subject Overview:</b>                 | <p><b><i>Class actions are controversial.</i></b> Some people see them as enhancing access to justice and as an effective regulatory tool, while others see them as little more than a way for lawyers to get rich. These views, and others, will be canvassed and critically evaluated. Guest lectures by judges, lawyers and regulators will be included.</p> <p><b><i>Class actions are political.</i></b> Learning will take place in a context that acknowledges and appreciates the political, economic, social and legislative contexts within which class action and group litigation regimes operate.</p> <p><b><i>Class actions are global.</i></b> The class action is gradually becoming a feature of many common law and civil law legal systems, as these systems attempt to find effective and efficient ways to aggregate large numbers of similar claims. Methods for dealing effectively with group proceedings in both common law and civil law systems will be considered and evaluated. The transnational issues raised by the globalisation of class actions will also be considered.</p> <p><b><i>Recurring themes will be:</i></b></p> <ol style="list-style-type: none"> <li>1 How do class actions and group proceedings provide access to justice for people with small claims?</li> <li>2 Can class or group action regimes not using a “lawyer entrepreneur” model do the job?</li> <li>3 What are the proper roles of lawyers, judges and litigants in class action proceedings?</li> <li>4 On balance, as they operate in practice, are class actions a positive feature of civil justice systems?</li> <li>5 What should law reform priorities be?</li> </ol> <p><b><i>Topics to be covered will be chosen from among the following:</i></b></p> <ul style="list-style-type: none"> <li># The main features of the modern class action;</li> <li># How class actions work in practice;</li> <li># The roles of class action lawyers;</li> <li># The roles of judges in class actions;</li> <li># The risk of adverse costs orders in class action litigation, and what to do about it;</li> <li># The funding of class actions, including the rise of institutional litigation funders;</li> <li># Settling class actions – is it the “dark side” of the process?</li> <li># The trial of class actions;</li> </ul> |

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|                          | <ul style="list-style-type: none"> <li># How class actions differ from traditional litigation;</li> <li># Aggregate litigation without using class actions: pros and cons;</li> <li># Political and judicial activity aimed at curtailing or enhancing class actions;</li> <li># Private ordering to oust class actions through the use of arbitration clauses;</li> <li># The rise of securities class actions in Australia;</li> <li># Recent law reform initiatives in Australia.</li> </ul> <p>While this course is a firmly comparative one, on completing it students will have a good understanding of how class actions operate in Australia and how they may develop in the future.</p>   |
| <b>Objectives:</b>       | <p>On completion of this subject, students should be able to:</p> <ul style="list-style-type: none"> <li># Understand why class actions have developed and the policy objectives they seek to achieve;</li> <li># Demonstrate a sound understanding of the main features of class action regimes in Australia and in North America and how those regimes work in practice;</li> <li># Appreciate the differences between class actions and other types of litigation;</li> <li># Understand the ethical issues that arise in class actions;</li> <li># Analyse and evaluate recent law reform initiatives.</li> </ul>  |
| <b>Assessment:</b>       | A final two hour examination (75%); A problem-solving assignment (25%).  |
| <b>Prescribed Texts:</b> | Peter Cashman, Class Action Law and Practice (The Federation Press, 2007); Printed materials will be available from the Melbourne Law School.  |
| <b>Breadth Options:</b>  | This subject is not available as a breadth subject.  |
| <b>Fees Information:</b> | Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>  |
| <b>Generic Skills:</b>   | <p>On completion of the subject, students should have developed the following generic skills:</p> <ul style="list-style-type: none"> <li># Attitudes towards knowledge that include valuing truth and openness to new ideas;</li> <li># The capacity for close reading and analysis of a range of sources;</li> <li># The capacity for critical and independent thought and reflection;</li> <li># The capacity to solve problems, including through the collection and evaluation of information;</li> <li># The capacity to communicate, both orally and in writing;</li> <li># The capacity to plan and manage time;</li> <li># The capacity to participate as a member of a team;</li> <li># The capacity to apply learning in new and unfamiliar contexts.</li> </ul> <p>In addition, on completion of the subject, students should have developed the following skills specific to the discipline of law:</p> <ul style="list-style-type: none"> <li># Reading, interpreting and analysing statutes;</li> <li># Case reading and analysis, including an ability to: <ul style="list-style-type: none"> <li>- Important features from judgments;</li> <li>- Reconcile judgments;</li> <li>- Evaluate the development of legal principles;</li> <li>- Apply legal principles arising from case law to new situations.</li> </ul> </li> </ul> |
| <b>Notes:</b>            | This subject has a quota of 25. Please contact the Law Student Centre for enrolment information.   |