

# LAWS50027 Dispute Resolution

<b>Credit Points:</b>	12.50								
<b>Level:</b>	5 (Graduate/Postgraduate)								
<b>Dates &amp; Locations:</b>	2012, Parkville This subject commences in the following study period/s: Semester 1, Parkville - Taught on campus. Lecture and Seminars.								
<b>Time Commitment:</b>	Contact Hours: 4 hours per week. Total Time Commitment: 144 hours.								
<b>Prerequisites:</b>	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> </tbody> </table>			Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50
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LAWS50023 Legal Method and Reasoning	February	12.50							
<b>Corequisites:</b>	None.								
<b>Recommended Background Knowledge:</b>	None.								
<b>Non Allowed Subjects:</b>	None.								
<b>Core Participation Requirements:</b>	<p>The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">http://www.services.unimelb.edu.au/disability/</a>.</p>								
<b>Coordinator:</b>	Mr Gary Cazalet								
<b>Contact:</b>	Melbourne Law School Student Centre Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475								
<b>Subject Overview:</b>	<p>This subject will introduce students to the theory and practice of dispute resolution. Students will appreciate that many conflicts never become disputes, that many disputes are never litigated, and that many civil cases in which proceedings are commenced are settled without a trial or judgment. The reasons for these various outcomes will be considered. The main stages of the civil litigation process will also be analysed, and students will acquire an understanding of how adversarial processes work. The essential features of negotiation, mediation, arbitration and other primary dispute resolution options will be considered. Students will have the opportunity to acquire and use dispute resolution skills.</p> <p>Topics will include:</p>								

	<ul style="list-style-type: none"> <li># The nature of disputes;</li> <li># Theories of adjudication;</li> <li># Theories of disputing behaviour;</li> <li># The similarities and differences between dispute avoidance, prevention, management and resolution;</li> <li># The historical development of dispute resolution processes;</li> <li># Cross-cultural perspectives of dispute resolution processes;</li> <li># The stages in the conduct of a civil proceeding, including identification of jurisdiction, the initiation of proceedings, service, pleadings, judgment and enforcement;</li> <li># The contribution of law and economics literature to analysis of civil justice processes and reforms;</li> <li># Ethical issues that arise in dispute resolution contexts;</li> <li># The relationship between dispute resolution processes, access to justice and law reform.</li> </ul>
<b>Objectives:</b>	<p>On completion of this subject, students should be able to:</p> <ul style="list-style-type: none"> <li># Understand and critique dispute resolution processes and theories of disputing behaviour;</li> <li># Select and use appropriate dispute resolution methods;</li> <li># Apply their learning to analyse case studies and to propose and critique law reform initiatives;</li> <li># Understand the nature and role of litigation in the Australian system of civil justice;</li> <li># Understand the court hierarchy and the basis for the jurisdiction of the courts to determine certain disputes;</li> <li># Describe the sequence, steps and documentation of civil litigation in superior courts;</li> <li># Think critically about and evaluate the strengths and weaknesses of various aspects of civil procedure;</li> <li># Identify, locate and use procedural rules;</li> <li># Identify the appropriate form of and draft elementary court documents;</li> <li># Work effectively as team members to solve problems.</li> </ul>
<b>Assessment:</b>	2,000 word written paper - due during semester in accordance with a coordinated assessment schedule (30%); Supervised 3-hour (open book) examination during the University exam period (70%).
<b>Prescribed Texts:</b>	Bamford, David., Principles of Civil Litigation, Lawbook Co.Australia July, 2010. Specialist printed materials will be made available from 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, openness to new ideas and ethics associated with knowledge creation and usage;</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># Intercultural sensitivity and understanding.</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 (primarily Rules of Court and related statutes);</li> <li># Hypothetical problem solving, including an ability to: <ul style="list-style-type: none"> <li>- Identify and apply legal, procedural, ethical and strategic considerations arising in complex fact situations.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li># Draft basic documents used in dispute resolution processes, primarily negotiation plans, pleadings, affidavits and letters of advice;</li><li># Teamwork, including the ability to:<ul style="list-style-type: none"><li>- Identify and implement processes to promote effective teamwork;</li><li>- Understand the impact of individual characteristics (for example, personality and culture) on group processes;</li><li>- Use effective conflict management and resolution techniques in a team context.</li></ul></li><li># Give and receive constructive feedback;</li><li># Negotiation and mediation, including the ability to:<ul style="list-style-type: none"><li>- Plan for and conduct a negotiation and/or a mediation;</li><li>- Use an interest-based negotiation model.</li></ul></li><li># Case reading and analysis, including an ability to:<ul style="list-style-type: none"><li>- Extract 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>Related Course(s):</b>	Juris Doctor