Queensland Law Society®

Introduction to civil litigation

Overview

Designed for early career lawyers and more senior practitioners looking to pivot into a new area of practice, this introductory course will provide you with the practical guidance you need to run a civil litigation file—from start to finish. You will follow the one dispute on its journey through each step of the litigation process in Queensland from the dispute arising all the way through to disclosure, trial and ultimately, resolution.

This course features a roster of preeminent mentors who will share their practical, useful tips along the way in drafting, case management, court procedure and ethics; designed to equip you with the basics you need to confidently manage a civil litigation file—from start to finish!

7+ CPD Points

PLE PS SL

5 min

Welcome remarks

A brief welcome and overview of the content that will be covered in this course.

Presenter: **Sarah-Elke Kraal,** Senior Professional Development Solicitor, Queensland Law Society

MODULE ONE: A framework for litigation

As with anything in legal practice, the basic day-to-day practicalities and processes of running a civil litigation file are underpinned by a complex framework of fundamental duties and competing professional obligations. This module introduces you to that framework, as well as the things you need to be aware of to get started with commencing proceedings.

60 min

1 CPD

PLE

1. Ethics of advocacy and litigation

This session will examine issues concerning the importance of being ethical, our duties to the administration of justice, other duties and the creation of an effective retainer to deliver outcomes that a client and practitioner have agreed upon.

Presenter: **Stafford Shepherd,** Principal Ethics and Practice Counsel - QLS Ethics and Practice Centre, and Legal Practitioner Director, QLS Solicitor Support Pty Ltd, Queensland Law Society

90 min

1.5 CPD

PS

SL

2. So you want to run a civil litigation file?

The second session in this module broadly covers the underlying, practical framework of litigation file management, including:

- the relevant legislative instruments (ie UCPR and ASCR);
- the key steps in the civil litigation process;
- the relevant limitation periods; and
- a best practice guide for establishing, maintaining and finalising a litigation file.

3. Commencing and serving proceedings

Your third session is a step-by-step, drafting bootcamp of the key documents involved with commencing a proceeding from a plaintiff's perspective, including:

- the all-important letter of demand; and
- a plaintiff's claim and statement of claim.

You will also briefly cover the process of filing with the court, serving on the other party, key tips for drafting an affidavit of service, and some common directions that may be made by the court at this stage.

Presenter: **Allana Agnew, Director,** Agnew Litigation & HR Pty Ltd, and Accredited Specialist (Commercial Litigation) - Qld

MODULE TWO: Default, defence, and evidence (oh my!)

Preparing for your client's day in court is a time-intensive, strategic and systematic exercise. This module introduces you to the steps you *must* take, the ones you *shouldn't* take, and some that might just save you a lot of precious time!

90 min

1.5 CPD

SL

PS

4. Defended or undefended? That is the question

Part one

a. *The Golden Rules of Litigation*
Get an invaluable briefing of the golden rules governing litigation best practice, from one of Queensland's leading litigation experts Andrew Smyth.

b. *Default judgments*
This session is designed to lead you through the tips and traps of making a default judgement application to the court on behalf of the plaintiff where a defendant chooses not to file a defence for any reason (ie 'undefended matters').

Part two: Defence, counterclaims and other pleadings

When a defendant wants to pop on the boxing gloves and oppose the proceedings filed against them (ie 'defended matters'), you will learn:

- how to draft a defendant's notice of intention to defend, and defence;
- how to make a request for "further and better particulars"—in cases where a party's pleadings need a little more clarification; and
- when a plaintiff (or defendant) should—and should not—file replies.

Part three: Ending proceedings (other than by trial)

You may think that, once on foot, a piece of litigation may only end by way of contested trial. But more often than not, proceedings will end early in one of the following four ways:

- summary judgment against either the plaintiff or the defendant;
- strike out;
- discontinuance; or
- settlement (including offers under the Rules and Calderbank offers).

Join us to find out how to end proceedings 'early' where appropriate.

Presenter: **Andrew Smyth,** Partner, Robbins Watson Solicitors and Member, Queensland Law Society Litigation Rules Committee

60 min

1 CPD

SL

5. Evidence law and case theory fundamentals

Kylie Downes QC will step you through the process of gathering evidence and preparing a case theory for your matter, as well as a brief discussion of COVID-19 implications.

What will be covered:

- key considerations in gathering evidence
- important considerations in determining if evidence is admissible and its weight
- a discussion of COVID-19 implications on evidence law including essential considerations in gathering and tendering evidence remotely
- guidance for developing your case theory at an early stage.

Presenter: **Kylie Downes QC,** Barrister, Queensland Bar

MODULE THREE: Trials and tribulations—the final chapter

Everybody wants their day in court—but getting a judgment in your client's favour isn't necessarily the end of the story. Find out how to prepare and draft for trial, what kind of judgements and decisions to expect, and how to enforce a judgment.

60 min

1 CPD

PS

6. The art of briefing counsel

As our illustrious presenter puts it:

> *Indeed, it is an essential skill for any competent solicitor to be able to quickly and competently brief Counsel.*

This session steps you through the barrister briefing process, from decision to brief, to the format (and content) of the brief, right through to the valuable communication strategies you can use to ensure you effectively support counsel throughout the matter—all whilst maximising the value proposition of briefing.

You will cover:

- why to brief
- when to brief
- how to brief
- who to brief
- what to pay

Presenter: **John Peden QC,** Barrister, Queensland Bar and Member, Queensland Law Society Commercial Litigation Specialist Accreditation Advisory Committee

45 min

0.5 CPD

PS

7. Drafting submissions and statements

Brush up on the principles of witness statement preparation before benefiting from a bootcamp on how witness statements should be written, what material should be included and excluded, and other fundamental considerations when interviewing and drafting.

You will also cover the fundamentals of drafting written submissions.

Panellists:

Nicholas Andreatidis QC, Barrister, Queensland Bar

Glenn Newton QC, Barrister, Queensland Bar

Salwa Marsh, Barrister, Queensland Bar

90 min

1.5 CPD

PS

8. Trial, Judgement & enforcement

So the matter has been listed for trial… What's next? This final session in the course covers:

- the role of court personnel
- what court etiquette rules must be complied with at trial
- the key steps in a civil litigation trial
- how to enforce a judgment when the debt remains unpaid (including a drafting 101 on the commonly used documents).

Panellists:

Nicholas Andreatidis QC, Barrister, Queensland Bar

Matthew Hickey, Barrister, Queensland Bar

Sean Russell, Barrister, Queensland Bar