

Wednesday, April 3, 2019 (class 18 of 30!)

Today: Summons & Complaint!

Now:

- Take out homework!! (Summons & Complaint assignment Qs 1-4)
- Open CPLR to § 3016.
- Review sample summons & cmplt (handout: *CUH2A v. Pepsico*).

Next class (Mon. April 8):

- QUIZ! Midterm thru today (chs. 4, 5, 8, 12). Bring CPLR!! & writing instrument, and be on time.
- Re-read ch. 9 (Venue).

Don't forget!

- Fri. April 5: Court observation summaries due on OpenLab!
- Wed. April 10: Draft court observation memo due in class!
- Wed. April 17: Draft summons & complaint assignment due!

* * *

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 "clerk of the court"? *Supreme or County Court* → the "County Clerk"; *other courts* → 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 with the court later.*

PLEASE NOTE!

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

* * *

What is (*are?*) a Summons & Complaint?!

Summons = document notifying D that she is being sued → she is being "summoned" to court!

Per CPLR R. 305 (a), must include certain info *such as*:

- index number
- date filed with clerk of court
- court in which action was filed
- when and how to respond to the action
- reason for the venue (county) chosen (*if venue is based on P's residence, summons must state P's address*)

**Cases involving "consumer credit transactions" have additional requirements! *See R. 305(a)*.

Complaint = document informing D why she is being sued

➤ Gives details of the wrongful act(s) P alleges against D, and relief P seeks

*OR plaintiff may file a **Summons with Notice** per R. 305(b)*

- ONE document (instead of 2: Summons AND Complaint)
- Includes all info required by R.305(a) *PLUS* a general statement of P's cause of action and remedy sought.

CPLR's pleading requirements! *A complaint must have:*

- sufficient particularity (§ 3013)
- plain and concise statements (§ 3013)
- numbered paragraphs (§ 3014)
- one allegation per paragraph (§ 3014)
- causes of action separately stated & numbered (§ 3014)
- demand for relief (§ 3017)
- *for sale and delivery of goods* → also numbered list of items & prices (§ 3016(f))