

LLBK 216 CIVIL PROCEDURE I C.F 3.0

Prerequisite: None

Contact Hours: 45

Purpose

To equip the students with the skills and procedure necessary for conducting civil litigation in the Kenya.

Course Objectives

By the end of the course, the student should be able to:

- 1) Explain the historical sources and development of civil procedure in Kenya;
- 2) Define the terms used in civil litigation;
- 3) Draft pleadings; and
- 4) Discuss the process of instituting and conducting suits.

Course Content

Historical sources and development of civil procedure laws; the Civil Procedure Act and Rules; nature of civil litigation; the adversarial system of justice; pecuniary and territorial jurisdiction in civil matters; parties to suits; pleadings, frame and commencement of civil proceedings; plaints; issue and service of summons; appearance; defence and counter-claim; amendment of pleadings; agents; consequences of non-appearance; default of defence and failure to serve; security for costs; payment into court and tender; arrest and attachment before judgment; admissions; affidavits; death and bankruptcy of parties; withdrawal, discontinuance and adjustment of suits; suits by and against firms, government, trustees, executors and administrators; minors and persons of unsound mind; suits by paupers; summary procedure; injunctions.

Teaching/Delivery Methods

Lectures, tutorials, individual and group discussions and presentations, library assignments, seminars discussions, case studies, e-learning.

Instructional Resources

Resource persons, textbooks, handouts, LCD projectors, laptops/computers, discussion aids, chalk/white boards, DVDs, e-journals, statutes.

Course Assessment

Continuous assessment will comprise 30% of the total marks at the end of the semester made up as follows:-

Written test 10%

Written assignment 10%

Individual/group presentations 10%

The other 70% of the marks will be derived from the final exam offered at the end of the semester.

Core Textbooks

Bullen, Leake and Jacob, (2007 Digitized 2011), *Precedents of Pleadings*, 16th ed. Sweet & Maxwell.

Kuloba R., (2005), *Judicial Hints on Civil Procedure*. Nairobi: (Reprint) LawAfrica.

Odunga, G.V., (2007), *Digest on Civil Cases Law & Practice*. LawAfrica.

W. Blake Odgers., (2006), *Principles of Pleadings & Practice in Civil Actions in the High Court of justice*, 23rd ed. Sweet & Maxwell.

M Ssekaana & S. N. Ssekaana., (2007), *Civil procedure and Practice in Uganda*. LawAfrica.

Sarkar, S., (2009), *Sarkar's Civil Court Practice & Procedure Manual* 11th ed. LexisNexis: Butterworths Wadhwa.

Steve Ouma., (2010), *A commentary on the Civil Procedure Act CAP 21*. LawAfrica.

Michael Legg., (2011) *Case Management and Complex Civil Litigation*. Foundation Press.

Textbooks for Further Reading

S.K. Sarvaria, and B.M Prasad, (2007), *Mulla's Code of Civil Procedure* 17th ed. (4 volumes). LexisNexis.

Kinyanjui, K., (2000), *How our Courts Work: The Administrative Practice of Kenyan Courts*. Trans Africa Press.

Roderick Ramage., (2006), *Kelly's Draftsman* 19th ed. LexisNexis: Butterworths.

Kuloba R., (2008), *Summary judgement*. LawAfrica

Sandbrook C., (2006), *Enforcement of Judgement* 11th ed. Sweet & Maxwell.

Kuloba R., (1987), *Principles of Injunctions*. Oxford University Press.

Wyzanski, *A Trial Judges Freedom and Responsibility*, 65 Harvard Law Review pp. 1281, 1293 – 1995, 162 – 164.

Statutes

Civil Procedure Act, Chapter 21 Laws of Kenya (2010) of the Laws of Kenya, Government Printers.

LLBK 224 CIVIL PROCEDURE II C.F 3.0

Prerequisite: LLBK 216

Contact Hours: 45

Purpose of the Course

The course goes deeper to expose the student to the process of execution of the decrees given by the trial courts and other quasi judicial tribunals. It also explores the process of appeals against the decrees awarded by a lower court.

Course Objectives

By the end of the course, the students should be able to:

- 1) Explain the process of discovery of documents.
- 2) Explore the nature and legal implications of judgments and decrees;
- 3) Discuss the process of executing decrees;
- 4) Discuss the process of appeals and judicial review applications; and
- 5) Draft applications for Judicial Review and Bills of costs.

Course Content

Pre-trial directions and conferences; hearing and consequences of non-attendance; admissions; production, impounding and return of documents; summoning, attendance and examination of witnesses; hearing of the suit; judgment and decree; execution of decree and orders; attachment of debts; commissions and references; inter-pleader proceedings; appointment of receivers; bills of costs, taxation, execution of decrees; appeals; review; arbitration and other forms of alternative dispute resolution; special powers of registrars; time; applications for judicial review.

Teaching/Delivery Methods

Lectures, tutorials, individual and group discussions and presentations, library assignments, seminars discussions, case studies, e-learning.

Instructional Resources

Resource persons, textbooks, handouts, LCD projectors, laptops/computers, discussion aids, chalk/white boards, DVDs, e-journals, statutes.

Course Assessment

Continuous assessment will comprise 30% of the total marks at the end of the semester made up as follows:-

Written test	10%
Written assignment	10%
Individual/group presentations	10%

The other 70% of the marks will be derived from the final exam offered at the end of the semester.

Core Textbooks

Bullen, Leake and Jacob., (2007 Digitized 2011), *Precedents of Pleadings*, 16th ed. Sweet & Maxwell.

Kuloba R., (2005), *Judicial Hints on Civil Procedure*. Nairobi: (Reprint) LawAfrica.

Odunga, G.V., (2007), *Digest on Civil Cases Law & Practice*. LawAfrica.

W. Blake Odgers., (2006), *Principles of Pleadings & Practice in Civil Actions in the High Court of justice*, 23rd ed. Sweet & Maxwell.

Kuloba R., (2008), *Summary judgement*. LawAfrica

Sandbrook C., (2006), *Enforcement of Judgement* 11th ed. Sweet & Maxwell.

Kuloba R., (1987), *Principles of Injunctions*. Oxford University Press.

M Ssekaana & S. N. Ssekaana., (2007), *Civil procedure and Practice in Uganda*. LawAfrica.

Sarkar, S., (2009), *Sarkar's Civil Court Practice & Procedure Manual* 11th ed. LexisNexis: Butterworths Wadhwa.

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Roderick Ramage., (2006), *Kelly's Draftsman* 19th ed. LexisNexis: Butterworths.

Steve. Ouma., (2010), *A commentary on the Civil Procedure Act CAP 21*. (LawAfrica).

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Statutes

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