

Monday, March 25, 2019 (class 15 of 30 → *halfway there!*)

Today:

- Causes of Action & Remedies continued!
- Commencing the Action!

Now:

- Take out CPLR.
- Read Maddux v. Schur (handout). What happened?

For next class (Wed. March 27):

- Read ch. 12 (Summons) & ch. 14 (Pleadings) pp. 115-118, 120E.
- Review Summons & Complaint Assignment.

Don't forget!

- Mon. April 1: Last day to withdraw from any course.
- Fri. April 5: Court observation summaries due on OpenLab!
- Wed. April 10: Draft court observation memo due in class!

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Causes of Action & Remedies continued!

Remedy = what P asks a court to order *or* award to her

- "relief" *or* "redress"
- *purpose* = to "right the wrong" *or* "make whole"

Some Common Remedies!

Damages = money that D must pay to P, to make up for injury D caused P

- *include* compensatory, punitive, and nominal damages
- "monetary relief"

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

- e.g., stop an unfair business practice → D is "enjoined" from doing this
- "injunctive relief"

Declaration = court's order answering a disputed issue

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

Some Common Causes of Action!

Tort claims

- wrongful act that injures another person, and/or her property, and/or her reputation.
- *include* intentional, negligence, and strict liability torts

Intentional torts include:

- assault = threat of intentional unwanted physical contact
- battery = intentional unwanted physical contact
- conversion = (like) theft
- defamation = false statement harming reputation

Negligence torts are unintentional:

- failing to act with reasonable care
- e.g., personal injury, wrongful death, and malpractice

Strict liability torts involve inherently dangerous activities:

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

Contract claims

- between parties to an agreement (contract)
- P alleges D broke the agreement ("breached" it)

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Commencing the Action!

In most courts "commencing an action" requires:

- *filing* summons & complaint *OR* summons with notice (per § 304(a))
- *with* the clerk of the court in county where action brought (per R. 2102)

?? Who's the "clerk of the court"?

- *in Supreme or County Court* → the "County Clerk"
- *in other courts* → the clerk of that court

In Town & Village courts "commencing an action" requires:

- *-serving* summons & complaint *OR* summons with notice
- *on* the defendant! *Can be filed later.*

PLEASE NOTE!

- Most courts now permit/require electronic filing (NYSECF).
- Plaintiffs must get an index number!
- That costs \$\$!! (There are fees.)