

Friday, October 30, 2020 (Civ Pro class 9 of 15!) *BOO!!*

Today:

- Academic integrity
- Causes of Action and Remedies!
- Statute of Limitations!

Sun. Nov. 1, 2am: Turn clocks back 1 hour! *Get extra sleep!* ☺

For Mon. Nov. 2 (Intro): Read M&M ch. 4 (ethics), email me a thoughtful response or question by 10am!

For Fri. Nov. 6 (Civ Pro): Read excerpts from C&W chs. 8, 12 & 14, identified on OpenLab!

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What is a (legal) claim?

Claim = dispute; alleged wrong; P's legal reason to sue D

- a.k.a. "**cause of action**," "claim for relief"
- legal basis for P to recover (obtain relief, e.g., damages)
- stated in P's complaint (document filed with court to commence case)

Remedy = what P asks court to award her, to resolve her cause of action/claim

- a/k/a "relief," "redress"
- *purpose* = to "right the wrong," to "make whole"

Some Common Civil Causes of Action!

Tort claims

- wrongful act that injures another person, or her/his property, or reputation.
- include intentional, negligence, and strict liability torts
- governed by common law

Examples of *intentional torts*:

- **a**ssault = threat of intentional unwanted physical contact
- **b**attery = intentional unwanted physical contact
- **c**onversion = (essentially) theft
- **d**efamation = false statement harming reputation

Negligence torts are unintentional:

- failures to act with reasonable care
- e.g., personal injury, wrongful death, and malpractice (professional negligence)

Strict liability torts involve inherently dangerous activities:

- D is liable for injuries regardless of intent or care, e.g., gasoline trucks

Contract claims

- disputes between parties to an agreement
- P alleges D broke the agreement ("breached" it)
- In NY, governed mostly by common law plus some statutory law.

Some Common Civil Remedies!

Damages = \$ that court orders D to pay to P, because of injury D caused to P

- include compensatory, punitive, nominal damages (*USFL v. NFL!*)
- "monetary relief"

Injunction = court order that D must do, or stop doing, something

- D is "enjoined" from doing something
- e.g., stop engaging in an unfair business practice
- "injunctive relief"

Declaration = court's order answering a disputed issue

- e.g., stating ("declaring") that D violated a certain law, or D violated P's rights under a contract
- "declaratory relief"

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Statutes of Limitations =

- Laws limiting the time in which P may commence a civil cause of action.
- CPLR Article 2
- **CRITICAL!!** Follow the SOL, or your client will BE "S.O.L." ☹

TRY IT!!

Your client had a bad date last night, and would like to sue her date for false imprisonment.

What's the SOL? What's the deadline to commence?

Your client was hit by a car yesterday and wants to sue the driver for personal injuries.

What's the SOL? What's the deadline to commence?

Your client had surgery November 5, 2016. Today, she had an xray that showed that the surgeon left a scalpel inside her. She'd like to sue the surgeon for medical malpractice.

What's the SOL? What's the deadline to commence?