

ADMINISTRATION OF JUSTICE

CIVIL LAW

EXAM STUDY GUIDE

1. The impression most people have is that the chief task of the American legal system is to fight crime.
2. In reality, most laws have nothing to do with crime, they deal with disagreements between people.
3. Courts play an important role in settling disputes about property ownership, contracts, and physical injuries.
4. Courts settle family matters such as divorce, adoption, and child custody.
5. Civil law deals with the rights of private citizens in disputes with other citizens, with businesses, or with governments.
6. People accused of breaking civil laws are tried in civil court, just as people accused of crimes are tried in criminal court.
7. Civil law and criminal law are meant to accomplish very different things.
8. The main purpose of criminal law is to punish people who do harm to others.
9. An important goal of civil law is to compensate, or repay, the people who have been harmed.
10. Compensation is payment for the loss or injury they have suffered.
11. In many cases, the person who causes an accident is tried in both criminal court and civil court.
12. The process of resolving a dispute in civil court is called litigation or a lawsuit.
13. The person who begins the litigation-in a case, is called the plaintiff.
14. The civil process begins when the plaintiff (or their lawyer) files a complaint - a written notice to the court that explains his side of the story.
15. The complaint, for example, describes what was harmed, damaged, or injured. It explains who the plaintiff thinks is responsible and states the remedy the plaintiff wants from the defendant.
16. The Sixth Amendment right to a court-appointed lawyer does not apply in civil cases. (The same is true for most of the constitutional safeguards, they apply only to criminal cases.)
17. The court allows the defendant (or their lawyer) to file a written response to the plaintiff's complaint. The defendant may deny the charges in their answer or offer a defense to the charges.
18. Finally, the defendant may dispute the amount or type of compensation that the plaintiff is asking for.
19. After the complaint and answer are filed, both parties begin to prepare for the trial.
20. In a process called discovery, the plaintiff and defendant gather as many facts as possible about the case.
21. Lawyers may want to question friends of the parties involved about the issues involved.
22. Lawyers will want to see repair or medical bills.
23. Both lawyers will want to question neighbors, friends and co-workers about what they saw or heard.
24. The trial itself is very similar to a criminal trial. Both parties present evidence and call witnesses to support their sides of the story.
25. The plaintiff tries to prove that the defendant is responsible for the loss, injury or damage.
26. The plaintiff also tries to prove that the compensation they are seeking is reasonable compensation.
27. The defendant tries to prove that they are not liable for the loss, injury or damage.
28. If the evidence presented by one side conflicts with the evidence presented by the other, the judge (or, in some cases, the jury) must decide which side is telling the truth.
29. In a civil case, a defendant can be held liable on the basis of a preponderance of the evidence.
30. In other words, the evidence doesn't have to prove the plaintiff's case; it only has to support the plaintiff's case better than it supports the defendant's case.
31. In most civil cases, compensation takes the form of money. Money paid as compensation is called damages.
32. In many states, a defendant who is found liable in a civil case must pay all the costs of the lawsuit, including the fees for the plaintiff's attorney.
33. In especially serious cases, the defendant may also have to pay punitive damages.
34. Punitive damages is money that the defendant must pay as punishment for breaking the law.
35. Occasionally a person may break a civil law without causing any real damage or injury.
36. In those cases, the defendant may be required to pay nominal damages.
37. Nominal damages, or "damages in name only," is a small amount of money the defendant must pay just for having been wrong.

38. Compensation is not the only kind of remedy available in civil cases.
39. Some remedies are meant to prevent or correct a wrong or a loss.
40. An injunction is a court order requiring a person to stop doing something.
41. Another type of court order is called specific performance.
42. Specific performance is an order requiring a person to do something (unlike an injunction, which is an order not to do something).
43. Specific performance is the usual remedy when a defendant has signed a contract and then refuses to carry it out.
44. In some contracts disputes, a better remedy is rescission. With this remedy, the contract is canceled, or rescinded.
45. When a contract is rescinded, the parties who signed the contract are no longer required to carry out the agreement.
46. Sometimes a plaintiff in a contracts case will ask for reformation. A reformation is a court-ordered change in a contract. Used to correct a typographical error, when parties sign the contract without noticing the mistake.
47. When a court makes a decision in a civil case, it has the power to enforce that decision.
48. If a defendant refuses to pay damages, the court may send law enforcement officers to seize the defendant's property. The court may then hold on to the property until the defendant pays the plaintiff.
49. If the defendant still refuses to pay, the court may sell the defendant's property and give the plaintiff the money from the sale.
50. In some cases, the court can order the defendant's employer to collect the damages.
51. Litigation has several serious disadvantages. Litigation is time-consuming and courts are flooded with more cases than they can handle.
52. Years may pass before the case comes before a judge.
53. The Sixth Amendment guarantee of a "speedy trial" doesn't apply to civil cases.)
54. Most disputes can be settled without the time and expense of a civil trial.
55. There are several different ways to settle disputes. Most common and informal way to settle a dispute is negotiation, working out an agreement through discussion.
56. There are times when people can't find a compromise acceptable to both parties. In these cases, the conflicting parties may decide to bring in a third party called a mediator. The mediator is neutral, having no reason to favor one side over the other.
57. In some cases, the parties involved in a dispute will bring in an arbitrator rather than a mediator.
58. An arbitrator is a neutral third party. Unlike a mediator, an arbitrator acts as a judge and listens to both sides and then makes a final decision.
59. An arbitrator can also order more flexible remedies than a civil judge can.
60. Small claims court is a court designed to handle disputes about small amounts of money, usually no more than \$2,000.
61. A trial in small claims court is quicker and much less expensive than an ordinary trial.