

Thursday, November 4, 2021 (classes 19 of 30!!)

Today: *Session I*—1101:

- Review timekeeping assignment!
- Discuss sources of law!

Session II—1103:

- Finish summons & pleadings!
- Quiz #3!

For next class (Tu. Nov. 9!!):

- 1101: Read M&M chs. 7&8 excerpts! (Legal Research, on BB) Bring your Constitution!
- 1103: Read C&W ch. 11 and answer ONE end-chapter question!!

For Th. Nov. 11:

- 1101: study for 1101 quiz #3! and read M&M ch. 4! (Ethics)
- Review advisement & registration info on OL for visit with Oliver!

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1101: Sources of law!!

Law = body of rules created and enforced by a government. Establishes **rights**, **duties**, & **privileges**.

Categories of Legal Sources!! (sources of law)

- Primary & Secondary
- Mandatory & Persuasive

Primary source = "The Law"

Secondary source = "About the Law"

Primary sources = "The Law" → *includes*:

Constitutional law = law addressing the text of a constitution *and* court decisions interpreting constitutions.

- e.g., U.S. Constitution, NYS Constitution
- *including* amendments → such as the Bill of Rights!

Statutory law = written laws created by a legislative body—*such as*:

- federal Affordable Care **Act** (Obamacare) and Civil Rights **Act** → *created by U.S. Congress*
- New York Bail Reform Law, CPLR! → *created by N.Y.S. Legislature*

Administrative law = rules, orders, decisions of administrative agencies

- "agencies" = government bodies that perform specific functions
- *such as* U.S. Food and Drug Administration (FDA), NYS Dep't of Labor
- *also includes* Executive Orders by Presidents and Governors

Common law = law set forth in decisions made by judges in cases that come before courts

- a/k/a "case law"
- *such as* International Shoe v. State of Washington! ("minimum contacts")

Secondary sources = "About the Law"

- books and articles that summarize, interpret, or index (help you find) the law
- helpful in researching and understanding primary sources!

Examples include:

- **legal encyclopedias** = summaries of legal rules on topics
- **digests** = short summaries of court decisions
- **law reviews** (or law journals) = periodicals containing articles that comment on the law
- **law textbooks!** 😊

Mandatory (binding) vs. persuasive sources of law!

Mandatory source = primary source of law that a court **must** follow when deciding a case.

- a/k/a "binding"
- *Only* primary → secondary sources are never mandatory!
- *BUT* . . . not all primary sources are mandatory on all courts!

Whether a primary source is mandatory (binding) on a particular court depends on JURISDICTION!!

- the court's level in the court structure (trial, intermediate appellate, etc.) *and*
- its geographic jurisdiction (*such as Eastern District of NY in federal court or Kings County in NYS court, etc.*).

Persuasive source = any source a court **may choose** to consider when deciding a case.

- can be primary OR secondary!
- *just about anything!*

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1103: Continuing summons & pleadings!

Summons = document notifying D that she is being sued

- She is being "summoned" to court!
- Usually accompanied by a separate complaint.
- See CPLR R. 305(a) for requirements!

Two main types of pleadings:

Complaint = P's pleading!

- document informing D why she is being sued
- details the wrongful act(s) P alleges against D, and the relief P seeks

Answer = D's pleading!

- document in which D responds to each allegation in P's complaint (usually denies)
- also "affirmative defenses" → reasons why, *even if* P's complaint is true, D is not liable → *like SOL!*
- can include **counterclaims** and **cross-claims!**