



**RAMA
UNIVERSITY**

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FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. 1st Semester

SUBJECT: ADVANCE LEGAL WRITING SKILL-I

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LECTURE: 5

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Lecture-5



A civil case begins when a person or entity (such as a corporation or the government), called the plaintiff, claims that another person or entity (the defendant) has failed to carry out a legal duty owed to the plaintiff. Both the plaintiff and the defendant are also referred to as "parties" or "litigants." The plaintiff may ask the court to tell the defendant to fulfill the duty, or make compensation for the harm done, or both. Legal duties include respecting rights established under the Constitution or under federal or state law.

Civil suits are brought in both state and federal courts. An example of a civil case in a state court would be if a citizen (including a corporation) sued another citizen for not living up to a contract.

For example, if a lumberyard enters a contract to sell a specific amount of wood to a carpenter for an agreed-upon price and then fails to deliver the wood, forcing the carpenter to buy it elsewhere at a higher price, the carpenter might sue the lumberyard to pay the extra costs incurred because of the lumberyard's failure to deliver; these costs are called damages. If these parties were from different states, however, then that suit could be brought in federal court under diversity jurisdiction if the amount in question exceeded the minimum required by statute (\$75,000).

Individuals, corporations, and the federal government can also bring civil suits in federal court claiming violations of federal statutes or constitutional rights. For example, the federal government can sue a hospital for overbilling Medicare and Medicaid, a violation of a federal statute. An individual could sue a local police department for violation of their constitutional rights -- for example, the right to assemble peacefully.

Standard of Proof in A Civil Case

In most civil cases, the judge or jury has to make a decision about which side wins based on a standard called "preponderance of the evidence." This means that the winner's side of the story is more probably true than not true. It does not mean that one side brought in more evidence than the other side. It means that one side's evidence was more convincing than the other's.

In some cases, the standard for reaching a decision is "clear and convincing evidence." This means that the winner needs to prove that his version of the facts is highly likely. It is an intermediate degree of proof, more than "preponderance of the evidence" but less than the certainty required to prove an issue "beyond a reasonable doubt" (the standard in criminal cases).

To learn more, click to visit our [Small Claims](#) section and our [Judgments for Money](#) section.

Types of Cases in Civil Court

Civil courts handle a wide variety of cases involving numerous legal issues. Very broadly, civil cases may involve such things as, for example,

- Tort claims. A "tort" is a wrongful act (sometimes called a "tortious" act), other than a breach of contract, that results in injury to someone's person, property, reputation, or the like, for which the injured person is entitled to compensation. Cases involving claims for such things as personal injury, battery, negligence, defamation, medical malpractice, fraud, and many others, are all examples.

- Breach of contract claims. A breach of contract case typically results from a person's failure to perform some term of a contract, whether the contract is written or oral, without some legitimate legal excuse. Cases involving claims for such things as not completing a job, not paying in full or on time, failing to deliver goods sold or promised, and many others, are all examples.

- Equitable claims. An "equitable claim" asks the court to order a party to take some action or stop some action. It may or may not be joined with a claim for monetary damages. Cases where a party is seeking a temporary restraining order or injunction to stop something (perhaps the destruction of property, the improper transfer of land, the solicitation of a business' customers) are examples.

- Landlord/tenant issues. Civil courts handle disputes arising between landlords and tenants. Cases where a landlord is trying to evict a tenant from a rental property or a tenant has moved out and is suing a landlord for the return of a security deposit are examples.

MCQ

1. The husband may impugn the legitimacy of his child but not on the ground that:

- a) the wife is suspected of infidelity.
- b) the husband had a serious illness that prevented him from engaging in sexual intercourse.
- c) they were living apart.
- d) he is physically incapable of sexual intercourse.

2. A marriage is void if:

- a) solemnized with a marriage license issued without complying with the required 10-day posting.
- b) solemnized by a minister whom the parties believe to have the authority.
- c) between parties both 23 years of age but without parental advice.
- d) none of the above

3.. In legal separation, which is not correct?

- a) The aggrieved spouse may file the action within five (5) years from the time of the occurrence of the cause.
- b) No trial shall be held without the 6-month cooling off period being observed.

c) The spouses will be entitled to live separately upon the start of the trial.

d) The prosecuting attorney has to conduct his own investigation.

4.. A husband by chance discovered hidden treasure on the paraphernal property of his wife.
Who owns the discovered treasure?

a) The half pertaining to the husband (finder) belongs to the conjugal partnership.

b) The half pertaining to the wife (as owner) belongs to the conjugal partnership.

c) One half shall belong to the husband as finder and the other half shall belong to the wife as owner of the property.

d) a and b

5.. Which of the following marriages is void for reasons of public policy?

a) Between brothers and sisters, whether of the full or half blood.

b) Between step-parents and step children.

c) Between parents-in-law and children-in-law.

d) b and c