

Tuesday, November 2, 2021 (classes 18 of 30!!)

Today: *Session I*—1101:

- Workings of law office!
- Practical assignment: timekeeping!

Session II—1103:

- Commencing the Action!
- Summons & Pleadings!

For next class (Th. Nov. 4!!):

- 1101: Timekeeping assignment; read M&M ch. 5 excerpts! (Sources of Law)
- 1103: Quiz #3! Everything since midterm!

Now: Complete the handout: retainer agreements!

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1101: Workings of a law office!

Who's Who in a Law Firm? *Common Titles / Positions*

Attorneys

- Partners = have ownership in firm → share profits! 😊 *also losses* 😞
- Associates = employees of firm; not owners → no profits 😞 *but no losses!* 😊

Legal support staff (not attorneys but need legal knowledge)

- Paralegals! 😊
- Paralegal managers
- Law clerks (usually law students)
- Legal secretaries

Administrative/clerical support staff (do not need legal knowledge *though it helps*)

- Office manager
- Secretaries
- Receptionists
- Mailroom staff . . . *and many others!!*

Law Firm Financial Procedures!

1. Client hires Attorney.

- They sign a retainer agreement = document signed by Client and Attorney, stating:
 - (a) legal services Attorney will provide to Client, and
 - (b) how Client will pay Attorney.
- Client may pay a "retainer" = initial advance \$\$ payment to Attorney.

2. Client receives services from Attorney.

- Attorney and paralegals keep track of billable hours they work for Client → *timekeeping!*

3. **Client receives a bill from Attorney.**

- Common fee arrangements:
 - Hourly → most common, send monthly bill
 - Contingency → percent of amount recovered, Attorney takes at end
 - Fixed → set amount for particular proceeding, like a divorce, generally taken at end

4. **Client pays Attorney!** (hopefully ☺)

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1103: Commencing the Action!

Special proceeding: type of lawsuit that is more simplified, and proceeds more quickly, than a regular "action."

- May only be used when authorized by law.
- *For example*, CPLR Article 78 authorizes special proceedings to challenge actions by government bodies.
- Parties are known as "petitioner" and "respondent."

Source: New York County Supreme Court, Civil Branch, Help Center publication.

CPLR § 304. Method of commencing action or special proceeding.

(a) An action is commenced by **filing a summons and complaint OR summons with notice** in accordance with **rule twenty-one hundred two of this chapter**. . . .

CPLR R. 2102. Filing of papers.

(a) Except where otherwise prescribed by law or order of court, papers required to be filed **shall be filed with the clerk of the court in which the action is triable**. In an action or proceeding **in supreme or county court** and in a proceeding not brought in a court, papers required to be filed shall be filed **with the clerk of the county in which the proceeding is brought**.

In most courts: "commencing an action" means:

- *filing* summons & complaint *OR* summons with notice (§ 304(a))...
- *with* the clerk of the court in county where action triable (proper venue) (R. 2102).
 - *In Supreme or County Courts* → "clerk" = "*County Clerk*"!
 - *In other courts* → "clerk" = *the "clerk of the court."*

These are known as "**filing courts**."

In Town and Village courts: "commencing an action" means:

- *-serving* the summons & complaint *OR* summons with notice...
- *on the defendant!*
 - Filing can be done later!
 - These are known as "**service courts**"!

1103: Summons & Complaint! (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!

Summons with Notice (R. 305(b))

- ONE document (instead of Summons AND Complaint)
- Includes all information required by R.305(a) . . .
- PLUS a general statement of P's cause of action and remedy sought.

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!**